

CPM JAIPUR UNIT

TENDER DOCUMENT

Name of Work: Dismantling of acquired structures from Rewari to madar along DFCC alignment in the state of Haryana and Rajasthan on Western Freight Corridor under CPM/ JAIPUR

(Tender No. JP/AD/dismantling/2012/01-R)

DECEMBER, 2012

Dedicated Freight Corridor Corporation of India Ltd.
B-12, Hanuman Nagar, Opposite Metro Hospital,
Sirsi Road Jaipur

Dedicated Freight Corridor Corporation of India Ltd
B-12,Hanuman Nagar, Opp Metro Hospital,
Sirsi Road Jaipur

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**Dedicated Freight Corridor Corporation of India Ltd.,
(A Government Of India Undertaking)
B-12, Hanuman Nagar, Opp. Metro Hospital, Sirsi Road, JAIPUR**

NOTICE FOR INVITING BIDS

No. JP/AD/dismantling/2012/01-R

Dt: 01.12.2012

CHIEF PROJECT MANAGER, DFCCIL, B-12, Hanuman Nagar, Opp. Metro Hospital, Sirsi Road Jaipur for and on behalf of DFCCIL invites sealed open tenders for the following work:

Name of Work	Date & Time of Opening	Last Date & Time of Submission	Approx. Cost	Bid Security
Dismantling of acquired structures from Rewari to madar along DFCC alignment in the state of Haryana and Rajasthan on Western Freight Corridor under CPM/ JAIPUR Duration-06 months	07.01.2013, 15.30 Hrs in the office of CPM/ JAIPUR	07.01.2013, 15.00 Hrs in the office of CPM/ JAIPUR	Rs. 2.02 Cr. (Rs Two crore Two lakh only)	Rs.251000/- (Rs Two Lakh fifty one thousand only)

Eligibility Criteria: The tenderer should fulfill following eligibility criteria with Government/ Semi Government/ Corporate organizations:

- 1) As a proof of technical experience /competence, the tenderer should have have **physically** completed successfully at least **similar nature of single work for a minimum value of 35 % of advertised tender value** with Government/ Semi Government/ Big Corporate Organization during last three financial years and up to date of opening in the current year in (i.e current year and three previous years).”
- 2) The tenderer should have received **total of the tender and payment contract amount** for works with Government/ Semi Government/ Big Corporate Organization during last three financial years and up to date of opening in the current year **should be minimum 150% of advertised tender value** as per attested copies of authentic documents / certificates issued by the Organisation / client or audited balance sheet certified by Chartered Accountant.

***Similar work means Any Civil Engg. Work.**

Tender form can be purchased from the office of CPM/Jaipur at B-12, Hanuman Nagar, Opp. Metro Hospital, Sirsi Road Jaipur(Rajasthan) on any working day on **or** after **06.12.2012 and up to 07.01.2013 (12.00 Hrs)** on payment (not refundable) in the form of Demand Draft/Bankers Cheque issued by any nationalized bank of India or any scheduled bank of India, in favour of Chief Project Manager, DFCCIL, Jaipur, payable at Jaipur. The tender document can be downloaded from the website www.dfccil.org.

CPM/JP

Dedicated Freight Corridor Corporation of India Ltd.
B-12, Hanuman Nagar, Opp. Metro Hospital,
Sirsi Road Jaipur
Section I

Dear Sir,

.....
.....
.....

- 1.0 Chief Project Manager, DFCCIL, B-12, Hanuman Nagar, Opp. Metro Hospital, Sirsi Road Jaipur for and on behalf of DFCCIL invites sealed open tenders from tenderers for undertaking the following work:

Tender No.	Name of work
JP/AD/dismantling/2012/01-R	Dismantling of acquired structures from Rewari to madar along DFCC alignment in the state of Haryana and Rajasthan on Western Freight Corridor under CPM/JAIPUR .

2.0 DETAILS OF TENDER DOCUMENTS

- 2.1 **Tender Documents:** The interested Tenderers may collect the tender documents from the address given below between 10.00 hrs and 17.00 hrs on any working day on or after **06.12.2012** & upto **06.01.2013** and bet. 10.00 hrs to 12.00 hrs on **07.01.2013** on payment of **Rs.10,000/-** in the form of Demand Draft/Bankers Cheque issued by any nationalized bank of India or any scheduled bank of India, in favour of Chief Project Manager, DFCCIL, Jaipur, payable at Jaipur. Tender Documents can be downloaded from www.dfccil.org. All such tender documents must accompany with the cost of tender forms amounting to Rs.10,000/- payable in the form described above.

