



CHENNAI METRO RAIL LIMITED

**(A JOINT VENTURE OF GOVERNMENT OF INDIA AND GOVERNMENT OF
TAMILNADU)**

SELECTION OF TENDERER FOR MISCELLANEOUS WORKS (ZONAL TENDER)

Part – 1C - Qualification criteria

DATE FOR SUBMISSION OF TENDER ON 06-11-2015 at 15.00 Hours

DATE FOR OPENING OF TENDER ON 06-11-2015 at 15.30 Hours

TO BE SUBMITTED TO:

**The Chief General Manager(EC)
Chennai Metro Rail Limited
Admn. Building, CMRL Depot
Poonnamallee High Road ,
Koyambedu, Chennai - 600107**

TENDER SUBMITTED BY:

M/s._____

Address_____

CHENNAI METRO RAIL LIMITED
(A JOINT VENTURE OF GOVERNMENT OF INDIA AND GOVERNMENT OF TAMILNADU)

**TECHNO COMMERCIAL TENDER
(TWO COVER SYSTEM)**

Part 1(C)- Qualification Criteria

For

**SELECTION OF TENDERER FOR MISCELLANEOUS WORKS
(ZONAL TENDER)
CONTENTS**

I. Notice inviting Tenders

II. Information and Instructions to TENDERERS.

1. General
2. Brief Description of work
3. Important Conditions of Contracts
4. Eligible TENDERER for applying.
5. Qualifying Criteria
6. Site Visit
7. Submission of TENDER documents
8. Particular Attention
9. Final Decision Making Authority

II. Qualification Information

1. Appendix A : Letter of Transmittal
2. Qualification requirements
3. Format A : Structure and Organization of TENDERER
4. Format B : Key Personnel to be deployed
5. Format - C : Financial Information
6. Format D : Details of Completed works
7. Format E : Details of Ongoing works
8. Format - F : Plant, machinery & Equipment
9. Format - G : Details of Termination of contract in the past, if any
10. Format – H : Status of Current litigations, if any

11. Annexure A : Certificates

I.

NOTICE INVITING TENDER

**FOR
SELECTION OF TENDERER FOR MISCELLANEOUS WORKS
TWO COVER SYSTEM**

Tender Notice No: CMRL/CON/ZT-01/2015

1. Government of India proposes to **select TENDERER FOR MISCELLANEOUS WORKS**. On behalf of the President of India, the Chief General Manager (EC), CMRL, Depot, Koyambedu, Chennai 600 107 Tamil Nadu, India invites tender for **SELECTION OF TENDERER FOR MISCELLANEOUS WORKS** under the two cover system.

The TENDERER to be eligible for Qualification, should fulfill the following qualification criteria :

- a) The TENDERER should be a well-established and reputed Engineering Contractor, registered as a legal entity in India, and having experience of minimum seven years in the field of Civil Engineering and its associated works.
- b) Experience of having successfully completed similar works during the last 7 years ending on 31.08.2015.

Three Similar completed works costing not less than Rs.4 Crores each.

or

Two Similar completed works costing not less than Rs.5 Crores each.

or

One Similar completed works costing not less than Rs.8 Crores.

The Experience certificate for having satisfactorily completed is to be obtained from the engineers not below the rank of Executive Engineer / Director / Head of procurement department / equivalent and the same should be in originals.

- c) The TENDERER should have an average annual turnover of Rs.3 Crores during the past three financial years, ending on 31st March, 2015.
- d) The TENDERER should produce Banker's Solvency Certificate or Revenue Solvency Certificate, of the value of Rs.4 crores. Solvency certificate must have been obtained not earlier than 31st March 2015.
- e) The successful TENDERER shall ensure that, no sub-contractor will be engaged for this work in whole or part, for which TENDERER should submit the affidavit duly signed.
- f) Should have adequate material & equipment resources to complete the works within the scheduled period, for which the TENDERER should assure, fill and submit the appropriate format F in the prequalification document duly signed.

1. Salient features:

Name of work	Miscellaneous works
Period of Completion	12 Months (From the date of issuing LOA)

2. Tender documents can be purchased from the office of the **Chief General Manager (EC), CMRL, Depot, Koyambedu, Chennai** Tamil Nadu, India

(a)	Cost of Tender Document (Including VAT) Non-refundable.	Rs.15,000/- (Rupees Fifteen Thousand only) including tax by Demand Draft drawn from any Nationalized or Scheduled Banks in India payable at Chennai, in favour of the Chennai Metro Rail Ltd, Chennai-107, Tamil Nadu, for hard copy and Rs 12,000/- (Rupees Twelve Thousand only) for downloading using web access.
(b)	Period of Issue of tender documents	30-09-2015 to 05-11-2015 (during office hours -10.00am to 15.00 hours)
(c)	Earnest Money Deposit (EMD)	Rs.10,00,000/- (Rupees Ten Laks only) by Demand Draft, drawn from any Nationalized or Scheduled Bank in India payable at Chennai, in favour of the Chennai Metro Rail Ltd, Chennai- 107 Tamil Nadu, India (OR) by Bank Guarantee on any Nationalized or Scheduled Bankers in India, valid upto 09-02-2016.
(d)	Pre-tender Meeting	15.00 Hours on 14-10-2015 at the office of Chief General Manager (EC), CMRL, Koyambedu, Chennai 600 107.
(e)	Issue of pre tender clarifications	On or before 15:00 Hours, 27.11.2015
(f)	Last date for submission of tenders	15.00 Hours on 06-11-2015
(g)	Opening of Technical Tender	15.30 Hours on 06.11.2015

Only one set of document will be issued. Tenderers have to take additional copies.

The tender document is available in the CMRL website viz. www.chennaiemrortrail.gov.in for view and reference only. **The tenderer has to purchase the tender document from the Office of CMRL, Depot, Koyambedu Chennai and payment to be made towards the tender document in the form of demand draft** drawn from any Nationalized or Scheduled Banks in India payable at Chennai, in favour of the - **Chennai Metro Rail Ltd**, Chennai- 107, Tamil Nadu, India,

CMRL reserves the right to accept / reject any one / all the tenders without assigning any reason thereof.

Evaluation of tender will be done by a committee constituted by CMRL or NIT approving authority.

**Chief General Manager (EC),
Chennai Metro Rail Limited,,
Depot, Koyambedu, Chennai 600107
Tamil Nadu, India**

II. INFORMATION AND INSTRUCTIONS TO TENDERERS

1.00 General:

Government of India proposes to **select zonal tenderer for miscellaneous works**. On behalf of the President of India, the Chief General Manager (EC), CMRL, Depot, Koyambedu, Chennai 600 107 Tamil Nadu, India invites tender for **selection of zonal tenderer for miscellaneous works** under the two cover system from the Contractors who meet the following criteria:

1.01 Definitions:

- i. **TENDER:** shall mean the set of TENDER DOCUMENTS submitted by a TENDERER.
- ii. **TENDER DOCUMENT:** shall mean set of documents consisting of Techno Commercial Tender with Drawings.
- iii. **Employer: The Chief General Manager (EC), Chennai Metro Rail Limited, Ponnammale High Road, Koyambedu, Chennai 600 107 Tamil Nadu, India who will also be referred as Employer / Owner**
- iv. **TENDERER:** shall mean the firm, who has purchased the TENDER documents to submit for Techno Commercial Tender to execute the said works.
- v. Works shall mean all works to be executed in annual repair and maintenance works.
- vi. **Contract:** shall mean the Contract entered into between the Employer and the successful TENDERER on award of Contract for the **Works**.
- vii. **Engineer shall mean CMRL Engineer**
- viii. **Contractor** shall mean the qualified engineering Contracting firm, whose tender for Contract works has been accepted by **the Employer** and to whom a letter of award has been issued and accepted / who enters into agreement / contract with the Employer and executes the works after *observing* due formalities. The Contractor will co-operate and co-ordinate with Employers / Architects & Other independent specialist contracting Agencies, if any appointed by the Employer, to execute certain special nature of works and undertake responsibility to complete all the works concurrently, within the time frame of the Project Completion Period and ensure sequential, unhindered and harmonious progress of work. The Contractor shall include their executives, authorized representatives, administrators, successors and permitted assignees and such contractors.

1.02 **TENDERS** are invited by the Employer from, reputed Civil contractor well established and reputed, registered as a legal entity in India for a minimum period of seven years involved in similar nature of works in India. The notice inviting tender is published in leading news papers and also available in web site www.chennaietrorail.gov.in and the tender documents will not be available for e-submission.

1.03 **TENDER DOCUMENT** can be obtained from the office of the Chief General Manager, (EC), Chennai Metro Rail Limited, Ponnammale high Road, Depot, Koyambedu Chennai, Tamil Nadu, India from 30-09-2015 to 05-11-2015, upon payment of non-refundable amount of Rs.15,000 including tax, in the form of Demand Draft, obtained from any Nationalised / Scheduled banks in India, payable at Chennai, *drawn* in favour of the Chennai Metro Rail Ltd, Chennai - 107. Tender documents can also be downloaded from the above website, **for** which the cost of tender document of Rs.12,000/- have to be paid in the form of demand draft drawn from any Nationalized or Scheduled Banks in India payable at Chennai, in favour of

Part -1C-Qualification criteria

Chennai Metro Rail Limited, Depot, Koyambedu, Chennai, Tamil Nadu, India (along with the prequalification document). Without the submission of cost of tender document (in the form of DD) along with the tender will not be considered for evaluation.

- 1.04 Letter of Transmittal and information required for Qualification shall be submitted as per **Appendix "A"** attached.
- 1.05 TENDERS are not transferable and will be accepted, only from the parties, who have purchased the documents from the office of CMRL.
- 1.06 All information called for, shall be furnished against the respective columns in the enclosed form. If the space in the format is insufficient for furnishing full details, separate sheets may be used duly stating the reference to the format and serial number therein. Separate sheets shall be used for each format. If information is furnished in a separate document, reference to the same should be given against respective column(s). If information is 'Nil' it should also be mentioned as "Nil" or "No such case". If any particular query is not applicable to the TENDERER it should be stated as "Not applicable". However, the TENDERERS are cautioned that not giving complete information called for in the Tender in the form required or not giving it in clear terms or making any change in the prescribed forms may result in disqualification of the TENDERER.
- 1.07 The tender should be submitted in English only. Supporting documents such as Annual accounts, Balance sheets, Employer's Certifications, Testimonials etc., if attached in any other language should be translated in English. The Embassy / Official Diplomatic Mission of the TENDERER's country in India must certify that English documents are true and accurate translation of original documents.
- 1.08 The Tender Document shall be submitted in duplicate in typewritten / handwritten form. The TENDERER'S signature and seal of the firm shall appear on each page of the Tender.
- 1.09 Overwriting shall be avoided. Mistakes shall be scored through and corrections incorporated and attested by the authorised signatory. All pages of the TENDER document shall be numbered, signed and submitted in a single packet along with a signed letter of transmittal.
- 1.10 References, Information and Certificates from the respective Employers certifying for performance and suitability, technical know-how or capability of the TENDERER shall be signed by the authorised signatory of Employer.
- 1.11 The TENDERER is advised to furnish any additional information, which they think is necessary in regard to their capabilities. No further information will be entertained after submission of Qualification TENDER document, unless it is called for by the Employer.
- 1.12 Tender Document details and enclosures shall be addressed and submitted in sealed envelopes and addressed to Chief General Manager, (EC), Chennai Metro Rail Limited, Depot, Koyambedu, Chennai - 6000107, Tamil Nadu, **India** as detailed in clause 8.01. Tender submitted late will not be opened. All times and dates mentioned in this Tender Notice and application are Indian Standard Time (IST) only. The same will be followed for communication and other purposes.
- 1.13 Documents submitted in connection with the Tender, will be treated as CONFIDENTIAL and will not be returned.
- 1.14 The cost incurred by TENDERERS in preparing their Tender, in collecting information, in providing clarifications or attending discussions, conferences or in making presentations, site visit etc. in connection with this TENDER will not be reimbursed by the Employer under any circumstances

Part -1C-Qualification criteria

- 1.15 Any clarification given by the Employer on his own will be forwarded to all those who have been given a copy of the TENDER documents.
- 1.16 The Employer reserves the right to reject any or all TENDERS or reduce the scope, without assigning any reasons whatsoever and without incurring any liability to whomsoever.
- 1.17 Canvassing or influencing in any form will entail disqualification.
- 1.18 The Employer reserves the right to approach individuals, employers, companies and corporations to verify TENDERER'S competency and general reputation.

2.0 BRIEF DESCRIPTION OF THE WORK:

The scope of the tender covers all works covered under tamilnadu PWD(2014-15) Schedule of rates and delhi schedule of rates 2014 along with relevant specifications.

- 2.01 The particulars of the proposed **Works** given herein must be considered only as advance information and a general guide to assist TENDERERS.
- 2.02 The works have to be executed within the given timeframe without affecting the revenue services of CMRL. The contractor has to attend the repair works even with a short notice as the structures are put for public usage. Any delay in the completion of work will be dealt as per the conditions given in the Conditions of Contract.
- 2.03 All construction documents, prepared by the Construction firm shall have to be reviewed and approved by the Employer / Employer's personnel, before commencement of procurement and construction. All works shall have to be carried out, in compliance with Technical Specification, as enclosed with the Tender Documents, relevant Indian standard (IS) Codes, International Codes and local bye-laws.
- 2.04 Validity of tender: 90 days from the date of submission of tender.

3.0 IMPORTANT CONDITIONS OF CONTRACT:

- 3.01 The Contract shall be a percentage basis contract ,Quoted above/below the State PWD (2014-15) & Delhi Schedule of Rates (DSR 2014)
- 3.02 Conditions of Contract, will be as per standard practice and duly modified to *suit* local conditions incorporating Mobilization advance, performance bond, retention money, liquidated damages, *Compensation Events*, default *Arbitration clauses etc.* The contractor shall be responsible for procurement of all quality materials, required for *due* performance of the contract.
- 3.03 Since the project is to be implemented strictly on the time schedule, the employer may extend the deadline for submission of tenders *by* issuing an amendment in which case, all rights and obligations of the Employer and Tenderer previously *ensured in* the original deadline, will then be *shifted* to the new deadline. The Employer will lay high emphasis on the capacity of the selected contractor to deploy high-tech and speedy construction techniques, high degree of planning, good procurement and quality check procedures, quality assurance Plan, Environment and Safety Plan to meet the appropriate standards, execution and co-ordination, ability to prepare PERT network and *adhering to it meticulously.*
- 3.04 Therefore the TENDERERS are required to demonstrate with firm examples of deployment of above techniques in their previously completed project. The commendable performance by the TENDERER in their previous Projects will receive special consideration. (*)

Part -1C-Qualification criteria

- 3.05 Whenever required, the contractor during the execution of works has to obtain necessary power block from the operation department of CMRL to execute the work. Necessary safety precautions should be taken during execution as the location may fall near to the energized area.
- 3.06 The contractor shall be instructed to work during only night hours/Non-revenue hours as the work area may disturb the public movement.

3.07 Price Adjustment Clause :

Price Adjustment Clause is not applicable for this work.

EARNEST MONEY DEPOSIT :

The Earnest Money Deposit of INR 10,00,000/- (Rupees Ten lacs only) must accompany the Qualification *Tender* for this work.

3.07.1 The EMD may be produced in any one of the following forms

- i. Demand Draft issued by any one of the Nationalized or Scheduled Bank of India drawn in favour of Chennai Metro Rail Ltd., Chennai – 107.
- ii. Bank Guarantee from any Nationalised Bank or Scheduled Bank of India.

Note: (*) denotes requirement of enclosure(s) along with Tender.

3.07.2 Qualification schedule not accompanied by EMD will be rejected as Non-responsive tender.

3.07.3 If the TENDERER withdraws his tender after the acceptance of the tender (or) fails to pay the requisite security deposit amount within the specified period of time the EMD remitted with the *Tender* will be forfeited.

3.08 PERFORMANCE BOND :

3.08.1 *The successful TENDERER shall furnish a Performance Bond in the shape of irrevocable Bank guarantee for an amount equivalent to 5% of the total contract value within 7 days from the date of receipt of Letter of Award. If the successful TENDERER fails to execute the contract (i.e. signing the agreement) within 15 days, the EMD amount remitted will be forfeited.*

3.08.2 *The Performance Bond will be valid till the end of the Defects Liability Period*

3.08.3 *In addition to the aforesaid Performance Bond, CMRL shall deduct from the running account bills, a sum of equivalent to 5% (Five Percent) of the total value of each bill as retention money.*

3.08.4 *Out of the total accumulated retention money of 5% (five Percent) up to the end of the completion of project, 2.5% (two and a half percent) of the said amount will be released to the contractor in the final bill.*

3.08.5 The balance of 2.5% (Two and a half percent) of the total value of work, will be retained in the final bill of the work, for a period of 12 months reckoned from the date of completion of the work, or as soon after the expiration of such period of 12 months as all defects, shall have been made good accordingly to the true intent and meaning hereof, whichever shall last happen, and , shall be refunded to the contractor, after the defects liabilities attached to the contractor is over, after deducting any amount due to the Department, subject to the following conditions.

Part -1C-Qualification criteria

a. The Employer concerned should certify that no liability is due from the Contractor.

4.0 ELIGIBLE TENDERERS for applying :

- 4.01 The firms applying for eligibility should have extensive experience and proven track record in similar works.
- 4.02 The Tender made by a partnership firm, shall be signed by all the partners of the firms above their full typewritten / handwritten names and current addresses, or alternatively by a partner holding Power of Attorney for the firm, in which case, a certified copy of the Power of Attorney shall accompany the Tender. A certified copy of the deed, full names and current addresses of all the partners of the firm shall also accompany the Tender. (*)
- 4.03 The Tender made by a firm shall be signed by Authorised signatory but appropriate evidence should be enclosed for authorizing the signing person in the tender document. (*)
- 4.04 The financial Tenders of only those Tenderer, who fulfill the eligibility criteria mentioned in the Notice Inviting Tender and mentioned in Clause No.5 below, will be opened.
- 4.05 Any change in the legal status of a TENDERER subsequent to submission of Tender will be subject to approval of **the Employer**
- 4.06 TENDERERS under Joint Venture arrangements are not permitted.

Note: (*) denotes requirement of enclosure(s) along with Tender.

5.0 QUALIFYING CRITERIA:

5. 01 The TENDERER to be eligible for Qualification, should fulfill the following qualification criteria :

- a) The TENDERER should be a well-established and reputed Engineering Contractor, registered as a legal entity in India, and having experience of minimum seven years in the field of Civil Engineering and its associated works.
- b) Experience of having successfully completed similar works during the last 7 years ending on 31.08.2015.

Three Similar completed works costing not less than Rs.4 Crores each.

or

Two Similar completed works costing not less than Rs.5 Crores each.

or

One Similar completed works costing not less than Rs.8 Crores.

The Experience certificate for having satisfactorily completed is to be obtained from the engineers not below the rank of Executive Engineer / Director / Head of procurement department / equivalent and the same should be in originals.

- c) The TENDERER should have an average annual turnover of Rs.3 Crores during the past three financial years, ending on 31st March, 2015.
- d) The TENDERER should produce Banker's Solvency Certificate or Revenue Solvency Certificate, of the value of Rs.4 crores. Solvency certificate must have been obtained not earlier than 31st March 2015.
- e) The successful TENDERER shall ensure that, no sub-contractor will be engaged for this work in whole or part, for which TENDERER should submit the affidavit duly signed.

Part -1C-Qualification criteria

- f) Should have adequate material & equipment resources to complete the works within the scheduled period, for which the TENDERER should assure, fill and submit the appropriate format F in the prequalification document duly signed.
- g) Similar nature of works means having experience in carrying out
 - a. Civil maintenance & Repair works.
 - b. Civil/MEP works of any nature.

5.02 The TENDERER should further furnish evidence for the following.

- (i) That they have the required minimum tools, plant and equipment
- (ii) That the TENDERER / Firm shall have a minimum Supervisory Staff of one Project Manager and other Engineers with qualification and field experience. Exclusively for carrying out this Project, other than the supporting staff for executing the work without any complications.

6.0 SITE VISIT:

6.01 The TENDERER shall, prior to submission of the tender for the work at his own responsibility and risk, visit and examine the site of work & its surroundings with prior intimation to **the Employer** for proper assessment of the prospective assignment. The TENDERER should refer to the Site Plan, and Location Map, enclosed with the list of drawings.

7.0 SUBMISSION OF TENDER DOCUMENTS :

Sealed Tenders should be addressed to the Chief General Manager (EC), **Chennai Metro rail Ltd, Depot, Koyambedu, Chennai 107** and superscripting, the name of the Tender on the top left hand corner of the cover and the name of the TENDERER on the bottom left hand corner of the cover and sent so as to reach him not later than 15-00 hours on 06.11.2015.

The Tender shall be two cover system / Two part tender system, Part – I : Technical Bid consisting of Technical and Qualification Tender along with EMD and Part – II the Price Tender. Both the Parts, each in separate sealed Covers -1 & 2 (i.e. Part I in cover -1 & Part II in cover -2), have to be submitted together put in a common sealed cover.

Part – I (Technical and Qualification Tender), of the Tender document consists of Part - I (A), I(B) & I(C), pertaining to Conditions of Contract (I-A), Technical Specification (I-B) and Qualification criteria (I-C) and Part – II (Price Tender) of Tender document, pertaining to *Bill of Quantities* shall be submitted in duplicate i.e. one original and one copy. *All the other enclosures that the TENDERERS wish to submit shall also be in duplicate. (Part 1-B Technical Specification: Duplicate copy need not be submitted.)*

All Tender Drawings duly signed and affixed with the seal of the TENDERER shall be returned in a separate cover and need not be sealed, at the time of submission of the Tender.

A Tender which is not accompanied by EMD, in the approved form in a separate envelope attached to the sealed cover will be rejected.

The duly sealed Tenders shall be submitted to the Employer after superscribing the name of work, Tender Part No., and name of TENDERER, so as to reach him not later than the due date and time specified above.

Part -1C-Qualification criteria

No indication of Tender value or any financial aspect of Tender shall be made in any manner in any of the enclosures, covering letter etc. in Cover- 1 containing Part-1(A), (B) & (C) (Technical and Qualification Tender). If so, such Tender *will* be rejected.

Documents submitted in connection with the Tender will not be returned.

In addition to the identification required above, the inner envelopes shall include the name and addresses of the TENDERER to enable the Tender to be returned as unopened, in case it is declared late.

If the outer envelope is not sealed and marked as above, the employer will assume no responsibility for misplacement or premature opening of the tender and the tender will be treated on the grounds of not substantially responsive.

To be eligible for Qualification, TENDERERS shall provide, evidence to the suitability of their meeting the Criteria indicated in Clause – 5.0 above and furnish details giving their full bio-data, organisation, technical experience, plant and equipments etc. to establish their capacity and competence, and possession of adequate resources to carry out the contracts effectively and for this, the TENDERS submitted shall include the following: (*)

- a) Letter of transmittal; as in Appendix - A
- b) Copies of original documents defining the legal status of the TENDERER, its structure and organisation, place of registration and principal place of business of the TENDERER in Format – A.
- c) The qualification and experience of key personnel proposed for the administration and execution of the contract, both on and off site in the format prescribed in FormatB.
- d) Details of Financial Information in Format - C
- e) Details of completed works of similar nature in Format- D as at date of Tender.
- f) Details of on-going works of similar nature in Format- E as at date of Tender.
- g) Details of Plant, machinery & equipment in Format - F
- h) Details of termination of contract by Employer, if any, in Format - G
- i) Details of Status of current litigations, if any in Format-H as at date of Tender.
- j) Certificates in support of suitability, technical know-how and capability for having successfully completed the works during the last seven years under Annexure 'A'.
- k) Current solvency or letter of support from the TENDERER'S Banker, for an amount of 4 Crores Solvency certificate must have been obtained not earlier than 31st March 2015.
- l) Details of cases of having been barred or black listed from the Tendering process, if any. Black-listed Agencies' Tender is liable to be rejected.
- m) The tender should be submitted in English only. Supporting documents such as Annual accounts, Balance sheets, Employer's certifications, Testimonials etc., if attached, in any other language, should be translated in English. The Embassy / Official Diplomatic Mission of the TENDERER's country in India must certify that English documents are true and accurate translation of original documents.

Part -1C-Qualification criteria

- n) All times and dates mentioned in this Tender Notice and application are Indian Standard Time (IST). Indian Standard Time only will be followed for communication and other purposes.
 - j) The tenderer has to submit the following records along with the tender
 - i. PAN of the Bidder (Please enclose the attested photocopy of PAN card issued by Income Tax Department)
 - ii. Service Tax / VAT Number of the Bidder(Please enclose the attested photocopy of Service Tax / VAT Registration Certificate issued by relevant authorities)
 - iii. ESI Registration(Please enclose attested photocopy)
 - iv. PF Registration of the Bidder (Please enclose attested photocopy of Provident Fund Commissioner)
- 7.01 The TENDERERS for qualification shall provide all facilities to **the Employer** for verification of the information / details furnished by them and also for inspection of their works carried out / in progress, if requested.

8.0 PARTICULAR ATTENTION :

- 8.01 The **EMPLOYER** reserves his rights to disqualify any TENDERER if:
- (i) The TENDERERS have made untrue or false representation in the forms, statements and attachments submitted in proof of the qualification and requirements ;
 - (ii) The TENDERER's track record of poor performance such as abandoning the work, not properly completing the Contract, inordinate delays in completion or financial failures etc.
 - (iii) The TENDERERS have suits lodged / admitted / pending against it in a Court of Law for proceedings for declaration of Bankruptcy, etc or any suit, which challenges the basic existence of the TENDERER and substantially influences its capacity to implement the **Works** satisfactorily. Information on the legal matters is to be submitted as per FORMAT-I.
 - (iv) The TENDERER shall unconditionally waive all rights in respect of challenging in any court any matter concerning this TENDER evaluation and award / termination of Contract.

9 FINAL DECISION MAKING AUTHORITY:

- 9.1 The main criteria for the selection of Contractors for the work will be on the consideration of their ability to fulfill their obligations under the Contract. and competence to do good quality works, within specified time schedule and in close co-ordination with other agencies, resources committed, evaluation of technical submission etc. in addition to consideration given for competitiveness of tender price.
- 9.2 After opening the outer envelope containing the Tender, its contents shall be examined for compliance in pursuant to clause 5.0, in the presence of the TENDERERS or their authorized representatives, at 15.00 hours, on the Last Date of receipt of Tender Documents, who choose to be present. Tenders found not complying are liable to be rejected without further examination. The contents of envelope titled "Technical Tender" will be opened first and its contents shall be scrutinized as per requirements of Tender documents. Only for the TENDERERS, whose contents of technical tender have been found in order and evaluated as substantially responsive, the envelope titled "Financial Tender" shall be opened, at the same address in the presence of TENDERERS or their authorized representatives, who choose to be present at the time and date of opening of the tender. This intimation will be sent to those

Part -1C-Qualification criteria

TENDERERS whose technical tenders are found to be in order and evaluated as substantially responsive.

- 10.3 Tenders determined to be substantially responsive will be checked by the Employer for any arithmetic errors. Errors will be corrected by the Employer. Where there is discrepancy between the unit rates in figures and in words, *the rates in words only*, will govern. The amount stated in the tender will be adjusted by the Employer *in* accordance with the above procedure for the correction of errors.
- 10.4 **The Employer** reserves the right, to accept or reject any Tender or to reduce the scope / cancel the exercise without having to incur any cost or to assign any reason for its decision to any party whatsoever, and **the Employer's** decision on qualifying contractors will be final and binding on all the contractors.

Note: (*) denotes requirement of enclosure(s) along with Tender.

Date of Submission

Authorized Signature of TENDERER with Official seal

Appendix - A

LETTER OF TRANSMITTAL

Date:

To
The Chief General Manager (EC)
Chennai Metro Rail Limited
Koyambedu, Depot,
Chennai – 600 107

Sir,

Sub: Submission of Techno Commercial Tender for Proposed Construction of Car
SHELTER for CMRL, Depot, Koyambedu Chennai 600 107.

- a) I / We, having examined the details given in the Invitation to TENDERERS, we hereby submit the following information and relevant documents.
- b) I / We hereby certify that all the statements, information and data provided in the enclosed formats A to G. and accompanying statements are true and correct to the best of my / our knowledge.
- c) I / We have read the instructions appended with the qualification document and I / We understand that any contract made between ourselves and **the Employer** on the basis of the information given by me / us, is liable to be cancelled , if any false information is detected at a later date.
- d) I / Wehave also no objection, if enquiries are made on all the projects and works listed by me / us, in the accompanying sheets or any other enquiry, on the information furnished herewith in the accompanying sheets.
- e) I / We have furnished all information and details as asked for and have no further pertinent information to provide.
- f) I / We submit, the requisite certified solvency certificate and authorise **the Employer** to approach the Bank issuing the Solvency Certificate to verify the correctness thereof. I / We also authorise **the Employer**, to approach individuals, employers, companies, and corporation to verify my / our competency and general reputation.
- g) I / We submit in Annexure 'A' the certificates in support of my / our suitability, technical know-how and capability for having successfully completed the works during the last five years.
- h) I / We also agree that the decision of **the Employer**, in the Qualification and selection of Contractors will be final and binding upon me / us.
- i) I / We agree that **the Employer** reserves the right to qualify any contractor or to cancel the exercise without assigning any reason for doing so or to incur any liability to any party whatsoever.
- j) I / We agree not to withdraw from the contract after issue of LOA and before signing the agreement. If so, we attender by the condition that liquidated damages shall be claimed against us by **the Employer**

Part -1C-Qualification criteria

k) The following are enclosed as enclosures to the letter of transmittal :

1. Certificate of Incorporation from Registrar of Companies
2. Memorandum of Association
3. Annual Report / Audited Balance Sheet & Profit and Loss Statement for the past 4 years
4. Registration with Govt. Departments or Public Bodies.
5. Solvency Certificate from Bankers for the value of INR 4 crores (Twenty two lakhs only), current and dated, not earlier than 31st March 2015.
7. Letter of support from TENDERERs Bankers required to be enclosed in addition to the subscribers of Bankers solvency certificate for INR 4 crores.
8. Income Tax Clearance certificate / Saral Form giving details of total annual contract receipts for the past five years under relevant paragraph.
9. Sales Tax / Works Contract Tax / VAT / PAN Registration and Clearance certificate.
11. Testimonials from Employers / Consultants for completion of works included in Format -D
12. LOI / Work Order issued by the Employers for ongoing works included in Format 'E'
13. Organization Chart of Company showing the Officer in-Charge who will have direct link with and control of, site organization.
14. Organization Chart and Curriculum Vitae of top two officers, viz, Project Manager and Coordinator.
16. Formats and any certificates other than that listed above.

I / we hereby agree to abide by the decisions of **the Employer** in all matters, relating to this Qualification.

Date of Submission

Authorized Signature of TENDERER with Official Seal

QUALIFICATION REQUIREMENTS

1.	Do you satisfy requirement of Clause 5.01 a	Yes / No
2.	Do you satisfy requirement of Clause 5.01.b	Yes / No
3.	Do you satisfy requirement of Clause 5.01.c	Yes / No
4.	Do you satisfy requirement of Clause 5.01. d	Yes / No
5.	Do you satisfy requirement of Clause 5.01.e	Yes / No
6.	Do you satisfy requirement of Clause 5.01.f	Yes / No
7.	Do you satisfy requirement of Clause 5.01.g	Yes / No
8.	Do you satisfy requirement of Clause 5.02 (i)	Yes / No
9.	Do you satisfy requirement of Clause 5.02 (ii)	Yes / No
10.	Have you enclosed necessary Documentary evidence for all items Sl.No.1 to 7 above	Yes / No

Date of Submission

Authorized Signature of TENDERER with Official Seal

FORMAT – A

STRUCTURE AND ORGANISATION OF TENDERER

S.No.	Details required	To be filled by the Building Construction Company
1	Name of the TENDERER's Company	
2	Nationality of TENDERER	
3	Establishment of the Company	
	i) Year	
	ii) Location	
4.	The TENDERER is a company (Please enclose attested copy of registration / incorporation under appropriate laws of the TENDERER's country)	Yes / No Enclosed
5	Address of the TENDERER :	
i)	Registered Office Address Telephone Number Fax Number E-mail Address Web site	
ii)	Local office address in India , if any: Telephone Number Fax Number E-mail Address	
iii)	Office address through which this work will be handled and name of officer in-charge. Telephone Number Fax Number E-mail Address	
6	If the TENDERER is a Multinational Company, please furnish the following :	
a)	Whether the foreign company has an office in India? If so, give the following details :	
	Year of Establishment	
	Location :	

Part -1C-Qualification criteria

	Name of the Contact Person :	
	Telephone Nos. :	
	Fax No.:	
	Email :	
b)	Please mention the nature of Indian office. If so, please provide the details whether marketing, liaison, capable of undertaking complete project in India etc.	
c)	Whether company has executed / currently executing / tender for any project in India? If so, please furnish the following details : Name of the Employer : Name of the Project : Location of the Project : Nature of Project : Nature of Contract : Project Duration : Project value :	
	Probable Date of Completion	
d)	The TENDERER has to furnish a detailed note on how it will handle the project in India, if successful TENDERER, in terms of (i) Finance,(ii) Manpower,(iii) Tools & equipment,(iv) Use of local agencies and labour, (v) Project control and management plan	
7	Details of the Board of Directors	
	i) Name of the Director ii) Qualification iii) Organisation iv) Office address v) Telephone Number	

Part -1C-Qualification criteria

	vi) Fax Number	
	vii) E-mail Address	
8	Enclose Company's Organisation Chart showing the structure of the organisation including the names of the Directors / Chief Executive Officer and position of Officers.	Enclosed
9	Number of years of experience and other Details.	
a.	As a Principal Contractor (Contractor shouldering major responsibility)	Yes / No
	i. In own country	Yes / No No. of Years :
	ii. Other countries (If yes, pl. specify country)	Yes / No No. of Years : Country :
10(a)	Average number of permanent employees in the last 12 months.	
	i) Managerial	Nos.
	ii) Technical	Nos.
	iii) Administration	Nos.
	iv) Financial	Nos.
	v) Quality Control and Quality Assurance Engineer	Nos.
	vi) Safety Officer	Nos.
	vii) Industrial Relations Officer	Nos.
	viii) Supervisors	Nos.
	ix) Foreman	Nos.
	x) Skilled Labours	Nos.
	xi) Un Skilled Labours	Nos.
	xiii) Others (to specify)	1. Nos. 2. Nos. 3. Nos.
10(b)	xii) Apprentices / Trainees	Nos.
11	i) How many years has your Company been in business of similar work under its present name & address.Years
12	Whether registered with any Government / Public Sector Undertaking / Local bodies like CPWD / MES / PWD or equivalent applicable in the TENDERER's country. If yes, please furnish details class and type of Registration.	1. Yes / No. 2. 3.
13	Registration Details :	

Part -1C-Qualification criteria

	<p>i) Sales Tax Registration No or equivalent applicable in the TENDERER's country & Valid upto</p> <p>ii) PF Registration No or equivalent applicable in the TENDERER's country & Valid upto</p> <p>iii) ESI Registration No or equivalent applicable in the TENDERER's country & Valid upto</p> <p>iv) Service Tax registration No or equivalent applicable in the TENDERER's country & Valid upto</p>	
14	Whether adequate and satisfactory evidence to indicate financial capacity of the organisation to undertake the said construction work is enclosed.	Yes / No
15	Do you have experience in Modern technology of manufacture and execute large span steel roof structure / concrete structure / Cast in situ or precast structure If yes, please furnish the details.	<p>Yes / No.</p> <p>1.</p> <p>2.</p> <p>3.</p>
16	<p>i) Do you have and follow Safety Manual?</p> <p>If yes, please give details of health and safety facilities available with you.</p>	<p>Yes / No</p> <p>Enclose Environmental Health and Safety Plan.</p>
	ii) Was there any major, fatal accident occurred at any of your Sites during execution in the last five years? If yes, furnish Details.	Yes / No
	iii) Whether corrective action taken immediately and first-aid facilities provided in the site?	Yes / No
17	<p>Were any penalties imposed for delays on the completion of the project?</p> <p>If yes, Please furnish the name of project and reasons thereof.</p>	<p>Yes / No.</p> <p>1. Name of Project :</p> <p>Reasons</p> <p>2. Name of Project :</p> <p>Reasons</p>
18	<p>Were there any terminations of Contracts by the Employer?</p> <p>If yes, please furnish the details.</p>	<p>Yes / No.</p> <p>1. Name of Project :</p> <p>Reasons</p> <p>2. Name of Project :</p> <p>Reasons</p>
19	Litigation initiated by the Company and against the Company if any?	

Part -1C-Qualification criteria

	i) Whether cases of litigation proceedings have arisen in your projects during the last three financial years?	Yes / No
	ii) If Yes, How many cases of litigation arisen during the last three financial years?	Nos.
	iii) Furnish the details of the highest claim of Litigation during the last three financial years.	Rs.
	iv) If the TENDERER is a multinational company, please furnish the litigation history initiated by the Company and against the company in India, if any	
20	Details of the Banker Name of the Banker Contact person Office Address Telephone Number Fax Number	
21	Are you / <i>Firm</i> a Recipient of any Award in appreciation of your / <i>Firm's</i> work? If yes, please furnish the details	Yes / No
22	Please give atleast three references of Employers (Engineers, Architects or top Officials of Organisation) for whom you may have executed construction works of importance and similar nature from whom <i>the Employer</i> can verify	1) Name : Designation : Company : 2) Name : Designation : Company : 3) Name : Designation : Company :
23	Any special information, which you may like to provide.	

Place :

Authorized Signature of
the TENDERER

Date :

Common seal of the
Company

Format-C

FINANCIAL INFORMATION

Sl.No	Description	Details to be filled in by TENDERER
A	Annual Turn over in the last five financial years (In INR)	
1	Year : 01st April 2009- 31st March 2010	
2	Year : 01st April 2010- 31st March 2011	
3	Year : 01st April 2011- 31st March 2012	
4	Year : 01st April 2012 - 31st March 2013	
5	Year : 01st April 2013 - 31st March 2014	
B	Financial Information (In INR)	
I	Year : 01st April 2009- 31st March 2010	
	a. Total assets	
	b. Current assets	
	c. Total Liabilities	
	d. Current Liabilities	
	e. Profits before taxes	
	f. Profits after taxes	
	g. Net worth	
	h. Working Capital	
II	Year : 01st April 2010- 31st March 2011	
	a. Total assets	
	b. Current assets	
	c. Total Liabilities	
	d. Current Liabilities	

Part -1C-Qualification criteria

III	e. Profits before taxes	
	f. Profits after taxes	
	g. Net worth	
	h. Working Capital	
	Year : 01st April 2011 - 31st March 2012	
	a. Total assets	
	b. Current assets	
	c. Total Liabilities	
	d. Current Liabilities	
	e. Profits before taxes	
	f. Profits after taxes	
	g. Net worth	
	h. Working Capital	
IV	Year : 01st April 2012 - 31st March 2013	
	a. Total assets	
	b. Current assets	
	c. Total Liabilities	
	d. Current Liabilities	
	e. Profits before taxes	
	f. Profits after taxes	
	g. Net worth	
	h. Working Capital	
V	Year : 01st April 2013 - 31st March 2014	
	a. Total assets	
	b. Current assets	
	c. Total Liabilities	
	d. Current Liabilities	
	e. Profits before taxes	
	f. Profits after taxes	
	g. Net worth	
	h. Working Capital	
C	Solvency Certificate (In INR)	
	a. Name of Banker with address	
	b. Date of Certificate	

Part -1C-Qualification criteria

	c. Amount	
D	Credit facilities available to TENDERER – Fund and non-fund based such as Cash Credit, Working capital term loans, LCs and Bank Guarantees - Banker's or Bankers' Letter must be produced - (In INR)	
	a. Name of Banker with address	
	b. Date of Letter of Support	
	c. Amount	
E.	TENDERER's Financial resources for this project	
	a. Own resources	
	b. Banker's or Bankers' credits	
F.	a. Approximate total value of on-going works	
	b. Total Value of works to be completed as of now Note: 1) The TENDERER should furnish the value of work to be completed as of now along with break-up details of each work in the Proforma enclosed with this Format - C. 2) The TENDERER has to ensure that the list of works covered in this Proforma should be same as the ones listed in Format - E (List & details of Ongoing works) with Proforma of each work.	
G.	Anticipated total value of new works for the next financial year i.e.	

Note: Please attach SARAL Form

Place :

Date :

**Authorized Signature of the TENDERER
Official Seal**

Format-D

Details of completed works in the Last Five Years
(To be furnished for each Project Separately)

S.No.	Details required	To be filled by the TENDERER
1	Name of work	
2	Country and location	
3	Employer's name and address	Name: Address :
4	Consultants name and address.	Name : Address :
5	Total tendered cost of work Agreement No. Date	INR Millions Agreement No: Date :
6	Total actual cost of work after completion.	INR Millions
7	Excess / less in percentage.%
8	Explain if Excess / less is higher by 20% of the tendered cost of work.	
9	Date of commencement	
10	Period of completion	
11	Stipulated date of completion	
12	Actual date of completion	

Part -1C-Qualification criteria		
13	Extended by the contractor, if any. Reason for non-completion of work in stipulated time limit / extended time limit, if so furnish details	Yes / No
14	Extension of time granted by the Employer, if any. If yes, please specify the reason for extension of time.	Yes / No
15	Brief description of works including principal features and quantities of main items of the work.	
16	Name of Contractor's Engineer in-charge of the Project & Qualifications.	Name :Qualification :
17	Details of specialised work executed under this Contract.	
18	Details of specialised work executed by their own divisions under the Contract	
20	Whether the Programming and planning plan was followed in the form of Pert Chart <i>adopting softwares like Primavera / MS Project?</i>	Yes / No
21	Whether the Quality Control and Quality Assurance function was carried out? If yes, Please give details and copies of quality formats used in anyone project	Yes / No
22	Whether the safety measures was followed? If yes, Please give details.	Yes / No
23	i) Were there any labour strikes <i>in any of your Projects, during the course of Execution of Project?</i> If yes, Please give details.	Yes / No
	ii) Whether corrective action taken immediately?	Yes / No
24	Were there any penalties / fines / stop notice / compensation / liquidated damages imposed during execution of the project? If Yes, Please give amount, details and reason.	Yes / No Amount : Reason :
25	Whether the contract of the work was terminated? If Yes, furnish the details.	Yes / No Name of the Project : Reason :

26	<p>Please specify the details of litigation / arbitration cases, if any, pertaining to works completed.</p> <p>If Yes, furnish the details i.e. Nature of litigation / arbitration. Please furnish whether the litigation is initiated by the Company or against the Company.</p>	<p>Part -1C-Qualification criteria Yes / No</p>
27	<p>Attach Employer's certificate, as may be available (Not below the rank of Director or equivalent)</p>	<p>Yes / No</p>

Date:

Authorized Signature of TENDERER

Place :

Official Seal

Details of On-Going works
(To be furnished for each Project Separately)

S.No.	Details required	To Be filled by the TENDERER
1	Name of work	
2	Country and location	
3	Employer's name and address	Name : Address :
4	Consultants name and address.	Name : Address :
5	Total tendered cost of work (Agreement No. and Date)	INR Millions
6	(a) Brief description of works including principal features and quantities of main items of the work.	
7	i) Percentage of physical completion	
	ii) Amount billed for the work completed.	
	iii) Cost of work remaining to be executed as on the date of submission.	
	iv) Stipulated date of completion	
	v) Anticipated date of completion	
8	Name of Contractor's Engineer in-charge of the Project & Qualifications.	Name : Qualification :
9	Details of specialised works under this Contract	

Part -1C-Qualification criteria		
10	Specialised works being executed by their own divisions	
11	i) Were there any labour strikes <i>in any of your Projects, during the course of Execution?</i> If yes, Please give details.	Yes / No
	ii) Whether corrective action taken immediately?	Yes / No
12	Were there any penalties / fines / stop-notice / compensation / liquidated damages imposed? If Yes, Please give amount, details and reason.	Yes / No Amount : Reason :
13	Please specify the details of litigation / arbitration cases, if any, pertaining to works ongoing.	Yes / No
14	Attach Employer's certificate, as may be available (Not below the rank of Director or equivalent)	Yes / No

Place :

**Authorized
Signature of the TENDERER**

Date :

Common seal of the Company

Details of Termination of contract by previous Employers in the past, if any
(To be furnished for each Project Separately, if more than one)

S.No.	Particulars	To Be filled by the TENDERER	
1	Name of works		
2	Name of the Employer		
3	Value of Contract in INR		
4	Period of Contract		
5	Terminated at what stage		
6	Reasons / grounds for termination		
7	Approx. value of work completed at the time of termination in INR		
8	Approx. value of balance work not completed in INR		
9	Remarks		

Place :

Date :

**Authorized Signature of the
TENDERER**

Common seal of the Company

STATUS OF CURRENT LITIGATIONS, IF ANY
(To be furnished for each Project Separately, if more than one)

The TENDERER is required to disclose as part of tender submission all cases filed against the TENDERER in any Court of Law in any country. The TENDERER shall give the information in the following format in separate sheets for each litigation as applicable:

I	General Information		
(1)	Name of the Petitioner	:	
(2)	Name of the Court in which case has been admitted.	:	
(3)	Name / designation of the Presiding Authority of the Court	:	
(4)	Date of Filing of the case and date of Admittance of the case.	:	
(5)	Expected date of next hearing	:	
(6)	Has hearing already commenced? If so, when was the last hearing?	:	
(7)	Name & Address of the TENDERER'S Counsel	:	
(8)	Name & Address of the Petitioner's Counsel	:	
(9)	Current status of the litigation – Whether any interim injunction or injunction award has been given. If so, give the details?	:	
(10)	Has any appeal been filed against any interim injunction or such award?	:	
(11)	Value of litigation / damages claimed / out standings and disputes, as per the Petitioner	:	
(12)	Any arrest warrant or any property attachment or any insolvency proceedings or any such decree issued against the TENDERER? Give the details.	:	



CHENNAI METRO RAIL LIMITED

(A JOINT VENTURE OF GOVERNMENT OF INDIA AND GOVERNMENT OF TAMILNADU)

SELECTION OF TENDERER FOR MISCELLANEOUS WORKS

PART-1A- CONDITIONS OF CONTRACT

DATE OF SUBMISSION OF TENDER 06-11-2015 at 15.00 Hours

DATE OF OPENING OF TENDER 06-11-2015 at 15.30 Hours

TO BE SUBMITTED TO:

Chief General Manager (EC)
Chennai Metro Rail Limited
Admin. Building, CMRL Depot
Poonnamallee High Road ,
Koyambedu, Chennai - 600107

TENDER SUBMITTED BY:

M/s. _____

Address _____

CHENNAI METRO RAIL LIMITED
(A JOINT VENTURE OF GOVERNMENT OF INDIA AND GOVERNMENT OF TAMILNADU)

SELECTION OF TENDERER FOR MISCELLANEOUS WORKS

CONDITIONS OF CONTRACT

CONTENTS

CONTRACT DATA

TENDER FORM

1. INTRODUCTION

- 1.1. Background of Organization
- 1.2. Project Outline and Summary
- 1.3. Instructions to Tenderers

2. GENERAL CONDITIONS

- 2.1. Definitions
- 2.2. Interpretation
- 2.3. Communications
- 2.4. Law and Language
- 2.5. Validity of Tender
- 2.6. Priority of Documents
- 2.7. Contract Agreement
- 2.8. Assignment
- 2.9. Care and Supply of Documents
- 2.10. Employer's Use of Contractor's Documents
- 2.11. Contractor's Use of Employer's Documents
- 2.12. Confidential Details
- 2.13. Compliance with Laws
- 2.14. Joint and Several Liability

3. THE EMPLOYER

- 3.1. Right of Access to the Site
- 3.2. Permits, Licences or Approvals
- 3.3. Employer's Personnel
- 3.4. Employer's Financial Arrangements
- 3.5. Employer's Claims

4. THE ENGINEER

- 4.1. Engineer's Duties and Authority

- 4.2. Delegation by the Engineer
- 4.3. Instructions of the Engineer
- 4.4. Determinations

5. THE CONTRACTOR

- 5.1. Contractor's General Obligations
- 5.2. Performance Guarantee / Performance Bond
- 5.3. Contractor's Representative
- 5.4. Subcontractors
- 5.5. Assignment of Benefit of Subcontract
- 5.6. Co-operation
- 5.7. Setting Out
- 5.8. Post Construction Survey
- 5.9. Joint Inspection
- 5.10. Safety Procedures
- 5.11. Quality Assurance
- 5.12. Burden for Damage
- 5.13. Site Data
- 5.14. Sufficiency of the Accepted Contract Amount
- 5.15. Unforeseeable Physical Conditions
- 5.16. Rights of Way and Facilities
- 5.17. Avoidance of Interference
- 5.18. Access Route
- 5.19. Transport of Goods
- 5.20. Contractor's Equipment
- 5.21. Protection of the Environment
- 5.22. Electricity and Water
- 5.23. Progress Reports
- 5.24. Security of the Site
- 5.25. Protection of Adjoining Facilities
- 5.26. Contractor's Operations on Site
- 5.27. Site office
- 5.28. Vector Control
- 5.29. Fossils/Antiquities

6. STAFF AND LABOUR

- 6.1. Engagement of Staff and Labour
 - 6.2. Rates of Wages and Conditions of Labour
 - 6.3. Persons in the Service of Employer
 - 6.4. Labour Laws
 - 6.5. Working Hours
 - 6.6. Facilities for Staff and Labour
 - 6.7. Health and Safety
 - 6.8. Contractor's Superintendence
 - 6.9. Contractor's Personnel
 - 6.10. Records of Contractor's Personnel and Equipment
 - 6.11. Disorderly Conduct
-

7. PLANT, MATERIALS AND WORKMANSHIP

- 7.1. Manner of Execution
- 7.2. Samples
- 7.3. Inspection
- 7.4. Testing
- 7.5. Rejection
- 7.6. Remedial Work
- 7.7. Employership of Plant and Materials
- 7.8. Storage of Materials
- 7.9. Temporary Hoardings and Safety netting
- 7.10. Pollution and site Hygiene
- 7.11. Fire Protection during Construction
- 7.12. Royalties
- 7.13. Permission to execute the works.
- 7.14. Minimum Manpower & Machinery.