- 2.2 **Tenders must be accompanied by Bid Security (Earnest Money Deposit) of Rs.2,51,000/- (Rs Two Lakh fifty one thousand)** in the form of fixed deposit receipts, Term deposit receipts, Pay orders, Demand drafts, Bankers cheque of scheduled banks of India approved by RBI drawn in favour of Chief Project Manager, DFCCIL, Jaipur, payable at Jaipur. Tenders received without earnest money shall be summarily rejected.

- 2.3 **Date of Receipt and opening of Tenders:** The completed Tenders addressed to CPM/DFCCIL/JAIPUR and superscribed the name of work must be delivered in the tender box at the address given below **upto & not later than 15.00 hrs on 07.01.2013 and the same shall be opened at 15.30 hrs** on the same day in the presence of Tenderers who choose to remain present. DFCCIL will not be responsible for any delays in receiving the Tendering documents by the Tenderer or receipt of Tenders by DFCCIL. Tender received after the opening shall not be considered for evaluation and will be dealt with as per extant policy.

2.4 Address for Communication: Interested Tenderers may obtain further information from the address given below:

“Chief Project Manager, DFCCIL, B-12, Hanuman Nagar, Opp. Metro Hospital, Sirsi Road Jaipur, **Mobile No. 09799498908** and **email** dfcciljaipur@hotmail.com”

2.5 Tenderers are requested to give unconditional offers only. A conditional offer, having financial implication, will be summarily rejected.

3.0 Completion Period

The total time for completion of work shall be **06 months** from the date of issue of Letter of Acceptance by DFCCIL. Time is the essence of the Contract.

4.0 General

4.1 Tender document is non-transferable. Tenders received from Tenderers in whose name Tender Document has been issued from DFCCIL shall only be considered. Tender Documents can be downloaded from internet also.

4.2 No extension in the Tender Due Date shall be considered on account of delay in receipt of Tender document by post.

4.3 The Offer should be **valid for 90 days** from the date of opening of the tender, being extended further if required by mutual agreement from time to time. The Tenderers cannot withdraw their offer within the period of validity/extended validity lest liable for forfeiture of Bid Security (Earnest money).

4.4 The tenderer shall submit following certificate –

“I/We declare that we have submitted all the relevant documents required for the work like turnover details, credentials, ITCC, certificate for various related work etc and has nothing more to submit.”

Thanking you,

Yours faithfully,

(V.K.Khera)
CPM/JP DFCCIL

Dedicated Freight Corridor Corporation of India Ltd.
Section II

(i) Format for covering letter of Tender.
(On letter head of firm/company)

Chief Project Manager, DFCCIL,
B-12, Hanuman Nagar, Opp. Metro Hospital, Sirsi Road Jaipur

Sub:- Dismantling of acquired structures from Rewari to madar along DFCC alignment in the state of Haryana and Rajasthan on Western Freight Corridor under CPM/ JAIPUR .

Ref: Tender Notice No. JP/AD/dismantling/2012/01-R Dt

1. I /We..... have read the various conditions of tender attached hereto and hereby agree to adhere by the said conditions. I also agree to keep this tender open for acceptance for a period of **90 days** from the date fixed for opening the same and if I/We default thereof, I/We will be liable for forfeiture of my/our "Bid Security(Earnest Money Deposit)". I/We offer to do the work as set out in the Tender Document. I/We also agree to tender by the General Conditions of the Contract and to carry out the work according to the specification and Special Conditions of contract as laid down by the DFCC Administration for the execution of present contract.
2. A sum of Rs. **2,51,000/-** is being submitted as **Bid Security(Earnest Money Deposit)** in the form of . Fixed deposit receipts, Term deposit receipts, Pay orders, Demand drafts, Bankers Cheque of scheduled banks of India approved by RBI dated.....issued by.....(Name & Branch of Bank). The value of the Bid Security (Earnest Money) shall stand forfeited without prejudice to any other rights or remedies if:
- i) I/We do not execute the contract agreement within 7 (seven) days of receipt of notice by the DFCC administration that such documents are ready:
 - ii) I /We do not submit a Performance Security in the form of Bank Guarantee equal to 5(Five)% of contract value as per the Performa prescribed by DFCC, within 30 days of issue of Letter of Acceptance.
 - iii) I/We do not commence the work within 7 days after receipt of Letter to proceed.
3. Until a formal agreement is prepared and executed, acceptance of this tender shall constitute a binding contract between us subject to the modifications, as may be mutually agreed to, between us and indicated in the letter of acceptance or my/our offer for the work.