8. COMMENCEMENT, DELAYS AND SUSPENSION

- 8.1. Commencement of Works
- 8.2. Period of Completion
- 8.3. Timely execution of work
- 8.4. Programme
- 8.5. Delays
- 8.6. Extension of time for Completion
- 8.7. Rate of Progress
- 8.8. Liquidated Damages

9. TESTS ON COMPLETION

- 9.1. Contractor's Obligations
- 9.2. Delayed Tests
- 9.3. Retesting
- 9.4. Failure to Pass Tests on Completion

10. PRACTICAL COMPLETION AND PRACTICAL COMPLETION CERTIFICATE

- 10.1. Practical Completion of the Works and Sections
- 10.2. Practical Completion of Parts of the Works
- 10.3. Interference with Tests on Completion
- 10.4. Surfaces Requiring Reinstatement

11. DEFECTS LIABILITY

- 11.1. Completion of Outstanding Work and Remedying Defects
 - 11.2. Cost of Remedying Defects
 - 11.3. Extension of Defects Liability Period
 - 11.4. Failure to Remedy Defects
 - 11.5. Removal of Defective Work
 - 11.6. Further Tests
-

- 11.7. Right of Access
- 11.8. Contractor to Search
- 11.9. Unfulfilled Obligations
- 11.10. Clearance of Site

12. MEASUREMENT AND EVALUATION

- 12.1. Works to be Measured
- 12.2. Method of Measurement
- 12.3. Omissions

13. VARIATIONS AND ADJUSTMENTS

- 13.1. Variations, Provisional and Prime Cost Sums
- 13.2. Right to Vary
- 13.3. Variation Procedure
- 13.4. Payment in Applicable Currencies
- 13.5. Daywork

14. CONTRACT SUM AND PAYMENT

- 14.1. Item Rate Contract
- 14.2. Contract Sum
- 14.3. Earnest Money Deposit
- 14.4. Mobilisation advance
- 14.5. Terms of payment
- 14.6. Payment of Part Rates
- 14.7. Price Adjustment
- 14.8. Interim Payments
- 14.9. Final Bill
- 14.10. Delayed Payments
- 14.11. Payment of Retention money
- 14.12. Secured advance on Materials at site
- 14.13. Currencies of Payment

15. TERMINATION

- 15.1. Notice to Correct
- 15.2. Termination of the Contract
- 15.3. Valuation at Date of Termination
- 15.4. Payment after Termination
- 15.5. Employer's Entitlement to Termination

16. SUSPENSION

- 16.1. Suspension of work
- 16.2. Consequences of Suspension
- 16.3. Payment for Plant and Materials in Event of Suspension
- 16.4. Prolonged Suspension
- 16.5. Resumption of Work

17. RISK AND RESPONSIBILITY

- 17.1. Indemnities
- 17.2. Contractor's Care of the Works
- 17.3. Employer's Risks
- 17.4. Consequences of Employer's Risks
- 17.5. Intellectual and Industrial Property Rights
- 17.6. Limitation of Liability

18. INSURANCE

- 18.1. General Requirements for Insurances
- 18.2. Injury to Persons and Property of Employer
- 18.3. Insurance for Works and Contractor's Equipment
- 18.4. Insurance against Injury to Persons and Damage to Property
- 18.5. Insurance for Contractor's Personnel

19. FORCE MAJEURE

- 19.1. Definition of Force Majeure
- 19.2. Notice of Force Majeure
- 19.3. Duty to Minimise Delay
- 19.4. Consequences of Force Majeure
- 19.5. Force Majeure Affecting Subcontractor
- 19.6. Optional Termination, Payment and Release
- 19.7. Release from Performance under the Law

20. CLAIMS, DISPUTES AND ARBITRATION

- 20.1. Contractor's Claims
- 20.2. Payment for Claims
- 20.3. No Legal Action till Dispute Settlement Procedure is Exhausted
- 20.4. Notice of Dispute
- 20.5. Two Stages for Dispute
- 20.6. Restoration
- 20.7. Conciliation
- 20.8. Conciliation Procedure
- 20.9. Termination of Conciliation Proceedings
- 20.10. Arbitration
- 20.11. Interest on Arbitration Award
- 20.12. Cost of Arbitration
- 20.13. Jurisdiction of Courts
- 20.14. Suspension of Work on Account of Arbitration

21. APPENDIX

APPENDIX 1 - PROFORMA OF BANK GUARANTEE FOR EARNEST MONEY DEPOSIT

APPENDIX 2 - ARTICLES OF AGREEMENT

APPENDIX 3 - FORM OF PERFORMANCE GUARANTEE

APPENDIX 4 - AFFIDAVIT

APPENDIX 5 - PROFORMA OF BANK GUARANTEE FOR MOBILISATION ADVANCE
PAYMENT

CONTRACT DATA

Name of work	:	Miscellaneous works
Period of Sale of Tender Document	:	30-09-2015 to 05-11-15 (During office hours from 10.00 hours to 15.00 hours)
Cost of Tender Document (including VAT) Non-Refundable	:	Rs.15,000/- (Rupees Fifteen Thousand only) including tax by Demand Draft drawn from any Nationalized or Scheduled Banks in India payable at Chennai, in favour of the Chennai Metro Rail Ltd, Chennai-107, Tamil Nadu, for hard copy and Rs 12,000/- (Rupees Twelve Thousand only) for downloading using web access.
Date of submission of tenders	:	15.00 Hours on 06-11-2015
Opening of Technical Tenders	:	15.30 Hours on 06.11.2015
Validity of tender	:	90 days from last date of submission of tender
Time and Date of Pre-bid meeting	:	15.00 Hours on 14-10-2015 at the office of Chief General Manager (EC), CMRL, Koyambedu, Chennai 600 107.
Issue of Pre tender Clarifications		On or before 15:00 Hours, 27-10-2015
Earnest Money Deposit	:	Rs 10,00,000/- (Rupees ten lacs Only) by Demand Draft, drawn from any Nationalized or Scheduled Bank in India payable at Chennai, in favour of Chief Project Manager (D & V), Chennai Metro Rail Ltd, Chennai-107, Tamil Nadu, India (OR) by Bank Guarantee on any Nationalized or Scheduled Bankers in India, valid up to 09-02-2016
Tender Documents to be submitted to	:	Chief General Manager (EC) Chennai Metro Rail Limited Admin. Building, CMRL Depot Poonnamallee High Road , Koyambedu, Chennai - 600107
Place of Opening of Tender	:	Office of Chief General Manager (EC) Chennai Metro Rail Limited Admin. Building, CMRL Depot Poonnamallee High Road , Koyambedu, Chennai - 600107
Period of completion of work	:	12 Months (From the date of issue of LOA)
TENDER SUBMITTED BY		

TENDER FORM

To
Chief General Manager (EC)
Chennai Metro Rail Limited
Admin. Building, CMRL Depot
Poonnamallee High Road ,
Koyambedu, Chennai - 600107
Dear Sir,

1. Having examined the scope of works, specifications and conditions relating to the works specified in the memorandum hereinafter set out, and having visited and examined the site of the works specified in the said tender, and having acquired the requisite information relating thereto as affecting the Tender, I / we, hereby offer to execute the works specified in the said tender within the time specified in the said memorandum at the rates mentioned in the attached Bill of Quantities and in accordance in all respects with the specification, designs, drawings, and instructions in writing referred to in the Conditions of Tender, the Articles of Agreement, Special Conditions, Bill of Quantities, and Conditions of Contract, and with such materials as are provided for by and in all other respects in accordance with such conditions so far as they may be applicable.

MEMORANDUM

- | | |
|---|--|
| a) Description of works | Miscellaneous works |
| b) Earnest Money Deposit | Rs 10,00,000/- (Rupees 10 lakh Only) by Demand Draft, drawn from any Nationalized or Scheduled Bank in India payable at Chennai, in favour of the Chennai Metro Rail Ltd, Chennai-600 107, Tamil Nadu, India (OR) by Bank Guarantee on any Nationalized or Scheduled Bankers in India, valid up to 09-02-2016 |
| c) Percentage to be deducted from bills towards retention money | 5% (Five Percent) of the value of work billed in which 2.5 % of final bill value, will be retained for a period of 12 Months, from the date of handing over the Project, in all respects. |
| (d) Date of Commencement | 10 days from the date of issue of Letter of Award. |
| (e) Period of Contract | 12 (Twelve) Months from the date of signing the Agreement |

2. Should this Tender be accepted, I / we hereby agree to abide by and fulfill the terms and provisions of the said Conditions of Contract annexed hereto or in default thereof to forfeit and pay to

Chennai Metro Rail Limited, Chennai -600 107 the amount mentioned in the said Contract.

3. We agree to execute the proposed project works with complete cooperation and coordination with the independent other contractors, if any, to achieve sequential, unhindered and harmonious progress with the objective of completion of the Entire Project within the stipulated time for the entire project works for the Employer's beneficial use of the Project.

4. I / We have enclosed herewith the Earnest Money Deposit for INR 10,00,000/- in the form of which amount is not to bear any interest. Should I / we, fail to execute the contract when called upon to do so I / we do hereby agree that this sum shall be forfeited by me / us, to the Chennai Metro Rail Limited, Chennai -600 107.

5. If this Tender is accepted We agree to provide a Bank Guarantee from a Nationalized / Scheduled Bank in India as Performance Bond for a sum equivalent to Five **percent** of the Contract value for the due performance of the Contract under the terms of the conditions of Contract within time.

6. We agree to abide by this Tender for the period of **Ninty days** from the last date of submission of tender and it shall remain binding upon us and may be accepted at any time before the expiration of that period, without any additional cost.

7. Unless and until, a formal agreement is prepared and executed this Tender together with your written acceptance thereof shall constitute a binding contract between us.

8. The lists showing the particulars of large works carried out and the names of manufacturers of specialized items as required, are enclosed.

9. Our bankers are : (Please state name, address, and phone No.)

i).....

ii).....

The names of Partners of our Firm / Directors, of our company are :
(Please state name, address, and Phone No.)

i)

ii)

The name of the Partner, of the Firm / Director of our company, authorised to sign :

Yours faithfully,

Authorised Signature of Tenderder

(Should be signed by the authorised signatory. Board Resolution in the case of Company or a letter signed by all partners in the case of Firm to be enclosed.)

WITNESSES :

i) Signature:

Occupation:

Address:

ii) Signature:

Occupation:

Address:

1. INTRODUCTION

1.1. Background of Organisation

This involves miscellaneous works of the structures under the possession of CMRL. On behalf of the President of India, the **Chief General Manager (EC), CMRL, Koyambedu Depot , Chennai 600 107 Tamil Nadu, India** invites tender for selection of tenderer for annual repair and maintenance works.

1.2. Project Outline and Summary

The scope of this tender covers all work covered under Tamilnadu PWD (2014-15) schedule of rates and Delhi Schedule of Rates 2014 along with relevant specifications.

1.3. Instructions to Tenderers

- 1.3.1. Before submission, the Tenderer shall visit the site and familiarize himself with the site conditions including access to site, condition of existing structures, space for stacking of material and auxiliary construction activity, availability of required construction materials locally etc. and also carefully examine the conditions of contract, technical
- 1.3.2. The Tenderer shall investigate the following items during the site inspection referred above and to provide in his Tender rates for assuming full responsibility for services and amenities therefor, which will not be payable separately by the Employer.
 - Availability of power for construction
 - Availability of water for construction.
 - Means of disposal of storm water from the site.
 - Means of disposal of water due to de-watering at the site
 - Suitability of soil stratum at foundation base
- 1.3.3. The Employer discourages stipulation of additional conditions by the Tenders, as they are expected to accept the various provisions and conditions in the Tender documents. No conditional offer will be accepted.
- 1.3.4. The tenderer should be conversant with the latest rehabilitation/repair practices being followed in the industry for the speedy and quality works.
- 1.3.5. Timely completion of the works is the essence of this contract and the period specified for the completion of the works from the date of Letter of Acceptance must be adhered to as indicated. Any deviation proposed shall be clearly mentioned. Commitment on early completion of work will

be given due weightage while deciding on the tender.

- 1.3.6. The Tenderer shall complete the required documentation and fill in the rates and amounts in the bill of quantities. He shall sign and date the Tender documents in the spaces provided for the purpose. The Tenderer shall initial each page of the Tender Documents.
- 1.3.7. The tender shall be signed by person or persons duly authorised by the Tenderer with signature duly witnessed. In the case of proprietary firm the Tender shall be signed by the proprietor. In case of a partnership firm the Tender shall be signed by partner duly authorised under partnership deed. In the case of a limited company the Tender shall be signed by a person holding Power of Attorney. In the case of consortium authorised signatory of each member of consortium.
- 1.3.8. The Tender shall contain an address for serving notices required to be served to the Tenderer in connection with the Tender.
- 1.3.9. The Tender form and the documents attached to it shall not be detached one from the other, and no alteration or mutilation (other than filling in all the blank spaces) shall be made in any of the documents attached hereto. Any modification proposed to the entries in the attached documents shall be pointed out in the covering letter; otherwise it shall not be entertained.
- 1.3.10. The rates quoted by the Tenderer shall not be subject to any adjustment with variations in wage rates, taxes, levies, prices of material or any other costs except where specific provisions have been made in this document.

The tenderer's proposals for supervising the work, including the numbers and experience of the various grades of supervisory personnel/officers for each month of the construction period and name of the person proposed to act as site in charge with brief details of his qualification and experience.

Schedule of labour, machinery & Equipment available with the tenderer.

The Tenderer should carefully go through the safety & quality norms required for the project. The Tenderer has to strictly adhere to the quality & safety requirements stated therein the Conditions of contract.

The Employer reserves the right to adjust arithmetical or other errors in the tender in accordance with the following general rules. In the event of discrepancy between words and figures quoted, the description in words shall prevail. Similarly in the event of an error in the amount column arising as a result of wrong extension, the unit or item rates shall be regarded as firm and extensions amended accordingly.

Collection of Information for Tender: The Tenderer must obtain for himself on his own responsibility and at his own expense all the information which may be

necessary for the purpose of making a Tender and for entering into a contract and must examine the Drawings and must inspect the site of the work and acquaint himself with all local and site conditions, means of access to the work, nature of the work, nature of soil conditions, availability of any infrastructure and all matters appertaining thereto. Ignorance of the site conditions shall not be accepted by the Employer as a basis for any claim for compensation.

2. GENERAL CONDITIONS

2.1. Definitions

The contract document consists of the Agreement, Letter of Intent & Letter of Award, General Instructions, Notice Inviting Tender, General Conditions of the Contract, Special Conditions Technical Specifications and Schedule of quantities, suggested bar chart, Tender drawings including all modifications thereof incorporated in the document before the execution and the Contract Drawings prepared by The Employer from time to time. The following words and expressions shall have the meanings stated. Words indicating persons or parties include corporations and other legal entities, except where the context requires otherwise

2.1.1. The Contract

“Contract” means the Contract Agreement, the Letter of Acceptance, the Letter of Tender, these Conditions, the Specification, the Drawings, the Schedules, and the further documents (if any) which are listed in the Contract Agreement or in the Letter of Acceptance.

“Contract Agreement” means the contract agreement (if any) referred to in Clause 2.7 [Contract Agreement].

“Letter of Acceptance” means the letter of formal acceptance, signed by the Employer, of the Letter of Tender, including any annexed memoranda comprising agreements between and signed by both Parties. If there is no such letter of acceptance, the expression “Letter of Acceptance” means the Contract Agreement and the date of issuing or receiving the Letter of Acceptance means the date of signing the Contract Agreement.

“Letter of Tender” means the document entitled letter of tender, which was completed by the Contractor and includes the signed offer to the Employer for the Works.

“Specification” means the document entitled specification, as included in the Contract, and any additions and modifications to the specification in accordance with the Contract. Such document specifies the Works.

“Drawings” means the drawings of the Works, as included in the Contract, and any additional and modified drawings issued by (or on behalf of) the Employer in accordance with the Contract.

“Schedules” means the document(s) entitled schedules, completed by the Contractor and submitted with the Letter of Tender, as included in the Contract. Such document may include the Bill of Quantities, data, lists, and schedules of

rates and/or prices.

“Tender” means the Letter of Tender and all other documents which the Contractor submitted with the Letter of Tender, as included in the Contract.

“Appendix to tender” means the completed pages entitled appendix to tender which are appended to and form part of the Letter of Tender.

“Bill of Quantities” and **“Day work Schedule”** mean the documents so named (if any) which are comprised in the Schedules.

2.1.2. **Parties and Persons**

“Party” means the Employer or the Contractor, as the context requires.

“Employer” means the person named as employer in the Form of tender and the legal successors in title to this person.

“Tenderer” means the company which competes with others to get the opportunity to do work for the employer by offering a competitive quote to do the works defined in the tender documents.

“Contractor” means the person(s) named as contractor in the Letter of Tender accepted by the Employer and the legal successors in title to this person(s).

“Engineer” means the person appointed by the Employer to act as the Engineer for the purposes of the Contract and named in the Form to Tender, or other person appointed from time to time by the Employer.

“Contractor’s Representative” means the person named by the Contractor in the Contract or appointed from time to time by the Contractor under Clause 5.3 [Contractor’s Representative], who acts on behalf of the Contractor.

“Employer’s Personnel” means the Engineer, the assistants referred to in Clause 4.2 [Delegation by the Engineer] and all other staff, labour and other employees of the Engineer and of the Employer; and any other personnel notified to the Contractor, by the Employer or the Engineer, as Employer’s Personnel.

“Contractor’s Personnel” means the Contractor’s Representative and all personnel whom the Contractor utilises on Site, who may include the staff, labour and other employees of the Contractor and of each Subcontractor; and any other personnel assisting the Contractor in the execution of the Works.

“Subcontractor” means any person named in the Contract as a subcontractor, or any person appointed as a subcontractor, for a part of the Works; and the legal successors in title to each of these persons.

2.1.3. **Dates, Tests, Periods and Completion**

“Base Date” means the date 28 days prior to the latest date for submission of the Tender.

“Commencement Date” means the date notified under Clause 8.1[Commencement of Works].

“Time for Completion” means the time for completing the Works or a Section (as the case may be) under Clause 8.2 [Time for Completion],as stated in the Appendix to Tender, calculated from the Commencement Date.

“Tests on Completion” means the tests which are specified in the Contract or agreed by both Parties or instructed as a Variation, and which are carried out under Clause 9 [Tests on Completion] before the Works or a Section (as the case may be) are taken over by the Employer.

“Practical Completion Certificate” means a certificate issued under Clause 10[Employer’s Practical Completion].

“Tests after Completion” means the tests (if any) which are specified in the Contract and which are carried out in accordance with the provisions of the Particular Conditions after the Works or a Section (as the case may be) are taken over by the Employer.

“Defects Liability Period” means the period for notifying defects in the Works or a Section (as the case may be) under Clause 11.1[Completion of Outstanding Work and Remedying Defects], as stated in the Conditions of the contract, calculated from the date on which the Works or Section is completed as certified under Clause 10.1 [Practical Completion of the Works and Sections].

“day” means a calendar day and **“year”** means 365 days.

2.1.4. Money and Payments

“Accepted Contract Amount” means the amount accepted in the Letter of Acceptance for the execution and completion of the Works and the remedying of any defects.

“Contract Sum” means the price defined in Clause 14.1 [The Contract Sum], and includes adjustments in accordance with the Contract.

“Cost” means all expenditure reasonably incurred (or to be incurred) by the Contractor, whether on or off the Site, including overhead and similar charges, but does not include profit.

“Final Payment Certificate” means the payment certificate issued under Clause 14.17 [Issue of Final Payment Certificate].

“Final Statement” means the statement defined in Clause 14.15[Application for Final Payment Certificate].

“Foreign Currency” means a currency in which part (or all) of the Contract Sum is payable, but not the Local Currency.

“Interim Payment Certificate” means a payment certificate issued under Clause 14 [Contract Sum and Payment], other than the Final Payment Certificate.

“Local Currency” means the currency of the Country.

“Payment Certificate” means a payment certificate issued under Clause 14[Contract Sum and Payment].

“Provisional Sum” means a sum (if any) which is specified in the Contract as a provisional sum, for the execution of any part of the Works or for the supply of Plant, Materials or services under Clause 13.1 [Provisional Sums].

“Retention Money” means the accumulated retention moneys which the Employer retains under Clause 14.7 [Application for Interim Payment Certificates] and pays under Clause 14.13 [Payment of Retention Money].

“Statement” means a statement submitted by the Contractor as part of an application, under Clause 14 [Contract Sum and Payment], for a payment certificate.

2.1.5. **Works and Goods**

“Contractor’s Equipment” means all apparatus, machinery, vehicles and other things required for the execution and completion of the Works and the remedying of any defects. However, Contractor’s Equipment excludes Temporary Works, Employer’s Equipment (if any), Plant, Materials and any other things intended to form or forming part of the Permanent Works.

“Goods” means Contractor’s Equipment, Materials, Plant and Temporary Works, or any of them as appropriate.

“Materials” means things of all kinds (other than Plant) intended to form or forming part of the Permanent Works, including the supply-only materials (if any) to be supplied by the Contractor under the Contract.

“Permanent Works” means the permanent works to be executed by the Contractor under the Contract.

“Plant” means the apparatus, machinery and vehicles intended to form or forming part of the Permanent Works.

“Temporary Works” means all temporary works of every kind (other than Contractor’s Equipment) required on Site for the execution and completion of the Permanent Works and the remedying of any defects.

“Works” mean the Permanent Works and the Temporary Works, or either of them as appropriate.

2.1.6. **Other Definitions**

“Contractor’s Documents” means the calculations, computer programs and

other software, drawings, manuals, models and other documents of a technical nature (if any) supplied by the Contractor under the Contract.

“Country” means the country in which the Site (or most of it) is located, where the Permanent Works are to be executed.

“Employer’s Equipment” means the apparatus, machinery and vehicles (if any) made available by the Employer for the use of the Contractor in the execution of the Works, as stated in the Specification; but does not include Plant which has not been taken over by the Employer.

“Force Majeure” is defined in Clause 19 [Force Majeure].

“Laws” means all national (or state) legislation, statutes, ordinances and other laws, and regulations and by-laws of any legally constituted public authority.

“Performance Guarantee/Performance Bond” means the security (or securities, if any) under Clause 5.2 [Performance Guarantee/Performance Bond].

“Site” means the places where the Permanent Works are to be executed and to which Plant and Materials are to be delivered, and any other places as may be specified in the Contract as forming part of the Site.

“Unforeseeable” means not reasonably foreseeable by an experienced contractor by the date for submission of the Tender.

“Variation” means any change to the Works, which is instructed or approved as a variation under Clause 13 [Variations and Adjustments].

2.2. Interpretation

In the Contract, except where the context requires otherwise:

words indicating one gender include all genders;

words indicating the singular also include the plural and words indicating the plural also include the singular;

provisions including the word “agree”, “agreed” or “agreement” require the agreement to be recorded in writing, and

“written” or “in writing” means hand-written, type-written, printed or electronically made, and resulting in a permanent record.

The marginal words and other headings shall not be taken into consideration in the interpretation of these Conditions.

2.3. Communications

Wherever these Conditions provide for the giving or issuing of approvals, certificates,

consents, determinations, notices and requests, these communications shall be:

- 2.3.1. in writing and delivered by hand (against receipt), sent by mail or courier, or transmitted using any of the agreed systems of electronic transmission; and
- 2.3.2. delivered, sent or transmitted to the address for the recipient's communications as stated in the Conditions of Contract.

However:

- 2.3.3. if the recipient gives notice of another address, communications shall thereafter be delivered accordingly; and
- 2.3.4. if the recipient has not stated otherwise when requesting an approval or consent, it may be sent to the address from which the request was issued.

2.4. Law and Language

The Contract shall be governed by the law of the country (or other jurisdiction). If there are versions of any part of the Contract which are written in more than one language, the version which is in the ruling language shall prevail. The language for communications shall be English.

2.5. Validity of Tender

Tender submittals shall remain valid for acceptance by the Employer for a period of 90 **(Ninty) days** from the last date of submission of Tender which period may be extended due to unavoidable administrative reasons and after intimating to all the Tenderer. The Tenderer shall not cancel or withdraw the Tender during this validity period.

2.6. Priority of Documents

The documents forming the Contract are to be taken as mutually explanatory of one another. For the purposes of interpretation, the priority of the documents shall be in accordance with the following sequence:

- a. the letter of Acceptance,
 - b. Articles of Agreement
 - c. Pre Bid Queries
 - d. Preamble & Bill of Quantities
 - e. Technical Specification
 - f. Conditions of Contract
 - g. IS Code
-

h. Other Codes

If an ambiguity or discrepancy is found in the documents or conflicts between description in 2 documents, then the following priority shall govern:

1. Preamble & Bill of Quantities
2. Technical Specifications
3. Conditions of Contract
4. IS Code
5. Other codes

2.7. Contract Agreement

The Parties shall enter into a Contract Agreement within 28 days after the Contractor receives the Letter of Acceptance, unless they agree otherwise. The Articles of Agreement shall be based upon the format in Appendix 2. The costs of stamp duties and similar charges (if any) imposed by law in connection with entry into the Contract Agreement shall be borne by the Employer.

2.8. Assignment

Neither Party shall assign the whole or any part of the Contract or any benefit or interest in or under the Contract. However, either Party:

- 2.8.1. may assign the whole or any part with the prior agreement of the other Party, at the sole discretion of such other Party, and
- 2.8.2. may, as security in favour of a bank or financial institution, assign its right to any moneys due, or to become due, under the Contract.

2.9. Care and Supply of Documents

The Specification and Drawings shall be in the custody and care of the Employer. Unless otherwise stated in the Contract, two copies of the Contract and of each subsequent Drawing shall be supplied to the Contractor, who may make or request further copies at the cost of the Contractor.

Each of the Contractor's Documents shall be in the custody and care of the Contractor, unless and until taken over by the Employer. Unless otherwise stated in the Contract, the Contractor shall supply to the Engineer six copies of each of the Contractor's Documents.

The Contractor shall keep, on the Site, a copy of the Contract, publications named in the Specification, the Contractor's Documents (if any), the Drawings and Variations and other communications given under the Contract. The Employer's Personnel shall have the right of access to all these documents at all reasonable times.

If a Party becomes aware of an error or defect of a technical nature in a document which was prepared for use in executing the Works, the Party shall promptly give notice to the

other Party of such error or defect.

2.10. Employer's Use of Contractor's Documents

As between the Parties, the Contractor shall retain the copyright and other intellectual property rights in the Contractor's Documents and other design documents made by (or on behalf of) the Contractor.

The Contractor shall be deemed (by signing the Contract) to give to the Employer a non-terminable transferable non-exclusive royalty-free licence to copy, use and communicate the Contractor's Documents, including making and using modifications of them. This licence shall:

- 2.10.1. apply throughout the actual or intended working life (whichever is longer) of the relevant parts of the Works,
- 2.10.2. entitle any person in proper possession of the relevant part of the Works to copy, use and communicate the Contractor's Documents for the purposes of completing, operating, maintaining, altering, adjusting, repairing and demolishing the Works, and
- 2.10.3. in the case of Contractor's Documents which are in the form of computer programs and other software, permit their use on any computer on the Site and other places as envisaged by the Contract, including replacements of any computers supplied by the Contractor.

The Contractor's Documents and other design documents made by (or on behalf of) the Contractor shall not, without the Contractor's consent, be used, copied or communicated to a third party by (or on behalf of) the Employer for purposes other than those permitted under this Sub-Clause.

2.11. Contractor's Use of Employer's Documents

As between the Parties, the Employer shall retain the copyright and other intellectual property rights in the Specification, the Drawings and other documents made by (or on behalf of) the Employer. The Contractor may, at his cost, copy, use, and obtain communication of these documents for the purposes of the Contract. They shall not, without the Employer's consent, be copied, used or communicated to a third party by the Contractor, except as necessary for the purposes of the Contract.

2.12. Confidential Details

The Contractor shall disclose all such confidential and other information as the Engineer may reasonably require in order to verify the Contractor's compliance with the Contract.

2.13. Compliance with Laws

The Contractor shall, in performing the Contract, comply with applicable Laws. Unless otherwise stated in the Particular Conditions:

- 2.13.1. The Employer shall have obtained (or shall obtain) the planning, zoning

or similar permission for the Permanent Works, and any other permissions described in the Specification as having been (or being) obtained by the Employer; and the Employer shall indemnify and hold the Contractor harmless against and from the consequences of any failure to do so; and

- 2.13.2. the Contractor shall give all notices, pay all taxes, duties and fees, and obtain all permits, licences and approvals, as required by the Laws in relation to the execution and completion of the Works and the remedying of any defects; and the Contractor shall indemnify and hold the Employer harmless against and from the consequences of any failure to do so.

2.14. Joint and Several Liability

If the Contractor constitutes (under applicable Laws) a joint venture, consortium or other unincorporated grouping of two or more persons:

- 2.14.1. these persons shall be deemed to be jointly and severally liable to the Employer for the performance of the Contract;
- 2.14.2. these persons shall notify the Employer of their leader who shall have authority to bind the Contractor and each of these persons; and
- 2.14.3. the Contractor shall not alter its composition or legal status without the prior consent of the Employer.

3. THE EMPLOYER

3.1. Right of Access to the Site

The Employer/ The Engineer / Employer's Personnel or any person authorized by them shall at all times have access to the Works and to the Site and to all workshops and places where work is being prepared or when materials, manufactured articles or machinery are being obtained for the Works and the Contractor shall afford every facility for any/every assistance in or in obtaining the right to such access.

The Employer shall give the Contractor right of access to, and possession of, all parts of the Site within the time (or times) stated in the Form to Tender. The right and possession may not be exclusive to the Contractor. If, under the Contract, the Employer is required to give (to the Contractor) possession of any foundation, structure, plant or means of access, the Employer shall do so in the time and manner as required. However, the Employer may withhold any such right or possession until the Performance Security has been received.

3.2. Permits, Licences or Approvals

The Employer shall provide reasonable assistance to the Contractor at the request of the Contractor:

- 3.2.1. for the Contractor's applications for any permits, licences or approvals required by the Laws of the Country:
-

- 3.2.1.1.1. which the Contractor is required to obtain under Clause 2.13 [Compliance with Laws],
- 3.2.1.1.2. for the delivery of Goods, including clearance through customs, and
- 3.2.1.1.3. for the export of Contractor's Equipment when it is removed from the Site.

3.3. Employer's Personnel

The Employer shall be responsible for ensuring that the Employer's Personnel and the Employer's other contractors on the Site:

- 3.3.1. co-operate with the Contractor's efforts
- 3.3.2. take actions similar to those which the Contractor is required to take under Clause 5.10 [Safety Procedures] and under Clause 5.21 [Protection of the Environment].

3.4. Employer's Financial Arrangements

- 3.4.1. The Employer shall submit, within 28 days after receiving any request from the Contractor, reasonable evidence that financial arrangements have been made and are being maintained which will enable the Employer to pay the Contract Sum (as estimated at that time) in accordance with Clause 14 [Contract Sum and Payment]. If the Employer intends to make any material change to his financial arrangements, the Employer shall give notice to the Contractor with detailed particulars.

3.5. Employer's Claims

- 3.5.1. If the Employer considers himself to be entitled to any payment under any Clause of these Conditions or otherwise in connection with the Contract, and/or to any extension of the Defects Liability Period, the Employer or the Engineer shall give notice and particulars to the Contractor. However, notice is not required for payments due under Clause 5.22 [Electricity and Water], or for other services requested by the Contractor.
- 3.5.2. The notice shall be given as soon as practicable after the Employer became aware of the event or circumstances giving rise to the claim. A notice relating to any extension of the Defects Liability Period shall be given before the expiry of such period
- 3.5.3. The particulars shall specify the Clause or other basis of the claim, and shall include substantiation of the amount and/or extension to which the Employer considers himself to be entitled in connection with the Contract. The Engineer shall then proceed in accordance with Clause 4.4 [Determinations] to agree or determine (i) the amount (if any) which the Employer is entitled to be paid by the Contractor, and/or (ii) the extension (if any) of the Defects Liability Period in accordance with

Clause 11.3 [Extension of Defects Liability Period].

- 3.5.4. This amount may be included as a deduction in the Contract Sum and Payment Certificates. The Employer shall only be entitled to set off against or make any deduction from an amount certified in a Payment Certificate, or to otherwise claim against the Contractor, in accordance with this Clause.

4. THE ENGINEER

The term "Engineer" shall mean the representative of the Employer, and acting under the orders of the Employer to inspect the works in the absence of the Employer the Contractor shall afford the Engineer every facility and assistance for inspecting the works and materials, and for checking and measuring, time and materials.

The Engineer or any representative of the Employer shall have power to give notice to the Contractor or to his representative of non- approval of any work or materials, and such work shall be suspended, or the use of such materials shall be discontinued until the decision of the Employer is obtained. The works will from time to time ,be examined by the Employer the Engineer or the other Engineer's representative but such examination shall not in any way exonerate the Contractor from the obligation to remedy any defects which may be found to exist at any stage of the works or after the same is completed.

4.1. Engineer's Duties and Authority

- 4.1.1. The duties of the Engineer are to watch and supervise the Works and to test and examine any materials to be used or workmanship employed in connection with the Works. He shall have no authority to relieve the Contractor of any of his duties or obligations under the Contract nor except as expressly provided hereunder or elsewhere in the Contract to order any work involving delay or any extra payment by the Employer nor to make any variation of or in the works.
- 4.1.2. The Engineer may from time to time in writing delegate to the Engineer any of the powers and authorities vested in the Engineer and shall furnish to the Contractor a copy of all such written delegations of powers and authorities. Any written instruction or approval given by the Engineer to the Contractor within the terms of such delegation (but not otherwise) shall bind the Contractor and the Employer, as though it had been given by the Engineer, provided always as follows:

Failure of the Engineer to disapprove any work or materials shall not prejudice the power of the Engineer thereafter to disapprove such work or materials and to order the pulling down removal or breaking up thereof.

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 thereupon confirm, reverse or vary such decision.

4.2. Delegation by the Engineer

The Engineer may from time to time assign duties and delegate authority to assistants, and may also revoke such assignment or delegation. These assistants may include a resident engineer, and/or independent inspectors appointed to inspect and/or test items of Plant and/or Materials. The assignment, delegation or revocation shall be in writing and shall not take effect until copies have been received by both Parties. However, unless otherwise agreed by both Parties, the Engineer shall not delegate the authority to determine any matter in accordance with Clause 4.4 [Determinations].

Assistants shall be suitably qualified persons, who are competent to carry out these duties and exercise this authority, and who are fluent in the language for communications defined in Clause 2.4 [Law and Language].

Each assistant, to whom duties have been assigned or authority has been delegated, shall only be authorised to issue instructions to the Contractor to the extent defined by the delegation. Any approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test, or similar act by an assistant, in accordance with the delegation, shall have the same effect as though the act had been an act of the Engineer. However:

- a. any failure to disapprove any work, Plant or Materials shall not constitute approval, and shall therefore not prejudice the right of the Engineer to reject the work, Plant or Materials;
- b. if the Contractor questions any determination or instruction of an assistant, the Contractor may refer the matter to the Engineer, who shall promptly confirm, reverse or vary the determination or instruction.

4.3. Instructions of the Engineer

The Engineer may issue to the Contractor (at any time) instructions and additional or modified Drawings which may be necessary for the execution of the Works and the remedying of any defects, all in accordance with the Contract. The Contractor shall only take instructions from the Engineer, or from an assistant to whom the appropriate authority has been delegated under this Clause. If an instruction constitutes a Variation, Clause 13 [Variations and Adjustments] shall apply.

The Contractor shall comply with the instructions given by the Engineer or delegated assistant, on any matter related to the Contract. Whenever practicable, their instructions shall be given in writing. If the Engineer or a delegated assistant:

1. gives an oral instruction,
2. receives a written confirmation of the instruction, from (or on behalf of) the Contractor, within two working days after giving the instruction, and
3. does not reply by issuing a written rejection and/or instruction within two working days after receiving the confirmation,

4.4. Determination

Whenever these Conditions provide that the Engineer shall proceed in accordance with this Clause 4.5 to agree or determine any matter, the Engineer shall consult with each Party in an endeavour to reach agreement. If agreement is not achieved, the Engineer shall make a fair determination in accordance with the Contract, taking due regard of all

relevant circumstances.

The Engineer shall give notice to both Parties of each agreement or determination, with supporting particulars. Each Party shall give effect to each agreement or determination unless and until revised under Clause 20 [Claims, Disputes and Arbitration].

5. THE CONTRACTOR

5.1. Contractor's General Obligations

5.1.1. The Contractor shall Construct (to the extent specified in the Contract), execute, (design to the extent specified in the contract) and complete the Works in accordance with the Contract and with the Engineer's instructions, and shall remedy any defects in the Works.

5.1.2. The Contractor shall provide the Plant and Contractor's Documents specified in the Contract, and all Contractor's Personnel, Goods, consumables and other things and services, whether of a temporary or permanent nature, required in and for this design, execution, completion and remedying of defects.

5.1.3. The Contractor shall be responsible for the adequacy, stability and safety of all Site operations and of all methods of construction. Except to the extent specified in the Contract, the Contractor

shall be responsible for all Contractor's Documents, Temporary Works, and such design of each item of Plant and Materials as is required for the item to be in accordance with the Contract, and

shall not otherwise be responsible for the design or specification of the Permanent Works.

5.1.4. The Contractor shall, whenever required by the Engineer, submit details of the arrangements and methods which the Contractor proposes to adopt for the execution of the Works. No significant alteration to these arrangements and methods shall be made without this having previously been notified to the Engineer.

5.1.5. If the Contract specifies that the Contractor shall Construct any part of the Permanent Works, then unless otherwise stated in the Particular Conditions:

The Contractor shall submit to the Engineer the Contractor's Documents for this part in accordance with the procedures specified in the Contract;

These Contractor's Documents shall be in accordance with the Specification and Drawings, shall be written in the language for communications defined in Clause 2.4 [Law and Language], and shall include additional information required by the Engineer to add to the Drawings for coordination of each Party's designs;

The Contractor shall be responsible for this part and it shall, when the Works are

completed, be fit for such purposes for which the part is intended as are specified in the Contract.

Prior to the commencement of the Tests on Completion, the Contractor shall submit to the Engineer the “as-built” documents and operation and maintenance manuals in accordance with the Specification and in sufficient detail for the Employer to operate, maintain, dismantle, reassemble, adjust and repair this part of the Works. Such part shall not be considered to be completed for the purposes of Practical Completion under Clause 10.1 Practical Completion of the Works and Sections] until these documents and manuals have been submitted to the Engineer.

5.2. Performance Guarantee/ Performance Bond

- 5.2.1. The **Contractor**, within 7 days from the date of issue of LOA, shall submit a Performance Bond from a Nationalised / Scheduled Bank in India as Performance Bond for a sum equivalent to **five percent (5%)** of the Contract value for the due performance of the Contract under the terms of the conditions of Contract within time.
- 5.2.2. The Performance Bond shall be in the form of Bank Guarantee as per format in Appendix 3 approved by the Employer and shall remain so deposited with the Employer and valid till the end of Defects Liability Period.
- 5.2.3. The said Performance Bond in the form of Bank Guarantee shall indemnify the Employer against loss from defects arising from any cause under this Contract or due to the failure of the Contractor to promptly carry out any matters arising under this Contract.

5.3. Contractor's Representative

- 5.3.1. The Contractor shall appoint the Contractor's Representative and shall give him all authority necessary to act on the Contractor's behalf under the Contract.
- 5.3.2. Unless the Contractor's Representative is named in the Contract, the Contractor shall, prior to the Commencement Date, submit to the Engineer for consent the name and particulars of the person the Contractor proposes to appoint as Contractor's Representative. If consent is withheld or subsequently revoked, or if the appointed person fails to act as Contractor's Representative, the Contractor shall similarly submit the name and particulars of another suitable person for such appointment.
- 5.3.3. The Contractor shall not, without the prior consent of the Engineer, revoke the appointment of the Contractor's Representative or appoint a replacement.
- 5.3.4. The whole time of the Contractor's Representative shall be given to directing the Contractor's performance of the Contract. If the Contractor's

Representative is to be temporarily absent from the Site during the execution of the Works, a suitable replacement person shall be appointed, subject to the Engineer's prior consent, and the Engineer shall be notified accordingly.

- 5.3.5. The Contractor's Representative may delegate any powers, functions and authority to any competent person, and may at any time revoke the delegation. Any delegation or revocation shall not take effect until the Engineer has received prior notice signed by the Contractor's Representative, naming the person and specifying the powers, functions and authority being delegated or revoked.

5.4. Joint Inspection

The Employer / The Engineer / Employer's personnel shall conduct a joint inspection with The Contractors' authorised representative at every stage of the work, immediately upon completion of such stage of works. The purpose of the joint inspection is to observe and record any deviations from the specified tolerances / levels, plumb or any quality defects or any such issues which require immediate attention / action from the Contractor to make good or rectify such defects or observations jointly recorded. Such joint inspections can be held at any time as deemed fit and shall be binding on the Contractor to act upon and implement without any extra cost the directions arising out of such joint inspections. Failure / delay in holding such joint inspections shall not absolve the Contractor from his responsibilities to rectify any defects which may be subsequently noticed at any time after the respective stages of work.

5.5. Safety Procedures:

The Contractor shall exercise precaution at all times for the protection of persons and their property. The Contractor shall install adequate safety guards and protective devices for all equipment and machinery. The Contractor shall also provide and adequately maintain all proper temporary walks, roads, guards, railings, lights and warning signs. The Contractor shall comply with all applicable laws relating to safety precautions, including the safety regulations of The Employer Representative. If The Contractor designates other employees, its Foreman shall have the duty of prevention of accidents. The Contractor shall institute a safety program, which includes all trades on the site. Renovation, expansion, or remodel work of any existing building may expose workers to lead-containing materials such as paint, flashings and pipe joints. The Contractor shall comply with all applicable laws addressing such exposure. The Employer and The Employer Representative may bring to the attention of The Contractor a possible hazardous situation in the field regarding the safety of personnel on the site. The Contractor shall be responsible for verifying that all local, state and Government workplace safety guidelines are being observed. In no case shall this right to notify The Contractor absolve The Contractor of its responsibility for monitoring safety conditions. Such notification shall not imply that anyone other than The Contractor has assumed any responsibility for field safety operations. In the event of an accident, The Contractor shall make available to The Employer copies of its accident report to its insurance carrier. The Contractor shall determine the cause of the accident and immediately correct any equipment, procedure or condition contributing to the accident. The contractor shall follow

the Hand Book of Health and Safety at Work provided as part of Part 1 (C) Technical Specifications.

5.6. Quality Assurance

- 5.6.1. The Contractor shall be fully responsible for the quality of materials and workers skill in the project. The Contractor shall insist upon and carry out on his own all the inspections and testing. Contractor shall maintain full documentation Quality Control process both in-house and third party and shall make it available to The Employer / The Engineer / Employer's personnel with free access. The Employer / The Engineer / Employer's Personnel reserve the right to insist upon their being present at special inspections and tests performed by The Employer 's selected laboratories. All Third party tests / inspections shall be in the form of written reports.
- 5.6.2. Tenderer shall submit in his own format, checklists and quality manuals in order to achieve quality assurance guidelines. This will include inspection & testing and may include a Quality Assurance plan and structural observations where applicable. All materials and installation shall be tested in line with the BIS Codes and also Local authority requirements. The Tenderer has to outline the methodology to be adopted for the execution of the works for ensuring full compliance with the entire testing and validation of materials, workmanship, services and other installation.

5.7. Burden for Damage

- 5.7.1. From the issuance of the official Notice to Proceed until formal acceptance of the project by The Employer , The Contractor shall have the charge and care of and shall bear the risk of damage to the project and materials and equipment for the project. The Contractor, at its own expense, shall promptly rebuild, repair, restore and make good all such damage to any portion or to all of the project and materials therefore before the acceptance of the project by The Employer except for such damage as is proximately caused by acts of The Employer . In case of suspension of work from any cause whatsoever, The Contractor shall be responsible for all materials and shall properly store them, if necessary and shall provide suitable drainage and erect temporary structures where necessary. If The Contractor damages any property belonging to the Employer , The Employer may, in addition to other remedies available to The Employer , retain from the money due to The Contractor an amount sufficient to ensure repair of the damage or an amount to contribute towards repair of the damage. The Contractor shall be responsible for any damage to the project and materials and equipment for the project.
- 5.7.2. The Contractor shall also be responsible for handling and resolving all potential objections or hindrances arising out of complaints etc. from neighbours and others who may claim to be affected by the construction

activity.

5.8. Site Data

Before Tendering, the Contractor shall have visited and examined the site and satisfied himself as to the nature of the existing roads or other means of communication and the character of the soil and of the excavations, the correct dimensions of the work, and the facilities for obtaining any special articles called for in the Contract Document and shall have obtained generally his own information on all matters affecting the continuation and progress of the works.

No extra charge made in consequence of any misunderstanding or incorrect information on any of these points or on the grounds of insufficient description will be allowed. Should the Contractor after visiting the site find any discrepancies, omissions, ambiguities or conflicts in or among the Contract Document or be in doubt as to their meaning he shall bring, the questions to the Employer's attention not later than 48 Hours before the pre-bid meeting, with the Employer.

5.9. Sufficiency of the Accepted Contract Amount

The Contractor shall be deemed to:

- 5.9.1. have satisfied himself as to the correctness and sufficiency of the Accepted Contract Amount, and
- 5.9.2. have based the Accepted Contract Amount on the data, interpretations, necessary information, inspections, examinations and satisfaction as to all relevant matters referred to in Clause 5.13 [Site Data].

5.10. Unforeseeable Physical Conditions

If, however, during the execution of the Works adverse physical conditions (other than weather conditions or conditions due to weather conditions or soil or groundwater conditions) or artificial obstructions are encountered, the Contractor shall forthwith give written notice thereof to the Engineer and if (in either case) such conditions could not in the opinion of the Engineer have been reasonably foreseen by an experienced contractor, then the Engineer shall certify and the Employer shall pay the additional expense to which the Contractor shall have been put by reason of such conditions including the proper and reasonable expenses:

- a. of complying with any instruction which the Engineer may issue to the Contractor in connection therewith and
- b. of any proper reasonable measures approved by the Engineer which the contractor may take in the absence of specific instruction from the Engineer.
- c. Provided that Engineer shall not certify any additional expenses until the same are approved by the Employer in writing.

5.11. Rights of Way and Facilities

The Contractor shall bear all costs and charges for special and/or temporary right of-way which he may require, including those for access to the Site. The Contractor shall also obtain, at his risk and cost, any additional facilities outside the Site which he may require for the purposes of the Works.

5.12. Avoidance of Interference

The Contractor shall not interfere unnecessarily or improperly with:

1. the convenience of the public, or
2. the access to and use and occupation of all roads and footpaths, irrespective of whether they are public or in the possession of the Employer or of others.

5.13. Access Route

The Contractor shall be deemed to have been satisfied as to the suitability and availability of access routes to the Site. The Contractor shall use reasonable efforts to prevent any road or bridge from being damaged by the Contractor's traffic or by the Contractor's Personnel. These efforts shall include the proper use of appropriate vehicles and routes.

Except as otherwise stated in these Conditions:

- a. The Contractor shall (as between the Parties) be responsible for any maintenance which may be required for his use of access routes;
- b. the Contractor shall provide all necessary signs or directions along access routes, and shall obtain any permission which may be required from the relevant authorities for his use of routes, signs and directions
- c. The Employer shall not be responsible for any claims which may arise from the use or otherwise of any access route,
- d. The Employer does not guarantee the suitability or availability of particular access routes, and
- e. Costs due to non-suitability or non-availability, for the use required by the Contractor, of access routes shall be borne by the Contractor.

5.14. Transport of Goods

Except where otherwise specified, the Contractor shall at his own expense supply and provide all the Constructional plant, Temporary Works, materials both for Temporary and for permanent Works/Plant/Equipment, Labour (including the supervision thereof) transport to or from the Site and in and about the Works and other things of every kind required for the construction, completion and maintenance of the Works/Plant/Equipment.

5.15. Contractor's Equipment

The Contractor shall provide and install all necessary cranes, hoists, ladders, scaffolding, tools, tackles, plants, dewatering equipment, shoring, strutting etc., all transport for labour, materials and plant necessary, for the proper carrying on execution, and completion of the work, to the satisfaction of the Employer.

5.16. Protection of the Environment

The Contractor shall take all reasonable steps to protect the environment (both on and off the Site) and to limit damage and nuisance to people and property resulting from pollution, noise and other results of his operations. The Contractor shall ensure that emissions, surface discharges and effluent from the Contractor's activities shall not exceed the values indicated in the Specification, and shall not exceed the values prescribed by applicable Laws.

5.17. Electricity and Water

The Contractor shall be responsible to supply of electricity and water required for all the works including that of all other agencies directly engaged by him such as Direct Sub-contractors etc. The Contractor shall ensure uninterrupted power and water supply at site by receiving temporary power supply through Electricity Department after arriving with exact demand and keeping in mind the future demands of power. Diesel generators of required numbers also shall be arranged at appropriate places at site as a stand by measure to meet out the demand to run the site 24x7 basis. Nothing extra shall be paid on this account.

5.18. Progress Reports

The Contractor shall prepare programme charts according to the Conditions of Contract, and submit the same for approval of the Employer and for his record within two weeks of the Acceptance of the Contract. The charts shall indicate the expected date of commencement and completion of each of the items of the work and shall be, in a form approved by the Engineer. The chart, shall also indicate the scheduling of samples, Shop Drawings and approvals.

Photographs and Video Cassettes:

The Main Contractor shall take photos and videos from the locations approved by the Employer / Employer's Personnel to show the progress of work at regular intervals, throughout the Construction Period, and furnish three sets of Photographs of minimum size of 200 X 150 MM with date embossed on the Photograph and video Compact Disks of required duration, duly indicating therein the specified number of negative / prints affixed in albums. Each photograph, shall be marked with the description of the photograph and location from which it was taken.

The negatives shall be dated, location labeled, and retained by the Contractor, to enable further prints, to be obtained, as and when, required by the Employer / Employer's Personnel .

5.19. Security of the Site

The Contractor shall make his own security arrangements to guard the Site and premises at all times, at his own expense. The security arrangements shall be adequate to maintain strict control on the movement of material and labour. The Contractor shall extend the security arrangements to guard the material stored and/or fixed on the premises by the Sub-Contractors.

5.20. Protection of Adjoining Facilities

The Contractor shall protect adjoining property and nearby buildings, roads and other facilities and improvements from dust, dirt, debris and other nuisances arising out of Contractor's operations. Dust shall be controlled by sprinkling or other effective methods acceptable to The Employer . An erosion and sedimentation control program shall be initiated, which includes measures addressing erosion caused by wind and water and sediment in runoff from site. A regular watering program shall be initiated to adequately control the amount of fugitive dust in accordance with applicable Law.

5.21. Contractor's Operations on Site

The Contractor shall confine his operations to the Site, and to any additional areas which may be obtained by the Contractor and agreed by the Engineer as working areas. The Contractor shall take all necessary precautions to keep Contractor's Equipment and Contractor's Personnel within the Site and these additional areas, and to keep them off adjacent land.

During the execution of the Works, the Contractor shall keep the Site free from all unnecessary obstruction, and shall store or dispose of any Contractor's Equipment or surplus materials. The Contractor shall clear away and remove from the Site any wreckage, rubbish and Temporary Works which are no longer required.

Upon the issue of a Practical Completion Certificate, the Contractor shall clear away and remove, from that part of the Site and Works to which the Practical Completion Certificate refers, all Contractor's Equipment, surplus material, wreckage, rubbish and Temporary Works. The Contractor shall leave that part of the Site and the Works in a clean and safe condition. However, the Contractor may retain on Site, during the Defects Liability Period, such Goods as are required for the Contractor to fulfil obligations under the Contract.

6. STAFF AND LABOUR

6.1. Engagement of Staff and Labour

6.1.1. The Contractor shall make his own arrangements for engagement of all labour, local or otherwise, and save in so far as the Contract otherwise provides for the transport, housing (not at the Employer's site), feeding and payment thereof.

6.1.2. The Contractor shall provide on the Site to the satisfaction of the Employer's Personnel's an adequate supply of drinking and other water for the use of the Contractor 's staff and work people.

6.1.3. The Contractor shall, in all dealings with labor in his employ, have due regard to all recognized festivals, days of rest and religious or other customs.

6.1.4. The Contractor shall be responsible for observance by his sub-

contractors of the foregoing provisions.

- 6.1.5. The Contractor shall employ labour in sufficient number to maintain the required rate of progress and of quality to ensure a workmanship of the degree required by the Specification and to the satisfaction of the Employer / The Engineer / Employer's personnel. He shall be responsible at his own cost for all recruiting, transport, welfare, sanitary and other accommodation, provision of necessary passports or permits for all personnel and employees required for this contract.
- 6.1.6. All workmen engaged by the Contractor shall be the Contractor's employees and no such workmen shall have any claim or right whatsoever, against the Employer either during the validity of this contract or after its completion/termination.
- 6.1.7. The Contractor will bear the cost of any charges levied by the local Authority for the execution of such work by the local Authority on his behalf.

6.2. Rates of Wages and Conditions of Labour

The Contractor shall pay rates of wages, and observe conditions of labour, which are not lower than those established for the trade or industry where the work is carried out. If no established rates or conditions are applicable, the Contractor shall pay rates of wages and observe conditions which are not lower than the general level of wages and conditions observed locally by employers whose trade or industry is similar to that of the Contractor.

6.3. Persons in the Service of Employer

The Contractor shall not recruit, or attempt to recruit, staff and labour from amongst the Employer's Personnel.

6.4. Labour Laws

- 6.4.1. The Contractor shall remain liable for the payment of all wages or other monies to his workmen, or employees under the Payment of Wages Act, 1936, Minimum Wages Act, 1948, Employees liability Act, 1936, Workmen's Compensation Act, 1923 or any other Act or enactments relating thereto and rules framed thereunder from time to time.
 - 6.4.2. The Contractor shall comply fully with local laws dealing with the employment of persons including the Indian Employment of Children Act, 1938, the Indian Workmen's Compensation Act, 1923, the Factories Act, 1948, the Minimum Wages Act, 1948, the Employees State Insurance Act, 1948, Contract Labour (Regulations and Abolition) Act, 1970, Employees Provident Funds & Miscellaneous Provisions Act, 1952 and any statutory amendment or re-enactment thereof for the time being in force.
 - 6.4.3. The Contractor may employ female labour if he chooses but he shall not
-

employ in connection with the works any person who has not completed the minimum age (18 – eighteen) as per law locally applicable.

6.5. Working Hours

The Contractor shall work only on and during the hours of a working day unless he obtains the prior written approval of the Employer /Employer's Personnel to do otherwise. If such approval is given, no liability in respect of any excess cost arising therefrom shall be incurred by the Employer.

6.6. Facilities for Staff and Labour

- 6.6.1. The Contractor, during the progress of the Works, shall provide, erect and maintain at his own expense and to approved standards and scales all necessary temporary sanitary accommodation required for his workmen on the Site in connection with the execution of the Works. The planning, sitting and erection of these buildings shall be approved by the Employer / Employer's Personnel and the whole of such temporary accommodation shall, at all times during the progress of the Works, be kept tidy and in a clean and sanitary condition to the entire satisfaction of the Employer / Employer's Personnel and at the Contractor 's expense. The Contractor shall conform to the sanitary requirement of local Medical and Health authorities, and at all times adopt such precautions as may be necessary to prevent soil pollution of the Site.
- 6.6.2. The Contractor shall, at his expense, conform to all anti-malarial instructions given to him by the Employer / Employer's Personnel or by any local authority including the filling up of borrow pits.
- 6.6.3. The Contractor shall, at his own expense, carry out all instructions issued to him by the to effect a proper disposal of night soil and other conservancy work in respect of the Contractor's workmen or employees on the Site.He shall also conform to the sanitary requirements of the Local Medical and Health Authorities.
- 6.6.4. The Contractor shall provide and maintain upon the Works sufficient, proper and efficient life-saving appliances and first-aid equipment to the approval of the Employer / Employer's Personnel and in accordance with the requirements of I.L.O. Convention No. 62. The appliances and equipment shall be available for use at all times.
- 6.6.5. If the Site is within an existing industrial establishment belonging to the Employer, the Contractor, Subcontractors and their the Employers shall strictly comply with the Employer's regulations in regard to ingress, egress, traffic, security and conduct for the establishment. The Contractor shall be responsible for observance by his sub-contractors of the foregoing provisions.
- 6.6.6. In the event of any outbreak of illness of an epidemic nature, the

Contractor shall comply with and carry out such regulations, orders and requirements as may be made by the Government or the local medical or sanitary authorities for the purpose of dealing with and overcoming the same.

6.7. Health and Safety

The Contractor shall at all times take all reasonable precautions to maintain the health and safety of the Contractor's Personnel. In collaboration with local health authorities, the Contractor shall ensure that medical staff, first aid facilities, sick bay and ambulance service are available at all times at the Site and at any accommodation for Contractor's and Employer's Personnel, and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics.

6.7.1. Safety Code and Safety Rules:

- A. First Aid Facility shall be maintained in a readily accessible place with first aid appliances including adequate supply of sterilised dressings and cotton wool.
- B. An injured person shall be taken to a public hospital without loss of time, in cases where the injury necessitates hospitalisation.
- C. Suitable and strong scaffolds should be provided for workmen for all works that cannot safely be done from ground.
- D. No portable single ladder shall be over 8 meters in length. The width between the side rails shall not be less than 30 cm. (clear) and the distance between two adjacent rungs shall not be more than 30cm. When a ladder is used an extra mazdoor shall be engaged for holding the ladder.
- E. The excavation material shall not be placed within 1.5 metres of the edge of the trench or half of the depth of trench whichever is more. All trenches and excavations shall be provided with necessary fencing and lighting.
- F. Every opening in the floor of a building or in a working platform be provided with suitable means to prevent the fall of persons or materials by providing suitable fencing or railing whose minimum height shall be one metre.
- G. No floor, roof or other part of the structure shall be so overloaded with debris or materials as to render it unsafe.
- H. Workers employed on mixing and handling material such as asphalt, cement mortar or concrete and lime mortar shall be provided with protective footwear and rubber hand gloves.
- I. Those engaged in welding works should be provided with welder's protective eyeshields and gloves. All persons at site shall wear shoes and protective safety helmets approved for construction sites.
- J. No paint containing lead or lead products shall be used except in the form of paste or readymade paint.
- K. Suitable face masks should be supplied for use by the workers when the paint is applied in the form of spray or surface having lead paint dry rubbed and scrapped.

- L. Overalls shall be supplied by the Contractor to the painters and adequate facilities shall be provided to enable the working painters to wash during the period of cessation of work.
- M. Hoisting machines and tackle used in the works, including their attachments, anchorage and supports shall be in perfect condition.
- N. The ropes used in hoisting or lowering material or as a means of suspension shall be of durable quality and adequate strength and free from defects.
- O. The safety features like nets, canvas sheets etc. shall be provided while men are working at heights.

6.8. Contractor's Superintendence

Throughout the execution of the Works, and as long thereafter as is necessary to fulfil the Contractor's obligations, the Contractor shall provide all necessary superintendence to plan, arrange, direct, manage, inspect and test the work.

Superintendence shall be given by a sufficient number of persons having adequate knowledge of the language for communications (defined in Clause 2.4 [Law and Language]) and of the operations to be carried out (including the methods and techniques required, the hazards likely to be encountered and methods of preventing accidents), for the satisfactory and safe execution of the Works.

6.9. Contractor's Personnel

The Contractor's Personnel shall be appropriately qualified, skilled and experienced in their respective trades or occupations. The Engineer may require the Contractor to remove (or cause to be removed) any person employed on the Site or Works, including the Contractor's Representative if applicable, who:

- 1. persists in any misconduct or lack of care,
- 2. carries out duties incompetently or negligently,
- 3. fails to conform with any provisions of the Contract, or
- 4. persists in any conduct which is prejudicial to safety, health, or the protection of the environment.

6.10. Records of Contractor's Personnel and Equipment

The Contractor shall submit, to the Engineer, details showing the number of each class of Contractor's Personnel and of each type of Contractor's Equipment on the Site. Details shall be submitted each calendar month, in a form approved by the Engineer, until the Contractor has completed all work which is known to be outstanding at the completion date stated in the Practical Completion Certificate for the Works.

6.11. Disorderly Conduct:

- 6.11.1. The Contractor shall at all times take all reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or amongst his employees and for the preservation of peace and protection of persons and property in the neighbourhood of the Works against the same.

- 6.11.2. The Contractor will not at any time do, cause or permit any nuisance on the Site or adjoining areas or do anything which shall cause unnecessary disturbance or inconvenience to the Employers, tenants or occupiers of other properties near the Site and to the Authorities or to the public generally and will secure the efficient protection of all land and sea areas against pollution.

7. PLANT, MATERIALS AND WORKMANSHIP

7.1. Manner of Execution

Except where otherwise specified, the Contractor shall at his own expense supply and provide all the Constructional plant, Temporary Works, materials both for Temporary and for permanent Works/Plant/Equipment, Labour (including the supervision thereof) transport to or from the Site and in and about the Works and other things of every kind required for the construction, completion and maintenance of the Works/Plant/Equipment.

7.2. Samples

The Contractor shall submit the following samples of Materials, and relevant information, to the Engineer for consent prior to using the Materials in or for the Works:

1. manufacturer's standard samples of Materials and samples specified in the Contract, all at the Contractor's cost, and
2. additional samples instructed by the Engineer as a Variation.

Each sample shall be labelled as to origin and intended use in the Works.

7.3. Inspection

The Contractor shall inspect and examine the site and its surroundings and shall satisfy himself before submitting his tender as to the nature of the ground and sub soil and form and nature of the site, the quantities and nature of the work and materials necessary for the completion of the Works and the means of access to the site, the accommodation he may require, & in general, shall himself obtain all necessary information as to risk contingencies and other circumstances which may influence or affect his tender.

7.4. Testing

All materials and workmanship shall be of the respective kinds described in the Contract and in accordance with the Engineer's instructions and shall be subjected from time to time to such tests as the Engineer may direct at the place of manufacture or fabrication or on the Site or at all or any of such places. The Contractor shall provide adequate samples and materials as are normally required for examining measuring and testing any work and the quality, weight or quantity of any materials through a third party testing agent. before incorporation in the Works as required by the Engineer or Employer.

7.5. Rejection

If, as a result of an examination, inspection, measurement or testing, any Plant, Materials or workmanship is found to be defective or otherwise not in accordance with the Contract, The Employer / The Engineer / Employer's personnel may reject the Plant, Materials or

workmanship by giving notice to The Contractor , with reasons. The Contractor shall then promptly make good the defect and ensure that the rejected item complies with the Contract. If The Employer / The Engineer / Employer's personnel require this Plant, Materials or workmanship to be re tested, the tests shall be repeated under the same terms and conditions. If the rejection and retesting cause the The Employer to incur additional costs, The Contractor shall be subject to penalty.

7.6. Remedial Work

Notwithstanding any previous test or certification, The Employer / The Engineer / Employer's personnel may instruct The Contractor to:

- 7.6.1. remove from the Site and replace any Plant or Materials which is not in accordance with the Contract,
- 7.6.2. remove and re-execute any other work which is not in accordance with the Contract, and
- 7.6.3. Execute any work which is urgently required for the safety of the Works, whether because of an accident, unforeseeable event or otherwise.

The Contractor shall comply with the instruction within a reasonable time, which shall be the time (if any) specified in the instruction.

7.7. Employership of Plant and Materials:

Each item of Plant and Materials shall, to the extent consistent with the Laws of the Country, become the property of the Employer at whichever is the earlier of the following times, free from liens and other encumbrances:

- a. when it is delivered to the Site;
- b. when the Contractor is entitled to payment of the value of the Plant and Materials under Clause 16.3 [Payment for Plant and Materials in Event of Suspension.

7.8. Storage of Materials

The Contractor shall provide, erect and maintain proper shed for the storage and protection of the materials etc. and also for the execution of Work which may be prepared on the Site. Sheds used for the storage of cement, lime and other perishable materials shall have raised floors. All petroleum, explosives and flammable materials shall be stored in fire-proof buildings and precautions taken with regard to siting and fire risks.

7.9. Temporary Hoardings and Safety Netting

The site is to be enclosed by a hoarding (with gates) and painted on all exposed surfaces in patterns and colours to the approval of the Employer / Employer's Personnel. Provide and maintain all other necessary temporary fencing, hoarding, gates, fans, planked footways, guard rails, gantries, safety netting, warning lights and notices for the proper execution of the Works, the security of the Site, the protection of the public and the occupants of any adjoining premises and for meeting the requirements of the Local Authority. Alter, shift and adopt from time to time as necessary and clear away on completion.

7.10. Pollution and Site Hygiene

- 7.10.1. Mechanical plant, equipment, etc. which emits smoke, fumes or other obnoxious gases will not be allowed on the site
- 7.10.2. Provide and maintain temporary channels, drains and the like for keeping the Site clear of water.
- 7.10.3. Take all reasonable precautions to ensure the efficient protection of all streams and waterways against pollution arising out of or by reason of the execution of the Works.
- 7.10.4. The Contractor shall not dump unwanted building debris, chemicals, any noxious or polluting matter on any vacant plot of land, roadside or drains thereby causing chokage leading to mosquito breeding or causing contamination of the Site or the drainage system.
- 7.10.5. Comply with and pay all charges levied by any Government or Public Authority with jurisdiction on matters of pollution or site hygiene

7.11. Fire Protection during Construction

Provide and keep in working order adequate fire fighting equipment for emergency use.

7.12. Royalties

Unless otherwise stated in the Specification, the Contractor shall pay all royalties, rents and other payments for:

- 1. Natural Materials obtained from outside the Site, and
- 2. the disposal of material from demolitions and excavations and of other surplus material (whether natural or man-made), except to the extent that disposal areas within the Site are specified in the Contract.

7.13 Permission to execute the work.

If necessary, it is the responsibility of the contractor to obtain the power block from the operation department of CMRL before the start of the work and the competent officials aware of safety procedures should be deployed for the supervision.

7.14 Deployment of Manpower and Machinery

As the works are to be completed within the restricted work hours, it is the responsibility of the contractor to immediately deploy the required manpower and machinery whenever instructed for the timely completion of the job.

8. COMMENCEMENT, DELAYS AND SUSPENSION

8.1. Commencement of Works

The Agreement shall be signed within 28 days from the date of LOA, unless otherwise agreed. The Contractor shall commence the Works within 10 days from the date of issue of LOA. Thereafter the Contractor shall proceed with due diligence, without delay, and in accordance with the programme or any revised or modified programme of the Works. Time will be the essence of Contract and time for Completion shall run from the date the Contractor is to commence the Works under this Clause.

The Contractor shall not commence the construction, manufacture or installation of the Works or of any part of the Works unless and until the Engineer has endorsed the relevant Working Drawings in accordance with the Employer's Requirements.

8.2. Period of Completion

The Contractor shall complete the works within the timeframe given by the Employer till the currency of contract i.e. 12months of contract period..

- a. achieving the passing of the Tests on Completion, and
- b. Completing all work which is stated in the Contract as being required for the Works or Section to be considered to be completed for the purposes of Practical Completion under Clause 10.1 [Practical Completion of the Works and Sections].

8.3. Timely execution of work.

Work should be commenced within the time instructed by the Engineer, as the works are to be completed before the next immediate revenue operation failing which penalty will be levied

8.4. Programme

The Contractor shall submit a detailed time programme to the Engineer within 28 days after receiving the notice under Clause 8.1 [Commencement of Works]. The Contractor shall also submit a revised programme whenever the previous programme is inconsistent with actual progress or with the Contractor's obligations. Each programme shall include:

- a. the order in which the Contractor intends to carry out the Works, including the anticipated timing of each stage of design (if any), Contractor's Documents, procurement, manufacture of Plant, delivery to Site, construction, erection and testing,
- b. each of these stages for work by each nominated Subcontractor
- c. the sequence and timing of inspections and tests specified in the Contract and
- d. a supporting report which includes:
 - i. a general description of the methods which the Contractor intends to adopt, and of the major stages, in the execution of the Works, and
 - ii. details showing the Contractor's reasonable estimate of the number of each class of Contractor's Personnel and of each type of Contractor's Equipment, required on the Site for each major stage.

Unless the Engineer, within 21 days after receiving a programme, gives notice to the Contractor stating the extent to which it does not comply with the Contract, the Contractor shall proceed in accordance with the programme, subject to his other obligations under the Contract. The Employer's Personnel shall be entitled to rely upon the programme when planning their activities.

The Contractor shall promptly give notice to the Engineer of specific probable future events or circumstances which may adversely affect the work, increase the Contract Sum or delay the execution of the Works. The Engineer may require the Contractor to submit an estimate of the anticipated effect of the future event or circumstances, and/or a proposal under Clause 13.3 [Variation Procedure].

If, at any time, the Engineer gives notice to the Contractor that a programme fails (to the extent stated) to comply with the Contract or to be consistent with actual progress and the Contractor's stated intentions, the Contractor shall submit a revised programme to the Engineer in accordance with this Sub-Clause.

8.5. Delays

In case of delay on the part of the Contractor, the Contractor shall be liable to pay liquidated damages and any other compensation for the damages suffered by the Employer as per clause 8.6 (Liquidated Damages). This is without prejudice to the right of the Employer to rescind the Contract.

Failure or delay by the Employer or the Engineer, to hand over to the Contractor the Site necessary for execution of Works, or any part of the Works or to give necessary notice to commence the works, or to provide necessary Drawings or instructions or clarifications or to supply any material, plant or machinery, which under the Contract is the responsibility of the Employer shall in no way affect or vitiate the Contract or alter the character thereof; or entitle the Contractor to damages or compensation thereof but in any such case, the Engineer shall extend the time period for the completion of the Contract as in his opinion is / are reasonable.

8.6. Extension of Time for Completion

8.6.1. Extension of time

The Contractor may apply for an extension of the Time for Completion, if the Work is or will be delayed either before or after the Time for Completion by any of the following causes:

- a. "Force Majeure" referred to in Clause 19
- b. The Contractor's work held up for not being given possession of or access to the Site in accordance with the Contract
- c. Instruction of the Engineer to suspend the Works and the Contractor not being in default as to reasons of suspension.
- d. Acts or omissions of other Designated Contractors in executing, work not forming part of this Contract and on whose performance, the performance of the Contractor necessarily depends.
- e. Any act of prevention or Breach of Contract by the Employer and not mentioned in this Clause
- f. Any order of Court restraining the performance of the Contract in full or in any part thereof
- g. Any other event or occurrence which, according to the Employer is not due to the Contractor's failure or fault, and is beyond his control without Employer being responsible for the same.
- h. An Employer's Variation

However, the Contractor shall not be entitled to any extension of time where the instructions or acts of the Employer or the Engineer are necessitated by or intended to cure any default of or breach of Contract by the Contractor or where any delay is due to

- i. the failure of Sub Contractor to commence or to carry out work in due time,
- ii. non-availability, or shortage of Contractor's equipment, labour, utility services, Plant and Materials,
- iii. Inclement weather conditions, and
- iv. the Contractor not fulfilling his obligations under Clause 5.1.

If the Contractor considers himself to be entitled to an extension of time for Completion, he shall give notice to the Engineer of such intention as soon as Possible and in any event within 28 days of the start of the event giving rise to the delay and full and final supporting details of his application within 21 days of the last day of delay, together with any notice required by the Contract and relevant to such Clause.

The Engineer shall proceed in accordance with the Conditions of the Contract to agree or determine either prospectively or retrospectively such extension of the Time for Completion as may be due. The Engineer shall notify the Contractor accordingly. The extension of time including that of key date shall not entitle the Contractor to retain the advance.

8.7. Rate of Progress

The whole of the materials plant and labour to be provided by the Contractor under Clause 5 hereof and the mode, manner and speed of execution and maintenance of the Works are to be of a kind and conducted in a manner to the satisfaction of the Engineer. Should the rate of progress of the Works or any part thereof be at any time in the opinion of the Engineer too slow to ensure the completion of the Works by the prescribed time or extended time for completion the Engineer shall so notify the Contractor in writing and the Contractor shall thereupon take such steps as the Contractor may think necessary and the Engineer may approve to expedite progress so as to complete the Works by the prescribed time or extended time for completion. The Employer shall not bear any extra cost that may be incurred by the Contractor in this regard. Any additional cost incurred by the Engineer or Employer due to extended hours of work shall be borne by the contractor.

All work at night shall be carried out without unreasonable noise and disturbance. The contractor shall indemnify the Employer from and against any liability for damages on account of noise or other disturbance created while or in carrying out the work and from and against all claims, demands, proceedings, costs, charges and expenses whatsoever in regard or in relation to such liability.

If any steps taken by the Contractor in meeting his obligations under this Clause cause the Employer to incur additional costs, such costs shall be recoverable from the Contractor by the Employer and shall be deducted by the Employer from any sum due, or to become due, to the Contractor.

8.8. Liquidated Damages

If the Contractor fails to complete the works within the period of completion specified in Form of Tender, and the Employer certifies in writing that in his opinion the same ought, reasonably so, to have been completed, the Contractor shall pay or allow to the Employer a sum calculated at the rate stated in the Form of Tender as agreed Liquidated damages (not as a penalty) for the period during which the said work, shall so remain or have remained incomplete. The Employer may deduct such damages from any monies

otherwise payable to the Contractor under this Contract.

The total amount of liquidated damages in respect of the Works in all stages shall, however, not exceed the limit of liquidated damages stated in the Form of Tender.

The Tenderers are required to submit with the Tender a preliminary Bar Chart / Pert Chart showing activities with corresponding resource allocation and time planned for various activities to achieve a coordinated completion as per the specified completion period, taking into account all local weather, site and other, prevailing conditions. The progress of work will be constantly monitored by the Employer and The Engineer. Time is the essence of the contract and the project is time bound.

On award of work, the successful Tenderer, within 10 (ten) days, shall in consultation with the Employer and Engineer produce a detailed and working programme indicating physical progress of work on a weekly basis. Upon acceptance of the Working Programme, by the Employer and Engineer the successful Tenderer shall strive and maintain the planned progress most diligently.

The payment or deduction of such damages shall not relieve the Contractor from his obligations to complete the Works or from any other of his duties, obligations or responsibilities under the Contract.

The Contractor shall use and continue to use his best endeavours to avoid or reduce further delay to the Works, or any relevant Stages.

At any time after the Employer has become entitled to liquidated damages, the Engineer may give notice to the Contractor, requiring the Contractor to complete the Works within a specified reasonable time. Such action shall not Prejudice the Employer's Entitlement to recovery of liquidated damages, under this Clause and to terminate under Clause 15.2

The decision of the Engineer as to the compensation payable by the Contractor under this Clause shall be final and binding.

If on the expiry of agreed contract period, the work remains incomplete, liquidated damages (not as penalty) will be imposed on the **Contractor** as stipulated in the first part of this condition.

Beyond the stipulated period / extended period of completion, the contractor shall, without prejudice to any other right, the contractor shall be liable to pay compensation at 2% per month of delay to be computed on daily basis for having stipulated time of completion more than 6 months. The total amount of compensation for delay to be paid under this condition shall not exceed 10% of the tendered value of the work.

9. TESTS ON COMPLETION

9.1. Contractor's Obligations:

The Contractor shall carry out the Tests on Completion in accordance with this Clause and Clause 7.4 [Testing], after providing the documents in accordance with Clause 5.1 [Contractor's General Obligations].

The Contractor shall give to the Engineer not less than 21 days' notice of the date after which the Contractor will be ready to carry out each of the Tests on Completion. Unless otherwise agreed, Tests on Completion shall be carried out within 14 days after this date, on such day or days as the Engineer shall instruct.

9.2. Delayed Tests:

If the Tests on Completion are being unduly delayed by the Employer, Clause 7.4 [Testing] and/or Clause 10.3 [Interference with Tests on Completion] shall be applicable.

If the Tests on Completion are being unduly delayed by the Contractor, the Engineer may by notice require the Contractor to carry out the Tests within 21 days after receiving the notice. The Contractor shall carry out the Tests on such day or days within that period as the Contractor may fix and of which he shall give notice to the Engineer.

If the Contractor fails to carry out the Tests on Completion within the period of 21 days, the Employer's Personnel may proceed with the Tests at the risk and cost of the Contractor. The Tests on Completion shall then be deemed to have been carried out in the presence of the Contractor and the results of the Tests shall be accepted as accurate.

9.3. Retesting

If the Works, or a Section, fail to pass the Tests on Completion, Clause 7.5 [Rejection] shall apply, and the Engineer or the Contractor may require the failed Tests, and Tests on Completion on any related work, to be repeated under the same terms and conditions.

9.4. Failure to Pass Tests on Completion

If the Works, or a Section, fail to pass the Tests on Completion repeated under Clause 9.3 [Retesting], the Engineer shall be entitled to:

- a. order further repetition of Tests on Completion under Clause 9.3(Retesting);
- b. if the failure deprives the Employer of substantially the whole benefit of the Works or Section, reject the Works or Section (as the case may be), in which event the Employer shall have the same remedies as are provided in Clause 11.4 [Failure to Remedy Defects]; or
- c. issue a Taking-Over Certificate, if the Employer so requests.

10. PRACTICAL COMPLETION and PRACTICAL COMPLETION CERTIFICATE

10.1. Practical Completion of the Works and Sections

- 10.1.1. The Contractor shall complete the whole of the Works, and each Section (if any), within the Time for Completion for the Works or Section (as the case may be), including:
 - 10.1.2. Achieving the passing of the Tests on Completion, and
 - 10.1.3. Completing all work which is stated in the Contract as being required for the Works or Section to be considered to be completed for the purposes of Practical Completion.
 - 10.1.4. As soon as, in the opinion of the Employer's Personnel / the Employer / the Engineer, the Works/Plant/Equipment shall have been completed and shall have satisfactorily passed any final test that may be

prescribed by the Contract, the Engineer shall issue a Practical Certificate of Completion in respect of the Works/Plant/Equipment and the Defects liability period shall commence from the date of such certificate.

10.1.5. Provided that a Practical Completion Certificate given in accordance with the foregoing provisions of any part of the Works occupied and used as aforesaid shall not be deemed to certify completion of any ground or surfaces requiring reinstatement unless such certificate shall expressly so state.

10.1.6. The Contractor may apply by notice to the Employer's Personnel / the Employer / the Engineer for a Practical Completion Certificate not earlier than 14 days before the Works will, in the Contractor's opinion, be complete and ready for Practical Completion. The Employer's Personnel / the Employer / the Engineer shall, within 28 days after receiving the Contractor's application:

Issue the Practical Completion Certificate to the Contractor, stating the date on which the Works or Section were completed in accordance with the Contract, except for any minor outstanding work and defects which will not substantially affect the use of the Works or Section for their intended purpose (either until or whilst this work is completed and these defects are remedied).

or

Reject the application, giving reasons and specifying the work required to be done by the Contractor to enable the Practical Completion Certificate to be issued. The Contractor shall then complete this work before issuing a further notice.

10.1.7. If at any time or times before Practical completion of the work the Employer with the consent of the Contractor shall take possession of any part or parts of the same as may be needed by the the Employer on any exigencies then notwithstanding anything expressed or implied elsewhere in this Contract. Such part or parts shall not be deemed to be practically complete. Practical completion of such part or parts shall be considered for the purpose of Practical Completion only and all provisions under this contract shall be complied with till the entire work is completed and Employer's Personnel / the Employer / the Engineer's Certificate issued to that effect.

10.2. Practical Completion of Parts of the Works

The Engineer may, at the sole discretion of the Employer, issue a Practical Completion Certificate for any part of the Permanent Works.

The Employer shall not use any part of the Works (other than as a temporary measure which is either specified in the Contract or agreed by both Parties) unless and until the Engineer has issued a Practical Completion Certificate for this part. However, if the

Employer does use any part of the Works before the Practical Completion Certificate is issued:

- a. the part which is used shall be deemed to have been taken over as from the date on which it is used,
- b. the Contractor shall cease to be liable for the care of such part as from this date, when responsibility shall pass to the Employer, and
- c. if requested by the Contractor, the Engineer shall issue a Practical Completion Certificate for this part.

After the Engineer has issued a Practical Completion Certificate for a part of the Works, the Contractor shall be given the earliest opportunity to take such steps as may be necessary to carry out any outstanding Tests on Completion. The Contractor shall carry out these Tests on Completion as soon as practicable before the expiry date of the relevant Defects Liability Period.

If the Contractor incurs Cost as a result of the Employer Practical Completion and/or using a part of the Works, other than such use as is specified in the Contract or agreed by the Contractor, the Contractor shall (i) give notice to the Engineer and (ii) be entitled subject to Clause 20.1 [Contractor's Claims] to payment of any such Cost plus reasonable profit, which shall be included in the Contract Sum. After receiving this notice, the Engineer shall proceed in accordance with Clause 4.4 [Determinations] to agree or determine this Cost and profit.

If a Practical Completion Certificate has been issued for a part of the Works (other than a Section), the delay damages thereafter for completion of the remaining of the Works shall be reduced. Similarly, the delay damages for the remaining of the Section (if any) in which this part is included shall also be reduced. For any period of delay after the date stated in this Practical Completion Certificate, the proportional reduction in these delay damages shall be calculated as the proportion which the value of the part so certified bears to the value of the Works or Section (as the case may be) as a whole. The Engineer shall proceed in accordance with Clause 4.4 [Determinations] to agree or determine these proportions. The provisions of this paragraph shall only apply to the daily rate of delay damages under Clause 8.7 [Delay Damages], and shall not affect the maximum amount of these damages.

10.3. Interference with Tests on Completion

If the Contractor is prevented, for more than 14 days, from carrying out the Tests on Completion by a cause for which the Employer is responsible, the Employer shall be deemed to have taken over the Works or Section (as the case may be) on the date when the Tests on Completion would otherwise have been completed.

10.4. Surfaces Requiring Reinstatement

Except as otherwise stated in a Practical Completion Certificate, a certificate for a Section or part of the Works shall not be deemed to certify completion of any ground or other surfaces requiring reinstatement.

11. DEFECTS LIABILITY

- i. When in the opinion of The Employer, "Practical Completion" of the Works is achieved, it shall forthwith issue a certificate to that effect and "Practical Completion" of Works shall be deemed for all the purposes of this Contract to have taken place on the day stated in such certificate.
- ii. The Defects Liability Period shall be a period of 180 **days (one hundred eighty Days) commencing upon the Date of Issue of Practical Completion Certificate.**
- iii. In case any defects in the work due to bad materials and/or equipment, and/or bad workmanship develop in the work before the expiry of the Defects Liability Period, the Contractor, on notification by The Employer, shall rectify or remedy the defects at their own cost and shall make their own arrangements to provide materials and/or equipment, labour, and any other appliances required in this regard. In case, even on due notification by The Employer, the Contractor fails to rectify or remedy the defects, The Employer shall have the right to get this done and recover the cost incurred by deductions from any amounts due to the Contractor including invoking the Retention Money Bank Guarantee, in case this cost is within the value of the retention amount, and if not, the Contractor shall be liable to pay to The Employer the balance amount.
- iv. The Employer shall be entitled to an extension of the Defects Liability Period for the Works or a Section if and to the extent that the Works, Section or a major item of Plant (as the case may be, and after Practical Completion) cannot be used for the purposes for which they are intended by reason of a defect or damage.
- v. If the defect or damage cannot be remedied expeditiously on the Site and the Employer gives consent, the Contractor may remove from the Site for the purposes of repair such items of Plant as are defective or damaged. This consent may require The Contractor to increase the amount of the Retention by the full replacement cost of these items, or to provide other appropriate security.

11.1. Completion of Outstanding Work and Remedying Defects

In order that the Works and Contractor's Documents, and each Section, shall be in the condition required by the Contract (fair wear and tear excepted) by the expiry date of the relevant Defects Liability Period or as soon as practicable thereafter, the Contractor shall:

1. complete any work which is outstanding on the date stated in a Practical Completion Certificate, within such reasonable time as is instructed by the Engineer, and
2. Execute all work required to remedy defects or damage, as may be notified by (or on behalf of) the Employer on or before the expiry date of the Defects Liability Period for the Works or Section (as the case may be).

11.2. Cost of Remedying Defects

All work referred to in Clause 11.1 [Completion of Outstanding Work and Remedying Defects] shall be executed at the risk and cost of the Contractor, if and to the extent that the work is attributable to:

1. any design for which the Contractor is responsible,
2. Plant, Materials or workmanship not being in accordance with the Contract, or
3. failure by the Contractor to comply with any other obligation.

11.3. Extension of Defects Liability Period

The Employer shall be entitled to an extension of the Defects Liability Period for the Works or a Section if and to the extent that the Works, Section or a major item of Plant (as the case may be, and after Practical Completion) cannot be used for the purposes for which they are intended by reason of a defect or damage.

11.4. Failure to Remedy Defects

In case any defects in the work due to bad materials and/or equipment, and/or bad workmanship develop in the work before the expiry of the Defects Liability Period, the Contractor, on notification by the Employer, shall rectify or remedy the defects at their own cost and shall make their own arrangements to provide materials and/or equipment, labour, and any other appliances required in this regard. In case, even on due notification by the Employer, the Contractor fails to rectify or remedy the defects, the Employer shall have the right to get this done and recover the cost incurred by deductions from any amounts due to the Contractor including invoking the Retention Money Bank Guarantee, in case this cost is within the value of the retention amount, and if not, the Contractor shall be liable to pay to the Employer the balance amount.

11.5. Removal of Defective Work

If the defect or damage cannot be remedied expeditiously on the Site and the employer gives consent, The Contractor may remove from the Site for the purposes of repair such items of Plant as are defective or damaged. This consent may require The Contractor to increase the amount of the Retention by the full replacement cost of these items, or to provide other appropriate security.

11.6. Further Tests

If the work of remedying of any defect or damage may affect the performance of the Works, the Engineer may require the repetition of any of the tests described in the Contract. The requirement shall be made by notice within 28 days after the defect or damage is remedied.

11.7. Right of Access

Until the Practical Completion Certificate has been issued, the Contractor shall have such right of access to the Works as is reasonably required in order to comply with this Clause, except as may be inconsistent with the Employer's reasonable security restrictions.

11.8. Contractor to Search

The Contractor shall, if required by the Engineer, search for the cause of any defect, under the direction of the Engineer. Unless the defect is to be remedied at the cost of the Contractor under Clause 11.2 [Cost of Remedying Defects], the Cost of the search plus reasonable profit shall be agreed or determined by the Engineer in accordance with Clause 4.4 [Determinations] and shall be included in the Contract Sum.

11.9. Unfulfilled Obligations

After the completion of the defects liability period, each Party shall remain liable for the fulfilment of any obligation which remains unperformed at that time. For the purposes of

determining the nature and extent of unperformed obligations, the Contract shall be deemed to remain in force.

11.10. Clearance of Site

Upon receiving the Practical completion Certificate, The Contractor shall remove any remaining Contractor's Equipment, surplus material, wreckage, rubbish and Temporary Works from the Site. If all these items have not been removed within 28 days after the issue of Practical Completion Certificate, the Employer may sell or otherwise dispose of any remaining items. The Employer shall be entitled to be paid the costs incurred in connection with, or attributable to, such sale or disposal and restoring the Site.

12. MEASUREMENT AND EVALUATION

12.1. Works to be Measured

The Engineer shall, except as otherwise stated ascertain and determine by measurement and / or design dimension, at the discussion of the Engineer, to determine the value in accordance with the Contract of Work done in accordance with the Contract. He shall, when he requires any part or parts of the Works to be measured, give notice to the Employer and Contractor's authorized agent or representative who shall forthwith attend or send a qualified agent to assist the Engineer in making such measurement and shall furnish all particulars required by either of them. Should the Contractor not attend or neglect or omit to send such agent, then the measurement made by the Engineer or approved by him, either of which must be approved by the Employer, shall be taken to be the correct measurement of the work.

For the purpose of measuring such permanent work as is to be measured by record drawings, the Engineer shall prepare record drawings month by month of such work and the Contractor as and when called upon to do so in writing shall, within 14 days, attend to examine and agree such record drawings with the Engineer and shall sign the same when so agreed and if the contractor does not so attend to examine and agree any such record drawings, they shall be taken to be correct. If after examination of such record drawings, the Contractor does not agree to the same or does not sign the same as agreed, they shall nevertheless be taken to be correct unless the Contractor shall, within 14 days of such examination, lodge with the Engineer for decision by the Engineer and Employer, notice in writing of the respects in which such record drawings are claimed by him to be incorrect.

The following documents but not limited to should be maintained till the currency of the project.

1. Log books with details of consumption record for all the materials used.
2. Bill/Invoice copies of material procured.
3. Purchase order copies released to the agencies.
4. Log books with details of man-hour consumed in each category of labors and details of consumption records of machineries and equipment.
5. Wage Register and PF challans
6. Statutory Records such as payment records for service tax, VAT, etc., (if any)

The above documents should be provided for the verification of CMRL whenever instructed and the same should be submitted along with the bill for processing the bills.

12.2. Method of Measurement

Where Works have to be measured for any purpose whatsoever, it shall be in accordance with IS 1200 except where it is otherwise specifically indicate in the respective item under Bill of Quantities or Technical Specification of material and workmanship or conditions of Contract.

12.3. Omissions

Whenever the omission of any work forms part (or all) of a Variation, the value of which has not been agreed, if:

1. the Contractor will incur (or has incurred) cost which, if the work had not been omitted, would have been deemed to be covered by a sum forming part of the Accepted Contract Amount;
2. the omission of the work will result (or has resulted) in this sum not forming part of the Contract Sum; and
3. this cost is not deemed to be included in the evaluation of any substituted work;

13. VARIATIONS AND ADJUSTMENTS

13.1. Variations, Provisional and Prime Cost Sums

- 13.1.1. The Employer's Personnel / The Employer / The Engineer may issue instructions requiring a variation and sanction in writing any variation made by the Contractor otherwise than pursuant to an instruction of the Employer's Personnel/ The Employer / The Engineer. No variation required by the Employer's Personnel/ The Employer / The Engineer or subsequently sanctioned by him shall violate this contract.
- 13.1.2. The term "Variation" as used in these conditions means the alteration or modification of the design, quality or quantity of the work as shown upon the Contract Drawings and desired by or referred to in the Contract Bills, and includes the addition, omission or substitution of any work, the alteration of the kind of standard of any of the materials or goods to be used in the work, and the removal from the site of any works materials or goods executed or brought thereon by the Contractor for the purposes of the work other than work, materials or goods which are not in accordance with this Contract.
- 13.1.3. The Employer's Personnel/ The Employer / The Engineer shall issue instructions in regard to the expenditure of Prime Cost and Provisional

Sums included in the Contract Bills and of Prime Cost Sums which arise as a result of instructions issued in regard to the expenditure of Provisional Sums.

- 13.1.4. All variations required by the Employer's Personnel/ The Employer / The Engineer or subsequently sanctioned by him in writing and all work executed by The Contractor for which Provisional Sums are included in the Contract Bills shall be measured and valued by the Employer's Personnel/ The Employer / The Engineer who shall give to The Contractor an opportunity of being present at the time of such measurement and of taking such notes and measurements as the Contractor may require. The valuation of variations and of work executed by the Contractor for which a Provisional Sum is included in the Contract Bills, (other than work for which a Tender has been accepted as aforesaid) unless otherwise agreed shall be made in accordance with the following rules.
- 13.1.5. The price in the Contract Bills shall determine the valuation of work of similar character executed under similar conditions as work priced therein
- 13.1.6. The said prices, where work is not of a similar character or executed under similar conditions as aforesaid, shall be the basis of prices for the same so far as may be reasonable, failing which a fair valuation thereof shall be made.
- 13.1.7. Where work cannot properly be measured and valued, the Contractor shall be allowed day-work rates on the prices prevailing when such work is carried out (unless otherwise provided in the contract bills):
- 13.1.8. At the rates if any, inserted by the Contractor in the Contract Bills or in the form of Tender or
- 13.1.9. When no such rates have been inserted, at the rates prevailing in the market for material and labour and at the control rates for the controlled materials including in all cases the rate for delivery of the material at the work. Over and above the rate so worked out, Contractor's overheads and profits at 15% (Fifteen Percent) shall be added and rate finally arrived for consideration and approval of the Employer.
- 13.1.10. The above mentioned percentage to be added as overheads and profits to the basic rate analysis for new items / additional items of work shall include all site and office overheads and profits of the Contractor, all incidental and connected charges / expenditure, whether direct or indirect, all applicable taxes, duties and levies and similar liabilities which the Contractor may have to incur in the process of completing the said item of work and the said overheads and profits shall also include all infrastructure facilities, amenities, transportation, supervision, insurance etc.

- 13.1.11. Provided that in any case voucher specifying the time daily spent upon the work (and if required by the Employer's Personnel/ The Employer /The Engineer, the workmen's names) and the materials employed shall be delivered for verification to the Employer's Personnel/ The Employer / The Engineer or his authorized representative not later than the end of the week following that in which the work has been executed.
- 13.1.12. The prices in the Contract Bills shall determine the valuation of items omitted, provided that if omissions substantially vary the conditions under which any remaining items of work are carried out the prices for such remaining items shall be valued under this clause.
- 13.1.13. Effect shall be given to the measurement and valuation of variations under this condition in Interim Certificates and by adjustment of the Contract Sum; and effect shall be given to the measurement and valuation of work for which a Provisional Sum is included in the Contract Bills under the said Clause in Interim Certificate and by adjustment of the Contract Sum in accordance with the Conditions of Contract.
- 13.1.14. If upon written application being made to him by the Contractor, the Employer's Personnel / The Employer / The Engineer is of the opinion that a variation or the execution by The Contractor of work for which a Provisional Sum is included in the Contract Bills has involved the Contractor in direct loss and/or expense for which he would not be reimbursed by payment in respect of a valuation made in accordance with the rules contained in this Clause of the condition and if the said application is made within a reasonable time of the loss or expense having been incurred then the Employer's Personnel/ The Employer / The Engineer shall ascertain the amount of such loss or expense.
- 13.1.15. Any amount from time to time so ascertained shall be added to the Contract Sum, and if an Interim Certificate is issued after the date of ascertainment any such amount shall be added to the amount which would otherwise be stated as due in such certificate.

13.2. Right to Vary

Variations may be initiated by the Engineer at any time prior to issuing the Practical Completion Certificate for the Works, either by an instruction or by a request for the Contractor to submit a proposal.

The Contractor shall execute and be bound by each Variation, unless the Contractor promptly gives notice to the Engineer stating (with supporting particulars) that the Contractor cannot readily obtain the Goods required for the Variation. Upon receiving this notice, the Engineer shall cancel, confirm or vary the instruction.

Each Variation may include:

- a. changes to the quantities of any item of work included in the Contract (however, such changes do not necessarily constitute a Variation),

- b. changes to the quality and other characteristics of any item of work,
- c. changes to the levels, positions and/or dimensions of any part of the Works,
- d. omission of any work unless it is to be carried out by others,
- e. any additional work, Plant, Materials or services necessary for the Permanent Works, including any associated Tests on Completion, boreholes and other testing and exploratory work, or
- f. changes to the sequence or timing of the execution of the Works.

The Contractor shall not make any alteration and/or modification of the Permanent Works, unless and until the Engineer instructs or approves a Variation.

13.3. Variation Procedure

If the Engineer requests a proposal, prior to instructing a Variation, the Contractor shall respond in writing as soon as practicable, either by giving reasons why he cannot comply (if this is the case) or by submitting:

- A. a description of the proposed work to be performed and a programme for its execution,
- B. the Contractor's proposal for any necessary modifications to the programme according to Clause 8.3 [Programme] and to the Time for Completion, and
- C. the Contractor's proposal for evaluation of the Variation.

The Engineer shall, as soon as practicable after receiving such proposal, respond with approval, disapproval or comments. The Contractor shall not delay any work whilst awaiting a response.

Each instruction to execute a Variation, with any requirements for the recording of Costs, shall be issued by the Engineer to the Contractor, who shall acknowledge receipt.

Each Variation shall be evaluated in accordance with Clause 12 [Measurement and Evaluation], unless the Engineer instructs or approves otherwise in accordance with this Clause.

13.4. Payment in Applicable Currencies

If the Contract provides for payment of the Contract Sum in more than one currency, then whenever an adjustment is agreed, approved or determined as stated above, the amount payable in each of the applicable currencies shall be specified. For this purpose, reference shall be made to the actual or expected currency proportions of the Cost of the varied work, and to the proportions of various currencies specified for payment of the Contract Sum.

13.5. Day work

For work of a minor or incidental nature, the Engineer may instruct that a Variation shall be executed on a day work basis. The work shall then be valued in accordance with the Day work Schedule included in the Contract, and the following procedure shall apply. If a Day work Schedule is not included in the Contract, this Clause shall not apply.

Before ordering Goods for the work, the Contractor shall submit quotations to the Engineer. When applying for payment, the Contractor shall submit invoices, vouchers

and accounts or receipts for any Goods.

Except for any items for which the Day work Schedule specifies that payment is not due, the Contractor shall deliver each day to the Engineer accurate statements in duplicate which shall include the following details of the resources used in executing the previous day's work:

- a. the names, occupations and time of Contractor's Personnel,
- b. the identification, type and time of Contractor's Equipment and Temporary Works, and
- c. the quantities and types of Plant and Materials used.

One copy of each statement will, if correct, or when agreed, be signed by the Engineer and returned to the Contractor. The Contractor shall then submit priced statements of these resources to the Engineer, prior to their inclusion in the next Statement under Clause 14.9 [Application for Interim Payment Certificates].

14. CONTRACT SUM AND PAYMENT

14.1. Percentage Contract

- 14.1.1. The Contract shall be a percentage contract. The Contractor shall be paid for the actual quantity of work permanently installed and in accordance with the contract documents, at the rates quoted by him. Measurement shall be carried out as indicated in the tender specification and as per schedule of quantities and prices.
- 14.1.2. The contractor during the execution of works has to produce the rate analysis for the works taking the base rates for the items/machinery/manpower from Delhi Schedule of Rates and TNPWD state schedule of rates. TNPWD schedule of rates will take precedence over Delhi Schedule of Rates when the items/machinery/manpower found in both the Schedule of rates.
- 14.1.3. Quantity variation will have no ceiling limit. Such variations shall not warrant any claims for modifications to already quoted and accepted rates. However variation to the value of total contract sum can vary to the extent up to Plus (+) or minus (-) 25% without warranting change of rates. In case the total value of contract varies in excess of the above limit, contractor's quote (i.e. the % above/below quoted on the State PWD and DSR rates) can be negotiated.
- 14.1.4. Tax - The rates shall also be firm and shall not be subject to variations in costs of any or all inputs, such as but not limited to, materials, labour, exchange variations, labour conditions, fluctuations in railway freights, or any conditions whatsoever. Tenderers must include in their rates / various tax / Duty / Freight charges such as Value Added Tax on works contract, service tax, cess, excise duty, entry, octroi or other tax, duty or, and any other tax and duty or other levy levied by the Central Government or any State Government or local authority, as applicable

including any variation during the Contract period and any agreed extension thereto. No claim in respect of any variation or introduction taxes or duties or levies as existing or future, shall be entertained by the Employer.

14.2. The Contract Sum

- i. the Contract Sum shall be agreed or determined and be subject to adjustments in accordance with the Contract;
- ii. the Contractor shall pay all taxes, duties and fees required to be paid by him under the Contract, and the Contract Sum shall not be adjusted for any of these costs
- iii. any quantities which may be set out in the Bill of Quantities or other Schedule are estimated quantities and are not to be taken as the actual and correct quantities:
 - a. of the Works which the Contractor is required to execute, or
 - b. for the purposes of Clause 12 [Measurement and Evaluation];

14.3. Earnest Money Deposit (EMD):

Intending Tenderers shall pay as earnest money a sum of **Rs 10,00,000/-** (Rupees Ten Laks only), produced as Demand Draft issued by a Nationalised, or Scheduled Bank in India, drawn in favour of Chennai Metro Rail Limited, Chennai, Tamil Nadu, India, OR by Bank Guarantee as per format in Appendix 1 on any Nationalized or Scheduled Bankers in India valid for 90 days from the last date of submission of Tender. A Tender which is not accompanied by such EMD will not be considered. The Earnest Money will be returned to the chosen Tenderer without any interest after submission of the First Bill.

E.M.D. of unsuccessful tenderers' will be returned, without any interest after the successful tenderer is awarded the work by the Employer and the tender documents are returned.

14.4. Mobilisation Advance

No mobilisation advance will be given

14.5. Terms of Payment:

- 14.5.1. All payments by the Employer under this contract will be made through banking channel within the specified period based on detailed measurements taken by the contractor in the presence of Employer at the site and it will be checked and recorded by the Employer or his representative. The Tender should be prepared by the contractor based on the above measurement and the payment will be made after the scrutiny and certification of the bill by the Engineers.
- 14.5.2. All such interim / progressive payments shall be regarded as payment, by way of advances against final payment only, and shall not preclude the requiring of bad, unsound, and imperfect or unskilled work, to be rejected, removed, taken away and re-constructed or re-erected. Any Certificate given by the Engineer relating to the work done or materials delivered forming part of such payment, may be modified or corrected by

any subsequent such certificate(s), or by the final certificate, and shall not by itself, be conclusive evidence that any work or materials to which it relates is / are in accordance with the Contract and Specification. Any such interim payment or any part thereof shall not in any respect conclude, determine, or affect, in any way the powers of the Engineer under the Contract or any of such payments be treated as final settlement and adjustment of accounts, or in any way vary, or affect the contract or right of the Employer under the terms of the Contract.

14.6. Payment of Part rates:

- 14.6.1. Payment at part rates to the extent of work done against agreement rates for certain items may be made in the running account bills at the discretion of the Employer/ Engineer.
- 14.6.2. The part rate to be allowed for an item shall be as assessed and decided by the Employer/ Engineer, for the extent of work done, and whether the item could be completed in all respects, as per Specification, within the balance amount available.
- 14.6.3. Reasons for allowing part rates shall be recorded in the bills against the items under remarks column.
- 14.6.4. Full rate shall be released, in subsequent bills on completion of the item of work in all respects as per Specification after duly deducting the Amount already paid as Part payment.

14.7. Price Adjustment

- 14.7.1. Price Adjustment clause is not applicable

14.8. Interim Payments :

14.8.1. Payment for works:

Progressive payment shall be made on monthly running account bills.

Engineer shall certify the running account bills within 14 days from the date of submission of bills in complete shape by the Contractor with all required enclosures, attachments etc.

The Employer shall make payment within 21 days from the date of certification of bills by the Engineer.

Any other applicable deductions as per Conditions of Contract

Other applicable deductions.

14.9. Final Bill:

- 14.9.1. The Contractor shall submit his final bill for the works within a month of completion of works. The bill shall be based only on works as measured

and at accepted agreement rates, including rates for any additional or extra work, which might have been sanctioned by the Employer. All deductions due under the Contract shall be made.

14.9.2. Final bill Payment:

- a. Final bill shall be submitted by the Contractor, within a month from the date of completion of all the works.
- b. The Employer shall certify the final bill within a month of submission in complete shape with all the required documents, subject to finalisation of extra claims, if any.
- c. The Employer shall make payment for the final bill within a month from the date of certification of final bill by the Employer.

14.9.3. Deduction in Final bill :

- a. Applicable deductions as per Conditions of Contract.
- b. Any money recoverable from the Contractor.
- c. All interim payments effected.

14.10. Delayed Payment:

No interest is payable on Delayed Payments.

14.11. Payment of Retention Money:

14.11.1. Payment on Account and Retention:

The Contractor may, at intervals specified in the Tender, submit claims for payment of advances on account of work done and materials delivered at the Site in accordance with the Contract. Such claims which shall be for a net amount not less than the minimum named in the tender shall be computed as under

14.11.2. Retention Amount:

In addition to the Performance Bond/Performance Guarantee in the form of Bank Guarantee as required under Clause No.5.2 above, as a further security for the due fulfilment of the contract by the Contractor, 10% of the value of the work done will be deducted by the Employer from each payment to be made to the Contractor until the retention money amounts to a maximum of 5% of the contract sum of the work.

Upon the Engineer's certificate of completion of the works, 50% of the retention money would be refunded and the balance after due completion of all obligations under the contract agreement and defects liability period. The amounts retained by the Employer shall not bear interest.

14.12. Secured Advance on Material at site:

Secured Advance against material delivered at site is not payable.

14.13. Currencies of Payment

The Contract Sum shall be paid in the currency or currencies named in the Conditions of the Contract.

15. TERMINATION

15.1. Notice to Correct:

If the Contractor fails to carry out any obligation under the Contract, the Engineer may by notice require the Contractor to make good the failure and to remedy it within a specified reasonable time.

15.2. Termination of the contract :

If the Contractor shall become bankrupt or have a receiving order made against him or shall present his petition in bankruptcy or shall make an arrangement with or assignment in favour of his creditors or shall agree to carry out the Contract under a committee of inspection of his creditors or (being a corporation) shall go into liquidation (other than a voluntary liquidation for the purposes of amalgamation or reconstruction) or if the Contractor shall assign the Contract without the consent in writing of the Employer first obtained or shall have an execution levied on his goods or if the Engineer shall certify in writing to the Employer that in his opinion the Contractor:-

- i. has abandoned the Contract or
- ii. without reasonable excuse has failed to commence the Works or has suspended the progress of the Works for 28 days after receiving from the Engineer written notice to proceed or
- iii. has failed to remove materials from the Site or to pull down and replace work for 28 days after receiving from the Engineer written notice that the said materials or work had been condemned and rejected by the Engineer under these conditions or
- iv. is not executing the Works in accordance with the Contract or is persistently or flagrantly neglecting to carry out his obligations under the Contract or
- v. has to the detriment of good workmanship or in defiance of the Engineer's instructions to the contrary sub-let any part of the Contract then the Employer may after 14 days notice in writing to the Contractor enter upon the Site and the Works and expel the Contractor therefrom without thereby voiding the Contract or releasing the Contractor from any of his obligations or liabilities under the Contract or affecting the rights and powers conferred on the Employer or the Engineer by the Contract and may himself complete the Works or may employ any other contractor to complete the Works and the Employer or such other contractor may use for such completion so much of the Constructional Plant Temporary Works and materials which have been deemed to become the property of the Employer under the provisions of the Contract as he or they may think proper and the Employer may at any time sell any of the said Constructional Plant Temporary Works and unused materials and apply the proceeds of sale in or towards the satisfaction of any sums due or which may become due to him from the Contractor under the Contract.

- vi. Fails to mobilize the equipment, manpower to repair the defects and inflicts undue delay in completion of works affecting the revenue operation of CMRL.

Upon termination, conditions stipulated in the clause 15.3 and 15.4 will be followed

15.3. Valuation at Date of Termination:

As soon as may be practicable after any such entry and expulsion by the Employer, the Engineer, with the prior written consent of the Employer, shall fix and determine ex-parte or by or after reference to the parties or after such investigation or enquiries as he may think fit to make or institute and shall certify what amount (if any) had at the time of such entry and expulsion been reasonably earned by or would reasonably accrue to the Contractor in respect of 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 Temporary Works which have been deemed to become the property of the Employer under the provisions of the Contract.

15.4. Payment after Termination:

If the Employer shall enter and expel the Contractor under this Clause the Employer shall not be liable to pay to the Contractor any money on account of the Contract until the expiration of the Period of Maintenance and thereafter until the costs of completion and maintenance damages for delay in completion (if any) and all other expenses incurred by the Employer have been ascertained and the amount thereof certified by the Engineer in consultation with the Employer. The Contractor shall then be entitled to receive only such sum or sums (if any) as the Engineer may certify would have been due to him upon due completion by him after deducting the said amount. But if such amount shall exceed the sum which would have been payable to the Contractor on due completion by him then the Contractor shall upon demand pay to the Employer the amount of such excess and it shall be deemed a debt due by the Contractor to the Employer and shall be recoverable accordingly.

15.5. Employer's Entitlement to Termination:

The Employer shall be entitled to terminate the Contract, at any time for the Employer's convenience, by giving notice of such termination to the Contractor. The termination shall take effect 28 days after the later of the dates on which the Contractor receives this notice or the Employer returns the Performance Security. The Employer shall not terminate the Contract under this Clause in order to execute the Works himself or to arrange for the Works to be executed by another contractor.

16. SUSPENSION

16.1. Suspension of Work

The Engineer may at any time instruct the Contractor to suspend progress of part or all of the Works. During suspension, the Contractor shall protect, store and secure such part or

whole of the Works against any deterioration, loss or damage.

16.2. Consequences of Suspension

The Contractor shall not be entitled to extra cost (if any), incurred by him, during the period of suspension of Work, if such suspension is

- a. provided for in the Contract, or
- b. necessary for proper execution of Works or by reasons or weather condition or by some default on the part of the Contractor, or
- c. necessary for the safety of Works or any part thereof or
- d. necessary for the safety of adjoining public or other properly or safety of the public or workmen or those who have to be at the site or
- e. to ensure safety and to avoid disruption of traffic and utilities, as also to permit fast repairs and restoration of any damaged utilities,

If suspension is ordered by the Engineer for reasons other than those mentioned in clause 8.8 then the Contractor's entitlement are in the table below :

Suspension Period	Extension of time	Compensation for the suspension period	Remarks
Upto 14 days	No	No	Engineer may, at his sole discretion, give extension of time in exceptional circumstances
15-30 Days	YES	No	Extension of time as considered proper by the Engineer
Above 30-90 Days	YES	No	Extension of time as considered proper by the Engineer
Above 90 days if Contractor asks for fore Closure.	YES	As per Daily rate of wages for idle labour/Employees 70% of the rate for hire charges for idle plant and machinery (excluding cost of fuel and lubricants) 15% above all these items to cover overhead costs	Compensation as assessed by the Engineer on submission of documentary proof by the Contractor to Engineer's satisfaction.

16.3. Payment for Plant and Materials in Event of Suspension

The Contractor shall be entitled to payment of the value (as at the date of suspension) of Plant and/or Materials which have not been delivered to Site, if:

1. the work on Plant or delivery of Plant and/or Materials has been suspended for more than 28 days, and
2. the Contractor has marked the Plant and/or Materials as the Employer's property in accordance with the Engineer's instructions.

16.4. Prolonged Suspension

If the progress of the works or any part thereof is suspended on the written order of the Engineer for more than 90 days, the Contractor may serve a written notice on the Engineer requiring permission within 28 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 a 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 under Clause 12 hereof or where it affects the whole works as an abandonment of the Contract by the Employer/Engineer.

16.5. Resumption of Work

After the permission or instruction to proceed is given, the Contractor and the Engineer shall jointly examine the Works and the Plant and Materials affected by the suspension. The Contractor shall make good any deterioration or defect in or loss of the Works or Plant or Materials, which has occurred during the suspension.

17. RISK AND RESPONSIBILITY

17.1. Indemnities:

The Contractor shall indemnify and hold harmless the Employer, the Employer's Personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of:

- A. bodily injury, sickness, disease or death, of any person whatsoever arising out of or in the course of or by reason of the Contractor's design (if any), the execution and completion of the Works and the remedying of any defects, unless attributable to any negligence, wilful act or breach of the Contract by the Employer, the Employer's Personnel, or any of their respective agents, and
- B. damage to or loss of any property, real or personal (other than the Works), to the extent that such damage or loss:
 - a. arises out of or in the course of or by reason of the Contractor's design (if any), the execution and completion of the Works and the remedying of any defects, and
 - b. is attributable to any negligence, wilful act or breach of the Contract by the Contractor, the Contractor's Personnel, their respective agents, or anyone directly or indirectly employed by any of them.

The Employer shall indemnify and hold harmless the Contractor, the Contractor's

Personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of (1) bodily injury, sickness, disease or death, which is attributable to any negligence, wilful act or breach of the Contract by the Employer, the Employer's Personnel, or any of their respective agents, and (2) the matters for which liability may be excluded from insurance cover, as described in Clause 18.4 [Insurance Against Injury to Persons and Damage to Property].

17.2. Contractor's Care of the Works:

From the commencement to the completion of the Works/Plant/Equipment, the Contractor shall take full responsibility for the care thereof and of Temporary Works and Constructional Plant and in case any damage, loss or injury shall occur to the Works/Plant/Equipment or to any part thereof or to any Temporary Works or Constructional Plant from any cause whatsoever Contractor shall at his own cost, repair and make good the same so that at completion the Work/Plant/Equipment shall be in good order and condition and in conformity in every respect with the requirement of the Contract and the Engineer's instructions.

The Contractor also assumes all risks, hazards and conditions in connection with the performance of the Contract. If the performance of the contract involves a greater expenditure than the Contractor anticipated, no allowance will be made on account thereof, and the Contractor shall nevertheless complete the work in accordance with the terms of the contract.

The Contractor will be responsible for loss or damage to his own / or Subcontractor's own equipment or materials which will not form part of the completed project.

17.3. Employer's Risks:

The risks referred to in Clause 17.4 below are:

- A. war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
- B. rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war, within the Country,
- C. riot, commotion or disorder within the Country by persons other than the Contractor's Personnel and other employees of the Contractor and Subcontractors,
- D. munitions of war, explosive materials, ionising radiation or contamination by radio-activity, within the Country, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity,
- E. pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds,
- F. use or occupation by the Employer of any part of the Permanent Works, except as may be specified in the Contract,
- G. design of any part of the Works by the Employer's Personnel or by others for whom the Employer is responsible, and
- H. any operation of the forces of nature which is Unforeseeable or against which an experienced contractor could not reasonably have been expected to have taken adequate preventative precautions.

17.4. Consequences of Employer's Risks:

If and to the extent that any of the risks listed in Clause 17.3 above results in loss or damage to the Works, Goods or Contractor's Documents, the Contractor shall promptly give notice to the Engineer and shall rectify this loss or damage to the extent required by the Engineer.

If the Contractor suffers delay and/or incurs Cost from rectifying this loss or damage, the Contractor shall give a further notice to the Engineer and shall be entitled subject to Clause 20.1 [Contractor's Claims] to:

- a. an extension of time for any such delay, if completion is or will be delayed,
- b. payment of any such Cost, which shall be included in the Contract Sum. In the case of Clause 17.3 [Employer's Risks], reasonable profit on the Cost shall also be included.

17.5. Intellectual and Industrial Property Rights:

In this Clause, "infringement" means an infringement (or alleged infringement) of any patent, registered design, copyright, trademark, trade name, trade secret or other intellectual or industrial property right relating to the Works; and "claim" means a claim (or proceedings pursuing a claim) alleging an infringement.

Whenever a Party does not give notice to the other Party of any claim within 28 days of receiving the claim, the first Party shall be deemed to have waived any right to indemnity under this Clause.

The Employer shall indemnify and hold the Contractor harmless against and from any claim alleging an infringement which is or was:

- 17.5.1. an unavoidable result of the Contractor's compliance with the Contract, or

- 17.5.2. a result of any Works being used by the Employer:

for a purpose other than that indicated by, or reasonably to be inferred from, the Contract, or

in conjunction with any thing not supplied by the Contractor, unless such

use was disclosed to the Contractor prior to the Base Date or is stated in the Contract.

17.6. Limitation of Liability

Neither Party shall be liable to the other Party for loss of use of any Works, loss of profit, loss of any contract or for any indirect or consequential loss or damage which may be suffered by the other Party in connection with the Contract, other than under Clause 16.3 [Payment on Termination] and Clause 17.1 [Indemnities].

The total liability of the Contractor to the Employer, under or in connection with the Contract other than under Clause 5.22 [Electricity, Water], Clause 17.1

[Indemnities] and Clause 17.5 [Intellectual and Industrial Property Rights], shall not exceed the sum stated in the Particular Conditions or (if a sum is not so stated) the Accepted Contract Amount.

This Clause shall not limit liability in any case of fraud, deliberate default or reckless misconduct by the defaulting Party.

18. INSURANCE

18.1. General Requirements for Insurances:

18.1.1. It is the Contractor's responsibility, to take insurance for the work, workmen, and third party liability, and indemnify the Employer, from all claims, arising out of this Contract. the Employer will arrange for insurance only after Practical Completion of the Project from the Contractor. The Contractor has to allow for all risks in his Tender rates and no compensation on any account will be paid by the Employer. Force Majeure will only permit time extension within his Tender rates for contract performance as may be approved by the Employer.

18.1.2. The Contractor shall be responsible for all injury or damage to persons, animals or things and for all damage to property which may arise from any factor, omission, on the part of The Contractor, or any Subcontractor or any of their employees.

18.1.3. The liability under this clause shall cover also, inter alia, any damage to structures, whether immediately adjacent to the works or otherwise, any damage to roads, streets, footpaths, bridges, as well as damage caused to the buildings and other structures and works, forming the subject matter of this Contract. The Contractor shall also be responsible for any damage caused to the buildings and other structures and works, forming the subject matter of this Contract due to rain, wind, frost, or other inclemency of weather.

18.1.4. The Contractor shall indemnify and keep indemnified the Employer and hold him harmless in respect of all and any loss and expenses arising from any such injury, or damage to persons, or property as aforesaid and also against any claim made in respect of injury or damage, whether under any statute or otherwise, and also in respect of any award or compensation or damage consequent upon such claim.

18.1.5. Contractor's All Risk (CAR) Policy

The Contractor shall, at his own expense, effect and maintain till the issue of the Virtual Completion Certificate under this Contract with an Indian insurance company approved by the Employer, an All Risks Policy of Insurance including earthquake risk, in the joint names of the

the Employer and The Contractor (the name of the former being placed first in the policy) against all risk as per the standard comprehensive All Risk Policy for the amount of Contract and deposit such policy or policies with the Employer before commencing the works.

Insurance Cover for Contractor's All Risk shall include the following but not limited to

- 50/50 Clause
- 72 Hours Clause
- Free Automatic Reinstatement Clause upto 10% of SI
- Loss Minimisation Expenses
- Professional Fees
- Waiver of Contribution Clause
- Expediting cost including Air Freight and Express Freight upto 30% of net claim amount.
- Amendment in Fire Fighting Endorsement wording.
- Owner Surrounding Property upto 10% of the policy SI with FLEXA Risk.
- Debris Removal upto Rs.10 Cr.
- Cover for offsite storage/fabrication
- TPL with cross liability till expiry of the Extended Maintenance Period AOA Limit is as 1% of the Contract price
- Escalation Cost upto 50% of the policy SI
- Waiver of Subrogation Clause
- Design Defect Cover as per DE3 wordings of Munich Re.
- Extended Maintenance Cover for 24 Months.
- Earthquake
- STFI
- Terrorism

18.1.6. The Contractor shall reinstate all damage of every sort mentioned in this Clause so as to deliver up the whole of the works complete and perfect in every respect and so as to make good or otherwise satisfy all claims for damage to property of third parties.

18.1.7. **THIRD PARTY INSURANCE**

The Contractor shall also indemnify and keep indemnified the Employer against all claims which may be made against the the Employer, by any person, in respect of anything, which may arise in respect of the works or in consequence thereof and shall, at his own expense, effect and maintain until the Virtual Completion of the Contract with an Insurance Company, approved by the Employer, a policy of Insurance in the joint names of the the Employer and The Contractor (name of the former being placed first in the policy) against such risks and deposit such policy or policies before commencement of the works. The minimum limit of the coverage under the Policy shall be One percent (1%) of the Value of the Total Contract Price for any one incident, with number of incidents unlimited.

- 18.1.8. The Contractor shall, also indemnify the Employer against all which may be upon the Employer, whether under the workmen's compensation Act or any other statute in force during the currency of this Contract or at common Law, in respect of any employee of The Contractor or of any Subcontractor and shall at his own expense, effect and maintain until the Virtual Completion of the Contract with an Indian Insurance Company approved by the Employer, a Policy of Insurance, against such risks and deposit such policy or policies with the Employer from time to time during the currency of this Contract.
- 18.1.9. In default of the Contractor, insuring as provided above, the Employer may insure him on the above lines and may deduct the premiums paid from any moneys, due or which may become due to The Contractor.
- 18.1.10. The Contractor shall be responsible, for any liability which may not be covered by the Insurance Policies referred to above, and also for all other damages to any person, animal or things, or defects while carrying out of this Contract, whatever may be the reasons due to which the damage shall have been caused.
- 18.1.11. The Contractor shall also indemnify and keep indemnified the Employer, against all and any cost, charges or expenses, arising out of any claim, or proceedings, relating to the works and also in respect of any award of damages or compensation arising there from.
- 18.1.12. Without prejudice to the other rights of the Employer against the Contractor in respect of such default, the Employer shall be entitled to deduct from any sums payable to the Contractor the amount of any damages, compensation costs, charges, and other expenses, paid by the Employer and which are payable by The Contractor under this Clause.
- 18.1.13. The Contractor shall upon settlement by the Insurer of any claim made against the Insurer pursuant to a policy taken under this clause, proceed with due diligence to rebuild or repair the works destroyed or damaged. In this event, all the monies received from the Insurer in respect of such damage shall be paid to The Contractor and The Contractor shall not be entitled to any further payment in respect of the expenditure incurred for rebuilding or repairing of the materials or goods destroyed or damaged.
- 18.1.14. The Contractors in case of re-building or reinstatement after fire shall be entitled to such Extension of Time for completion as Employer's Personnel / the Employer / the Engineer may deem fit, but shall, however, not be entitled to reimbursement by the Employer of any shortfall or deficiency in the amount finally paid by the Insurer in settlement of any claim arising as set out herein.
- 18.1.15. Without prejudice to his liability under this Clause, the Contractor shall also cause all Direct Subcontractors to effect for their respective portions
-

of the works, similar policies of insurance in accordance with the provisions of this Clause and shall produce or cause to produce to the Employer, such policies. In the event of failure of the subcontractor to take out such a policy of insurance before commencing the works at the site, The Contractor shall be responsible for any claim or damage attributable to the said Sub- Contractor.

18.2. Injury to persons and property of Employer:

18.2.1. The Contractor shall be liable for and shall indemnify the Employer against any liability, loss, claim, or proceedings whatsoever arising under any statute or at common law, in respect of personal injury to or the death of any person, whomsoever, arising out of or in the course of or caused by the carrying out of the works, unless such claim arises due to any act, or neglect of the Employer, or of any person for whom the Employer is responsible.

18.2.2. The Contractor shall be liable for and shall indemnify the Employer against any expense, liability, loss, claim, or proceedings, in respect of any injury, or damage, whatsoever, to any property, movable or immovable, in so far as, such injury or damage arises out of ,or in the course of , or by reason of, the carrying out of the works, and provided always that the same is due to any negligence, omission, or default of The Contractor, his servants or agents or of any Subcontractor, his servant or agent.

18.3. Insurance for Works and Contractor's Equipment:

18.3.1. The Contractor shall in the joint names of the Employer and the Contractor , insure against loss or damage by fire, storm, tempest, lightning, flood, earthquake, aircraft or anything dropped there from, aerial objects, riot, and civil commotion, for the full value thereof, all work executed and all unfixed materials, and goods intended for, delivered to, and placed on, or adjacent to the work, but excluding temporary building plant, tools, and equipment, owned or hired by The Contractor, or any Subcontractor, and shall ,keep such work, materials, and goods, so insured until Virtual Completion of the Project. Such insurances shall be with insurers approved by the Employer / Consultant and The Contractor shall deposit with the Employer/Consultant, the policy or policies and the receipts in respect of premiums paid: and should The Contractor make default in insuring or continuing to insure, as aforesaid, the the Employer may himself insure against any risk with respect of which the default shall have occurred and deduct, a sum equivalent to the amount paid by him in respect of premium from any monies due to, or to become due to The Contractor.

18.3.2. Provided always, that if The Contractor shall independently of his obligations under this Contract, maintain a policy of Insurance which covers (inter alia) the said work, materials, and goods, against the

aforesaid contingencies to the full value thereof, then, the maintenance by The Contractor of such policy shall, if the Employer's interest is endorsed thereon, be a discharge of The Contractor's obligation to insure in the joint names of the Employer and Contractor and the production by The Contractor as and when may reasonably be required by the Employer of a current Certificate of Insurance from the company or firm which shall have issued the said policy, shall be a discharge of The Contractor's obligation ,to deposit with the Employer ,a policy or policies and the receipts in respect of premiums paid.

- 18.3.3. Upon settlement of any claim under the Insurances aforesaid, the Contractor with due diligence shall restore, work damaged, replace, or repair, unfixed materials, or goods, which have been destroyed or injured, remove, or dispose of, any debris, and proceed with the carrying out and completion of the work. All monies received from such insurances, shall be paid to The Contractor, by instalments, under Certificates of Employer's Personnel / the Employer / the Engineer Issued, at the period of interim Certificates, named in the Appendix to these Conditions. The Contractor shall not be entitled to payment, in respect of the restoration of work damaged, the replacement, and repair of any unfixed materials, or goods, and the removal, and disposal of, debris, other than the monies received under the said insurances.
- 18.3.4. All works executed and all unfixed materials and goods intended for, delivered to, and placed on or adjacent to the works (except temporary buildings, plant, tools and equipment owned or hired by the Contractor or his Subcontractor), shall be at the sole risk of the Contractor, as regards loss or damage by fire, storm, tempest, lightning, flood, earthquake, aircraft or anything dropped there from, aerial objects, riot, and civil commotion. If any loss or damage, affecting the work, or any part thereof or any such unfixed materials or goods, is occasioned by, any one or more of the said contingencies, then:
- 18.3.5. The occurrence of such loss or damage shall be disregarded, in computing any amounts payable to the Contractor under or by virtue of this Contract.
- 18.3.6. The Contractor with due diligence shall restore work damaged, replace or repair any unfixed materials or goods which have been destroyed or injured, remove and dispose of any debris, and proceed with carrying out and completion of the work. The restoration of work damaged, the replacement and repair of unfixed materials, and goods, and the removal and disposal of debris, shall be deemed to be a variation required by the Consultant.
- 18.3.7. The existing structure together with all the contents thereof and the works, and all unfixed materials, and goods, intended for, delivered to, and placed on, or adjacent to the works, (except temporary buildings, plant, tools and equipment, owned or hired by The Contractor, or any
-

Subcontractor) shall be at the sole risk of the Employer, as regards loss or damage by fire, storm, tempest, lightning, flood, earthquake, aircraft or anything dropped there from, aerial objects, riot, and civil commotion, and the Employer shall maintain adequate Insurance, against that risk, if any loss or damage, affecting the work, or any part thereof, or any such unfixed materials, or goods, is occasioned, by any one or more of the said contingencies, then :

- 18.3.8. The occurrence of such loss or damage shall be disregarded, in computing any amounts payable to The Contractor, under or by virtue of this Contract.

If it is just and equitable so to do the employment of the Contractor, under this Contract may within 28 days of the occurrence of such loss or damage be determined at the option of either party, by notice by registered post, or recorded delivery, from either party to the other. Within seven days of receiving such notice ,(but not thereafter) either party may give to the other, a written request to concur in the appointment of an Arbitrator under Clause of these Conditions, in order that it may be determined whether such determination will be just and equitable.

Upon the giving or receiving by the Employer of such a notice of determination or where a reference to Arbitration is as aforesaid upon the Arbitrator upholding the notice of determination,

If no notice of determination is served as aforesaid or where reference to Arbitration is made as aforesaid if the Arbitrator decides against the notice of determination then.

- 18.3.9. The Contractor with due diligence shall reinstate or make good such loss or damage and proceed with the carrying out and completion of the works.
- 18.3.10. Employer's Personnel / The Employer / The Engineer may issue instructions requiring Contractor to remove and dispose of any debris; and
- 18.3.11. The reinstatement and making good of such loss or damage and (when required) the removal and disposal of debris, shall be deemed to be a variation required by the Employer.

18.4. Insurance against Injury to Persons and Damage to Property :

- 18.4.1. Without Prejudice to his liability to indemnify the the Employer, under Clause- of these Conditions, The Contractor shall maintain and shall cause any Subcontractor to maintain:
- 18.4.2. Such Insurances, as are necessary, to cover the liability of The Contractor ,or as the case may be of such Subcontractor, in respect of personal injuries or deaths arising out of or in the course of or caused by
-

the carrying out of the work; and

- 18.4.3. Such insurances as may be specifically required by the Contract Bills in respect of injury or damage to property, movable or immovable, arising out of or in the course of, or by reason of, the carrying out of the work, and caused by any negligence, omission, or default, of The Contractor, his servants or agents or, as the case may be, of such Sub- Contractor, his servants or agents.
- 18.4.4. The Contractor shall produce or cause any Subcontractor to produce for inspection, the relevant policy or policies of Insurance together with the receipts, in respect of premiums paid under such policy or policies, as and when required so by the Employer / Consultant, provided always, that as and when may be reasonably required by the Employer, the production by either The Contractor or any Subcontractor, of a current Certificate of Insurance, from the company or firm which shall have issued the policy or policies aforesaid, shall be a good discharge of The Contractor's obligation to produce or to cause the production of the policy or policies, and the receipts in respect of premium paid.
- 18.4.5. The Contractor shall maintain in the joint names of the Employer and the Contractor, such Insurances, as may be required, in respect of any expense, liability, loss, claim or proceedings which the Employer may incur or sustain by reason of injury, or damage to property, real or personal, arising out of, or in the course of, or by reason of ,the carrying out of the work, and caused otherwise than by the negligence, omission, or default of The Contractor, his servants or agents or any Subcontractor, his servants or agents.
- 18.4.6. Any such Insurance as is referred to, in the immediately preceding paragraph shall be placed with insurers to be approved by the Employer, and The Contractor shall have to deposit with the Employer the policy or policies and the receipts in respect of premiums paid for the scrutinizing of the Employer.
- 18.4.7. Should The Contractor or any Subcontractor make default in insuring or in continuing to insure as provided in the above Clauses, the Employer may himself insure against any risk with respect to which the default shall have occurred, and may deduct a sum equivalent to the amount paid in respect of premiums from any monies due to or become due to The Contractor.

18.5. Insurance for Contractor's Personnel:

The Contractor shall effect and maintain insurance against liability for claims, damages, losses and expenses (including legal fees and expenses) arising from injury, sickness, disease or death of any person employed by the Contractor or any other of the Contractor's Personnel.

The Employer and the Engineer shall also be indemnified under the policy of

insurance, except that this insurance may exclude losses and claims to the extent that they arise from any act or neglect of the Employer or of the Employer's Personnel.

The insurance shall be maintained in full force and effect during the whole time that these personnel are assisting in the execution of the Works. For a Subcontractor's employees, the insurance may be effected by the Subcontractor, but the Contractor shall be responsible for compliance with this Clause.

19. FORCE MAJEURE

19.1. Definition of Force Majeure:

In this Clause, "Force Majeure" means an exceptional event or circumstance:

- a. which is beyond a Party's control,
- b. which such Party could not reasonably have provided against before entering into the Contract,
- c. which, having arisen, such Party could not reasonably have avoided or overcome, and
- d. which is not substantially attributable to the other Party.

Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind listed below, so long as conditions (a) to (d) above are satisfied:

- i. war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
- ii. rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war,
- iii. riot, commotion, disorder, strike or lockout by persons other than the Contractor's Personnel and other employees of the Contractor and Subcontractors,
- iv. munitions of war, explosive materials, ionising radiation or contamination by radioactivity, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radioactivity, and
- v. natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity.

19.2. Notice of Force Majeure:

If a Party is or will be prevented from performing any of its obligations under the Contract by Force Majeure, then it shall give notice to the other Party of the event or circumstances constituting the Force Majeure and shall specify the obligations, the performance of which is or will be prevented. The notice shall be given within 14 days after the Party became aware, or should have become aware, of the relevant event or circumstance constituting Force Majeure.

The Party shall, having given notice, be excused performance of such obligations for so long as such Force Majeure prevents it from performing them.

Notwithstanding any other provision of this Clause, Force Majeure shall not apply

to obligations of either Party to make payments to the other Party under the Contract.

19.3. Duty to Minimise Delay:

Each Party shall at all times use all reasonable endeavours to minimise any delay in the performance of the Contract as a result of Force Majeure. A Party shall give notice to the other Party when it ceases to be affected by the Force Majeure.

19.4. Consequences of Force Majeure:

19.4.1. If the Contractor is prevented from performing any of his obligations under the Contract by Force Majeure of which notice has been given under Clause 19.2 [Notice of Force Majeure], and suffers delay and/or incurs Cost by reason of such

19.4.2. Force Majeure, the Contractor shall be entitled subject to Clause 20.1 [Contractor's Claims] to:

an extension of time for any such delay, if completion is or will be delayed, under Conditions of this contract.

if the event or circumstance is of the kind described in Clause 19.1 [Definition of Force Majeure] and, in the case of subparagraphs (ii) to (iv), occurs in the Country, payment of any such Cost.

19.5. Force Majeure Affecting Subcontractor:

If any Subcontractor is entitled under any contract or agreement relating to the Works to relief from force majeure on terms additional to or broader than those specified in this Clause, such additional or broader force majeure events or circumstances shall not excuse the Contractor's non-performance or entitle him to relief under this Clause.

19.6. Optional Termination, Payment and Release:

If the execution of substantially all the Works in progress is prevented for a continuous period of 84 days by reason of Force Majeure of which notice has been given under Clause 19.2 [Notice of Force Majeure], or for multiple periods which total more than 140 days due to the same notified Force Majeure, then either Party may give to the other Party a notice of termination of the Contract. In this event, the termination shall take effect 7 days after the notice is given, and the Contractor shall proceed in accordance with the Conditions of the contract

19.6.1. the amounts payable for any work carried out for which a price is stated in the Contract;

19.6.2. the Cost of Plant and Materials ordered for the Works which have been

delivered to the Contractor, or of which the Contractor is liable to accept delivery: this Plant and Materials shall become the property of (and be at the risk of) the Employer when paid for by the Employer, and the Contractor shall place the same at the Employer's disposal;

- 19.6.3. any other Cost or liability which in the circumstances was reasonably incurred by the Contractor in the expectation of completing the Works;
- 19.6.4. the Cost of removal of Temporary Works and Contractor's Equipment from the Site and the return of these items to the Contractor's works in his country (or to any other destination at no greater cost);
- 19.6.5. the Cost of repatriation of the Contractor's staff and labour employed wholly in connection with the Works at the date of termination.

19.7. Release from Performance under the Law:

Notwithstanding any other provision of this Clause, if any event or circumstance outside the control of the Parties (including, but not limited to, Force Majeure) arises which makes it impossible or unlawful for either or both Parties to fulfil its or their contractual obligations or which, under the law governing the Contract, entitles the Parties to be released from further performance of the Contract, then upon notice by either Party to the other Party of such event or circumstance:

- 19.7.1. the Parties shall be discharged from further performance, without prejudice to the rights of either Party in respect of any previous breach of the Contract, and
- 19.7.2. the sum payable by the Employer to the Contractor shall be the same as would have been payable under Clause 19.6 [Optional Termination, Payment and Release] if the Contract had been terminated under Clause 19.6 (Optional Termination, Payment and Release.)

20. CLAIMS, DISPUTES, CONCILIATION AND ARBITRATION

20.1. Procedure for Claims:

If the Contractor intends to claim any additional payment under any clause of these Conditions or otherwise, the Contractor shall give notice to the Engineer as soon as possible and in any event, within 28 days of the start of the event giving rise to the claim.

The Contractor shall keep such contemporary records as may be necessary to substantiate any claim either on the Site or at any other location acceptable to the Engineer. Without admitting the Employer's liability, the Engineer shall on receipt of such notice, inspect such records and may instruct the Contractor to keep further contemporary records. The Contractor shall permit the Engineer to inspect all such records and shall (if instructed) submit copies to the Engineer.

Within 28 days of such notice or such other time as may be agreed by the Engineer, the Contractor shall send to the Engineer an account, giving detailed

particulars of the amount and basis of the claim. Where the event giving rise to the claim has a continuing effect, such amount shall be considered as interim. The Contractor shall then, at such intervals as the Engineer may reasonable require, send further interim accounts giving the accumulated amount of the claim and any further particulars. Where interim accounts are sent to the Engineer, the Contractor shall send a final account within 28 days of the end of the effects resulting from the event. If the Contractor fails to comply with this clause, he shall not be entitled to claim any additional payment.

20.2. Payment for Claims

The Contractor shall be entitled to have included in any interim payment certificate such amount for any claim as the Engineer considers due, after taking approval from the Employer. If the particulars supplied are insufficient to substantiate the whole of the claim the Contractor shall be entitled to payment for such part of the claim as has been substantiated.

20.3. No Legal Action Till Dispute Settlement Procedure is Exhausted

Any and all Disputes shall be settled in accordance with the provisions of Clause 20. No action at law concerning or arising out of any Dispute shall be commenced unless and until all applicable Dispute resolution procedures set out in Clause 20 shall have been finally exhausted in relation to that Dispute or any Dispute out of which that Dispute shall have arisen with which it may be or may have been connected.

20.4. Notice of Dispute

A Dispute shall be deemed to arise when one party serves on the other party a notice in writing (herein called a "Dispute of Notice") stating the nature of the Dispute provided that no such notice shall be served later than 28 days after the completion of the Defects Liability Period.

20.5. Two Stages for Dispute

Disputes shall be settled through two stages:

20.5.1. Conciliation procedures as established by "The Arbitration and Conciliation Act-1996" (as amended from time to time) and in accordance with this clause. In the event this procedure fails to resolve the Dispute then:

20.5.2. Arbitration procedures undertaken as provided by "The Arbitration and Conciliation Act-1996" (as amended from time to time) and in accordance with this Clause.

20.6. Conciliation

Within 60 days of receipt of Notice of Dispute, either party shall refer the matter

in Dispute to Conciliation. Conciliation proceedings shall be initiated within 30 days of one party inviting the other in writing to Conciliation. Conciliation shall commence when the other party accepts in writing this invitation. If the invitation is not accepted then Conciliation shall not take place. If the party initiating Conciliation does not receive a reply within 30 days from the date on which he sends the invitation he may elect to treat this as a rejection of the invitation to conciliate and inform the other party accordingly. The Conciliation shall be undertaken by one Conciliator selected from a panel of Conciliators maintained by the Employer. The Conciliator shall assist the parties to reach an amicable settlement in an independent and impartial manner.

20.7. Conciliation Procedure

The Employer shall maintain a panel of Conciliators, who shall be from serving or retired Engineers of Government Departments or of Public Sector Undertakings. Out of this panel a list of three Conciliators shall be sent to the Contractor who shall choose one of them to act as Conciliator and conduct Conciliation proceedings in accordance with "The Arbitration and Conciliation Act - 1996" India.

There will be no objection if Conciliator so nominated is a serving employee of CMRL who would be deputy level officer and above. The Employer and the Contractor shall in good faith co-operate with the Conciliator and in particular, shall endeavour to comply with requests by the Conciliator to submit written materials, provide evidence and attend meetings. Each party may, on his own initiative or at the invitation of the Conciliator, submit to the

Conciliator suggestions for the settlements of the Dispute. When it appears to the Conciliator that there exist elements of a settlement which may be acceptable to the parties, he shall formulate the terms of a possible settlement and submit them to the parties for their observations. After receiving the observations of the parties, the Conciliator may reformulate the terms of a possible settlement in the light of such observations. If the parties reach agreement on a settlement of the dispute, they may draw up and sign a written settlement agreement. If requested by the parties, the Conciliator may draw up, or assist the parties in drawing up the settlement agreement.

When the parties sign the settlement agreement, it shall be final and binding on the parties and persons claiming under them respectively.

The Conciliator shall authenticate the settlement agreement and furnish a copy thereof to each of the parties. As far as possible the conciliation proceedings should be completed within 60 days of the receipt of notice by the Conciliator.

The parties shall not initiate, during the conciliation proceedings, any arbitral or judicial proceedings in respect of a Dispute that is the subject matter of the conciliation proceedings.

20.8. Termination of Conciliation proceedings

The conciliation proceedings shall be terminated:

- 20.8.1. by the signing of the settlement agreement by the parties on the date of agreement; or
- 20.8.2. by written declaration of the Conciliator, after consultation with the parties to the effect further efforts at conciliation are no longer justified, on the date of declaration; or
- 20.8.3. by a written declaration of the parties to the Conciliator to the effect that the conciliation proceedings are terminated, on the date of declaration; or
- 20.8.4. by a written declaration of a party to the other party and the Conciliator, if appointed, to the effect that the conciliation proceedings are terminated, on the date of declaration.

Upon termination of the conciliation proceedings, the Conciliator shall fix the costs of the conciliation and give written notice thereof to the parties. The costs shall be borne equally by the parties unless settlement agreement provides for a different apportionment. All other expenses incurred by a party shall be borne by that party.

20.9. Arbitration

If the efforts to resolve all or any of the dispute through conciliation fails, then such disputes or differences, whatsoever arising between the parties, arising out of touching or relating to construction / manufacture, measuring operation or effect of the contract or the breach thereof shall be referred to Arbitration in accordance with the following provisions:

- 20.9.1. Matters to be arbitrated upon shall be referred to a sole Arbitrator . Neither party shall be limited in the proceedings before such Arbitrator to the evidence or arguments put before the Engineer for the purpose of obtaining his decision. No decision given by the Engineer in accordance with foregoing provisions shall disqualify him from being called as a witness and giving evidence before the Arbitrators on any matter, whatsoever, relevant to Dispute or difference referred to Arbitrators. The arbitration proceedings shall be held in Chennai only. The language of proceedings that of documents and communication shall be English.
- 20.9.2. The Employer at the time of offering Arbitrator to be appointed for the arbitration shall also supply the information with regards to the qualifications of the said Arbitrator nominated in the panel along with their professional experience, phone numbers and addresses to the Contractor.
- 20.9.3. The award of the sole Arbitrator shall be binding on all parties.

20.10. Interest on Arbitration Award

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.

20.11. Cost of Arbitration

The cost of arbitration shall be borne by the respective parties. The cost shall, inter alia, include the fees of the Arbitrator(s) as per rates fixed by the Employer from time to time.

20.12. Jurisdiction of Courts

Where recourse to a Court is to be made respect of any matter, the Court at Chennai shall have the exclusive jurisdiction to try all disputes between the parties.

20.13. Suspension of Work on Account of Arbitration

The reference to Conciliation / Arbitration shall proceed notwithstanding that the works shall not then be or be alleged to be complete, provided always that the obligations of the Employer, Engineer and the Contractor shall not be altered by reasons of arbitration being conducted during the progress of the works. Neither party shall be entitled to suspend the work or part of the work to which the dispute relates on account of arbitration and payments to the Contractor shall continue to be made in terms of the Contract.

APPENDIX - 1
Proforma of Bank Guarantee for Earnest Money Deposit

Whereas, (hereinafter called "the Tenderer") has submitted its tender dated, ----- for the "PROPOSED CONSTRUCTION OF THE CAR PARKING SHELTER ,AT CMRL, KOYAMBEDU DEPOT CHENNAI 107 TAMILNADU" hereinafter called "the tender".

KNOW ALL MEN, by these presents, that we, , having our registered office at, (hereinafter called "the Bank"), are bound unto, the Chief General Manager (EC), Chennai Metro Rail Ltd, Koyambedu Dept,Koyambedu Chennai 600 107, (hereinafter called the "Employer"), in the sum of INR..... (Indian Rupees..... only), for which, payment, well and truly to be made, to the said "Employer, the Bank binds itself, its successors, and assigns by these presents.

Sealed with common seal of the said Bank, this day of 2015.

The Conditions of the obligation are :

- a) if the Tenderer , withdraws his tender, during the period of tender validity.
- b) if the Tenderer fails to accept the corrections of his errors in the tender documents as determined by the "Employer"
- c) If the Tenderer having been notified of the acceptance of his tender by the "Employer" during the period of validity of tender :
 - i) fails or refuses to execute the Form of Agreement.
 - ii) fails or refuses or neglects to furnish the Performance Bank Guarantee.

We undertake to pay to the "Employer", the above amount, upon receipt of his, first written demand, without the "Employer, having to substantiate his demand, provided that in his demand the "Employer", will note, that the amount claimed by him, is due to him, owing to the occurrence of any of the above conditions, specifying the occurred condition or conditions.

This guarantee will remain in force up to and including the date, thirty (30) days after the date of expiry of the period of tender validity, and any demand in respect thereof should reach the Bank not later than the date of expiry of this guarantee.

Signature of the Bank

Signature of Witness

Name of Witness

Address

APPENDIX - 2

ARTICLES OF AGREEMENT

(FORMAT)

ARTICLES OF AGREEMENT made on this day of between M/s....., The Chief General Manager (EC) CMRL,Koyambedu Depot,Koyambedu, Chennai 600 8107, Tamil Nadu, India, (hereinafter called "the **Employer** or the **Employer**") of the one part on behalf of the President of India,New Delhi.and..... of the other part, whose registered office is situated at,.....(hereinafter called "the Contractor)

WHEREAS the Employer is desirous of to do Miscellaneous works, (hereinafter called "the Work"), and has caused scope of works, Bill of schedule and Contract conditions [hereinafter referred to as the "Employer's Personnel"].

AND WHEREAS the Tender document covering conditions, the specification and the Bill of Quantities, have been signed by or on behalf of the parties hereto.

AND WHEREAS the **Contractor** has furnished Bank Guarantee for a sum of INR..... (Indian Rupees only) as Performance Bond valid from the date of commencement of work till the end of Defects Liability Period of 730 days from the date of taking over the work by the Employer with provision for direct revalidation of the Bond, on demand if so required by the Employer, for due performance of this Agreement.

AND WHEREAS the Contractor, has supplied the Employer with a fully priced copy of the said Bill of Quantities (which copy is hereinafter referred to as "the Contract Bills") AND WHEREAS the Contract /Tender Drawings and the Contract Bills have been signed by or on behalf of the parties hereto.

NOW IT IS HEREBY AGREED AS FOLLOWS:

1. For the consideration hereinafter mentioned, the **Contractor** will, upon and subject to the Conditions annexed, carry out and complete the Work shown upon the Contract / Tender Drawings and described by ,or referred to, in the Contract Bills and in the said Conditions.

2. The Employer will pay the **Contractor** a sum of INR (Indian Rupees..... only) (hereinafter, referred to as "the Contract Sum") or such other sum as shall become payable hereunder at the times and in the manner specified in the said Conditions.

3. The term "the Employer's Personnel" in the said Conditions shall mean any person as the Employer shall nominate for that purpose not being a person objected to by Contractor, for reasons considered to be sufficient by an Arbitrator appointed in accordance with Article-.9. Provided always, that no person subsequently appointed to be the Employer's Representative under this clause shall be entitled to disregard or overrule any certificate or opinion or decision or approval or instruction given or expressed by the Employer's Representative(s) for the time being.

4. The said Condition and Appendix thereto shall be read and construed as forming part of this Agreement and the parties hereto shall respectively abide by and submit themselves to the Conditions and perform the agreements on their parts respectively in such Conditions contained.

5. The plans, agreement and documents mentioned herein, shall form part of this Contract.

6. The Contract is not a lump sum contract, but an item rate contract to carry out the work in respect of Construction and associated works. The **Contractor** shall be paid for the actual quantity of work done as measured at site at the accepted rate contained in the Bill of quantities and Probable quantities, or as provided in the said Conditions.

7. The **Employer** reserves to himself the right of altering the Drawings and nature of the work by adding to or omitting any items of work, or having portions of the same carried out without prejudice to this Contract. The individual quantities can vary to any extent, however the scope and extent of changes that can be ordered by the Employer will be limited to +/- 30% of the contract sum, and the Contractor shall not be entitled to any compensation or claim due to such change (s) / Order (s) by the Employer. The Contractor will only be paid for the actual quantity of works done, payable at the accepted unit rates.

8. All differences and disputes arising between the Employer / Consultant, on his behalf, and the Contractor, either during the progress or after completion or abandonment of works, shall be settled by referring to Arbitration, as detailed in Clause-20 of Conditions of Contract. If the award issued by Arbitrators is not acceptable, the Contractor / Employer has to approach the court as specified in the contract document elsewhere.

9. Time shall be considered as the essence of this Contract and the **Contractor** hereby agrees to commence the work within a period of ten days from the date of issue of Letter of Award as provided for in the said Conditions, and to complete the work within the instructed time schedule till the twelve month of currency of the work.

10. All payments by the Employer, under this contract will be made only through Banking Channel at Chennai in Indian Rupees only.

11. All disputes arising out of, or in any way connected with this Agreement, shall be deemed to have arisen at Chennai and only Courts in Chennai shall have jurisdiction over them.

12. That the several parts of this Contract, have been read by the **Contractor** and fully understood by the **Contractor**.

Signature Clause

Chief General Manager (EC)
Chennai Metro Rail Limited
Admin. Building, CMRL Depot
Poonnamallee High Road ,
Koyambedu, Chennai - 600107

Contractor

Signed and
Delivered By
Name & Designation
Address

WITNESSES :

1) Signature
Occupation
Address
2) Signature
Occupation
Address

The COMMON SEAL OF was hereunto affixed pursuant to the resolutions passed by its Board of Directors, at the meeting held on

In the presence of :

(1) Name and Designation:
(2) Name and Designation:

If the **Contractor** signs under its common seal, the signature clause, should correspond, with the sealing clause , in the Articles of Association.

Directors who have signed, these presents in token thereof , in the presence of :

(1) Name and Designation:
(2) Name and Designation:.....

APPENDIX- '3'

FORM OF PERFORMANCE GUARANTEE

1. In consideration of the Chief General Manager, (EC) **CMRL, Koyambedu Chennai 107, Tamil Nadu, India**,. (hereinafter, called "Employer" having agreed to allow M/s. (hereinafter called, "the said **Contractor(s)**") from the demand under the terms and conditions of an Agreement No. , for the Miscellaneous works., (hereinafter called "the said Agreement" for furnishing Performance Bond for the due fulfillment, by the said **Contractor(s)** of the terms and conditions in the said Agreement, by production of a BANK GUARANTEE for INR.. . . . (Indian Rupees.. . . . only). We, the (Name of the Bank) having our Head Office at ,. and having branch at,. referred to as "the Bank" at the request of M/s. **Contractor(S)**, do hereby undertake to pay to the **Employer** an amount not exceeding INR.... . , on demand by the **Employer**.

2. We, (Name of the Bank) Branch, do hereby undertake to pay the amounts due, and payable under this guarantee without any demur, merely on a demand from the **Employer**, stating that the amount claimed is required to meet the recoveries due or likely to be due, from the said **Contractor(s)**. Any such demand made on the Bank shall be conclusive as regards the amount due, and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding, INR... . (Indian Rupees.. . . . only).

3. We undertake to pay to the Employer the amount due under this Guarantee so demanded, notwithstanding any dispute or disputes raised by the **Contractor(s)**, in any suit or proceeding pending before any Court, or Tribunal, relating thereto, our liability under this present being absolute and unequivocal.

The payment so made by us under this bond shall be a valid discharge of our liability for payment thereunder.

4. We , (Name of the Bank) , Branch, further agree, that the guarantee herein contained shall remain in full force and effect during the period, that would be taken for the performance of the said agreement, and that it shall continue, to be enforceable till the dues of under or by virtue of, the said agreement have been fully paid and its claims satisfied or discharged ,or till the Engineer in charge on behalf of the **Employer** certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said **Contractor(s)** accordingly discharges this guarantee.

5. We, (Name of the Bank) ,Branch, further agree with the **Employer**, that the **Employer**, shall have the fullest liberty, without our consent and without affecting in any manner ,our obligations hereunder, to vary any of the terms, and conditions, of the said Agreement ,or to extend time of performance, by the said **Contractor(s)**, from time to time, or to postpone, for any time, or from time to time, any of the powers exercisable, by the **Employer** ,against the said **Contractor(s)**, and to forbear or enforce, any of the terms and conditions, relating to the said agreement, and we shall not be relieved, from our liability, by reason of any such variation or extension of time being granted to the said **Contractor(s)**, or for any forbearance act or omission, on the part of **Employer** or any indulgence by the **Employer** to the said **Contractor(s)**, or by any such matter or thing whatsoever which under the law relating to sureties would, but for this provision have effect of so relieving us.

6. This guarantee will not be discharged, due to the change in the constitution of the Bank or the **Contractor(s)**.

7. We hereby waive the necessity of your demanding, the **Contractor**, before presenting us, with the demand.

8. We, (Name of the Bank) Branch , lastly undertake not to revoke this guarantee except with the previous consent, of the **Employer** in writing.

9. This guarantee shall be valid upto , not –withstanding, anything contained hereinbefore , our liability against this guarantee, is restricted to INR. (Indian Rupees..... only) ,and it will remain in force till) ,unless, a claim or demand in writing is made against us under this guarantee before the expiry of six months from the aforesaid date that is before of (.) ,all your rights under the said guarantee shall be forfeited and, we shall be relieved and discharged from all liability hereunder.

Dated the day of for (Name of the Bank)
Branch.

APPENDIX - 4

(In a Stamp Paper of/-)

AFFIDAVIT

We have submitted Bank Guarantee, for the work of

Agreement No. ----- from -----(Name of the Bank) ----- Branch, to The Chief General Manager (EC) , Chennai Metro Rail Ltd, Koyambedu, Chennai 600 107, **Tamil Nadu**, with a view to furnish Performance Bond. This Bank Guarantee expires on We undertake, to keep the validity, of the Bank Guarantee in force by getting it, extended from time to time, at our own initiative, up to a further period of six months or as directed by the The Chief General Manager, (EC)Chennai Metro Rail Ltd, Chennai -107 . We also indemnify, The Chief General Manager, (EC) CMRL,, Koyambedu, Chennai 600 107, against any losses arising out of non-encashment of the Bank Guarantee, if any.

Notary Public Signature

Authorised Signature of the **Contractor**

APPENDIX - 5

PROFORMA OF BANK GUARANTEE FOR MOBILISATION ADVANCE PAYMENT

In consideration of The Chief General Manager (EC), Chennai Metro Rail Ltd, Koyambedu, Chennai 600 107, **Tamil Nadu, India** (hereinafter called the "Employer ", having agreed to pay mobilisation advance, under the terms and conditions of letter of acceptance, No..... dated, made between M/s., a company having its registered office, at ,in in the state of , (hereinafter called "the said **CONTRACTOR**", which expression, shall unless, the context required otherwise, include its successors and assigns), for the **WORK** "Proposed Construction of Car parking Shelter at CMRL Koyambedu Depot,Koyambedu , Chennai 600 107., TAMILNADU" by "the said **CONTRACTOR**", on production of a Bank Guarantee, for INR. (Indian Rupeesonly).

We, (hereinafter referred to "as the Bank" at the request of M/s..... , do hereby undertake to pay to the Employer an amount not exceeding INR..... (Indian Rupees..... only).

We, do hereby undertake. to pay the amounts due. and payable under this guarantee. without any demur, merely on a demand from the Employer, stating that the amount claimed is required to meet the recoveries due or likely to be due from the said **CONTRACTOR**. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability, under this guarantee shall be restricted to an amount not exceeding INR. (Indian Rupees only).

We undertake to pay to the Employer any money so demanded ,not withstanding any dispute or disputes raised by the **CONTRACTOR** in any suit or proceeding pending before any Court or Tribunal relating thereto, our liability under this present being absolute and unequivocal.

The payment so made, by us under this guarantee shall be a valid discharge of our liability or payment there-under and the **CONTRACTOR** shall have no claim against us for making such payment.

This Guarantee shall remain in force and effect so long as the said advance or any part thereof,, remaining outstanding ,and shall expire and become ineffectual only after the recovery of the entire sum of INR.._____ covered by the Guarantee.

The Guarantee shall come into force from the date the **CONTRACTOR** receives from the Employer the said advance.

This Guarantee will not be discharged due to change in the constitution of the bank or the **CONTRACTOR**.

We, ,lastly undertake not to revoke this guarantee except with the previous consent of the Employer in writing.

This Guarantee shall be valid upto, unless extended on demand by the Employer. Notwithstanding anything mentioned above, our liability against this guarantee is restricted to INR..... (Indian Rupees only).

Witness:

For and on behalf of the Bank :

Designation



CHENNAI METRO RAIL LIMITED

**(A JOINT VENTURE OF GOVERNMENT OF INDIA AND GOVERNMENT OF
TAMILNADU)**

SELECTION OF TENDERER FOR MISCELLANEOUS WORKS

TECHNICAL TENDER – PART - 1B - TECHNICAL SPECIFICATION

DATE FOR SUBMISSION OF TENDER ON 06- 11- 2015 at 15.00 Hours

DATE FOR OPENING OF TECHNICAL TENDER ON 06-11-2015 at 15.30 Hours

TO BE SUBMITTED TO:

The Chief General Manager(EC)
Chennai Metro Rail Limited
Admn. Building, CMRL Depot
Poonnamallee High Road ,
Koyambedu, Chennai - 600107

TENDER SUBMITTED BY:

M/s._____

Address_____

SECTION – 1-PARTICULAR SPECIFICATION

- 1.0 GENERAL
- 2.0 THE SITE
- 3.0 THE WORKS
- 4.0 DOCUMENTATION

SECTION-2-TECHNICAL SPECIFICAITONS

SECTION – 1

PARTICULAR SPECIFICATION

1.0 GENERAL

1.1.1 Scope and Applicability

This Particular Specification gives the project specific special requirements for the Miscellaneous works herein after referred to as the Works, except where otherwise modified or amended within the Contract. Reference must be made to the General Specification for general requirements and to the appropriate Technical Specification for the corresponding technical requirements of all work.

- 1.1.2 The Specifications listed in paragraph 1.1.3 (below) have been added for guidance of the Employer / Employer's Personnel responsible for carrying out the Works who shall however ensure that all aspects of the construction of the Works shall comply with Local Standards, Laws and Regulations and accepted good practice in India.

The Indian Standards referred to shall be subject to its relevance as appropriate currency and British Standards that are referred herein shall correspond to equivalent Indian Standards (IS) that apply.

- 1.1.3 The following specifications shall be applicable to the work

- a) Particular specification
- b) Technical specification

1.2 Statutory Bodies

The requirement of statutory bodies connected with the project work shall be complied with by taking timely action without causing any hold up in completion of work as per time schedule.

1.3 Contractor's Responsibility

Apart from carrying out necessary surveying and setting out of the buildings and equipment foundations wherever required collecting all materials, equipment, plant, labour, consumables, tools and services necessary for proper execution, fabrication, ensuring quality control by conducting required tests at the appropriate time and intervals during the execution, disposal of excavated material as instructed, carrying out all associated works like removal, disposal of the debris, getting out, remove temporary facilities on completion of the works, clearance from local bodies / authorities for commissioning of all installation / equipment of the project work shall be obtained and furnished before taking over of the completed work, all within the quoted rates only. Machinery operators, drivers should have valid license.

Child labours are strictly prohibited.

Top most attention shall be paid to the Health, safety of workers and Environment and the same shall be monitored on daily basis by a qualified and experienced personnel in HSE. A LMV (PASSENGER VEHICLE) shall be kept available round the clock as ambulance with drivers on shift basis.

1.4 Rates of wages and Conditions of Labour

The contractor shall make himself aware of all labour regulations and their impact on the cost and build up the same in the contract price. During the contract period no extra amount in this regard shall be payable to contractor for whatsoever reason including any revision of rate payable to the labour due to revision of rates payable in Minimum Wages Act. Labour provided by the contractor, either directly or through sub-contractor, for the exclusive use of the employer of the engineer, shall for the purpose of this sub-clause, be deemed to be employed by the contractor. In the event of default being made in the payment of any money

in respect of wages of any person employed by the contractor or any of its sub-contractors of any tier in and for carrying out this contract and if a claim therefore is filed in the office of the labour authorities and proof thereof is furnished to the satisfaction of the labour authorities, the employer may, failing payment of the said money by the contractor, make payment of such claim on behalf of the contractor to the said labour authorities and any sums so paid shall be recoverable by Employer from the contractor.

2.0 THE SITE

2.1 Description of the site

2.1.1 The site is located at following locations

- A. Viaduct
- B. Stations including both Elevated and underground stations
- C. Depot structures and Depot external area.
- D. Any other structures as per the instructions/requirements of CMRL.

Any other works, as instructed by the Engineer should be carried out as per the requirement of CMRL satisfying quality and safety requirements.

2.2 Site Conditions

2.2.1 The Contractor shall forthwith notify the Employer / Employer's Personnel in writing should conditions encountered on the site be significantly different from those generally described in the Contract Documents..

2.3 Supervision

The supervision requirements in terms of grades and numbers of Employer / Employer's Personnel etc. shall be as provided as per the requirement and as given in the Conditions of Contract.

3.0 THE WORKS

3.1 Description

The project is carrying out miscellaneous works.

Key Elements

3.2 Interfaces – Co-ordination and Management

The Contractor's role and responsibility in Interface Management in terms of management and "team-leading" of Sub-contractors particularly with regard to shared access, work sequencing, information requirements and forward planning etc. Long lead-in and procurement times for imported items to be identified to the Contractor to assist his forward planning shall be as provided in the Conditions of Contract.

3.3 Specialist Trades

Full method statements on a trade-by-trade basis for all trades not covered in the accompanying TS shall be as provided in the Technical Specification of respective trade should include any requirements in excess of those specified in the Technical Specification.

3.4 Samples

3.4.1 The Contractor shall provide all samples required by the Specification for the approval of the Employer / Employer's Personnel and provide safe storage including racks for the display, reference and inspection of approved samples.

3.5 Guarantees

3.5.1 The Contractor shall provide in a format acceptable to the Employer / Employer's Personnel for all items involved in the constructions.

3 Documentation

The following documents but not limited to should be maintained till the currency of the project.

1. Log books with details of consumption record for all the materials used.
2. Bill/Invoice copies of material procured.
3. Purchase order copies released to the agencies.
4. Log books with details of manhour consumed in each category of labours and details of consumption records of machinaries and equipments.

The above documents should be provided for the verification of CMRL whenever instructed and the same should be submitted along with the bill for processing the bills.

SECTION-2

TECHNICAL SPECIFICATIONS

Relavent Tamilnadu Public Works Department specifications and central Public works department specifications has to be followed

SELECTION OF TENDERER FOR MISCELLANEOUS WORKS

PART II-PRICE BID

S.No	Description of Works	Provision of Basic Lump sum amount	% above/Below on the basic lump sum price	Amount
1	Schedule - A - works to be executed under TNPWD 2014-2015 schedule of rates	8,00,00,000		
2	Schedule-B- Works to be executed under Delhi Schedule of Rates 2014	2,00,00,000		
3	Total			

Note: 1) Only in case of items not available in TNPWD schedule of rates, Delhi Schedule of rates only will be operated
 2) The quoted percentage is inclusive of all taxes including service tax, VAT, cess etc.,

Grand Total including Service Tax in words

.....

Date :

Place :

Signature of the Contractor with seal