Signature of Witness
Name & Address of Witness

Signature of Tenderer/Contractor
Contractor's Address

ii) Check List for Documents to be submitted

	Documents to be Attached	Tick appropriate
	Bid Security (Earnest Money Deposit) of requisite amount in the prescribed form	Yes/No
	Tender document cost of requisite amount in the Prescribed form, in the case of Tender Document downloaded from web site.	Yes/No
	The Covering Letter as per format given in the Section II(i).	Yes/No
	i) Details of completed works in last 3 years and current financial year in the form prescribed in Annexure – I ii) The relevant documents and certificates from the client.	Yes/No Yes/No
	Power of Attorney of the person signing the tender documents in original if specific to this work or photocopy of the General Power of Attorney of the Company in favour of the person signing the tender, duly attested by Notary Public.	Yes/No
	Complete Tender document including corrigendum duly stamped and signed by the Tenderer on each page	Yes/No
	Schedule of Items, Rates & Quantities (Sec- VII) duly filled in, stamped and signed on each page by the Tenderer.	Yes/No
	Annual turnover of the company/firm for the last three financial years and current financial year with supporting documents Annexure II	Yes/No
	Certified Copy of Sales Tax/Works Contact Tax Registration Certificate (as applicable)	Yes/No
	Certified Copy of Registration of Company, Partnership deed /Memorandum and Articles of Association of the firm.	Yes/No
	Constitution of the firm in the form prescribed in Annexure –III	Yes/No

Dedicated Freight Corridor Corporation of India Ltd.
Section III
General Instructions to Tenderers

Important contract conditions have been compiled for information of the Tenderer as under:
Name of Work- Dismantling of acquired structures from Rewari to madar along DFCC alignment in the state of Haryana and Rajasthan on Western Freight Corridor under CPM/ JAIPUR .

GENERAL

Conditions	Clause	Details in brief
Employer Name & Address	Section-I Clause 2.4	Chief Project Manager, DFCCIL, B-12, Hanuman Nagar, Opposite Metro Hospital, Sirsi Road Jaipur
Employers Representative	Sec.VI/ GCC Clause 3	DFCC nominated engineer
Address for communication	Section – 1 Clause 2.4	Chief Project Manager, DFCCIL, B-12, Hanuman Nagar, Opp Metro Hospital, Sirsi Road Jaipur, Mobile No. 09799498908 and email dfcciljaipur@hotmail.com
Tender details:- a. Date & Time for sale of Tenders b. Cost of Tender documents c. Address	Section – 1, Clause - 2.1 Section – 1, Clause -. 2.1 Section – 1, Clause - 2.4	10.00 hrs to 17.00 hrs on any working day upto 06.01.2013 and 10.00 hrs to 12.00 hrs on 07.01 .2013 Rs.10,000/- Chief Project Manager, DFCCIL, B-12, Hanuman Nagar, Opp. Metro Hospital, Sirsi Road Jaipur,
Estimated Cost of Work	Section-VI	Rs. 2,01,93,500/-
Total time of Completion	Section – I Clause 3	06 months from the date of issue of Letter of Acceptance.
Earnest Money Deposit/ Bid Security	Section -I, Clause 2.2	Rs. 2,51,000/-
Last Date & time of Receipt of Tenders	Section – I , Clause 2.3	15.00 Hrs on 07.01.2013
Date & time of opening of Tenders	Section – I, Clause 2.3	15.30 Hrs on 07.01.2013

	Minimum Eligibility Criteria	Section – III, Clause -22	Should have completed one similar work in Govt.Dept/ Semi Govt/ Big Corporate org. of 35% of total cost of work and total turnover of 150% of cost of work in current year and last three financial years etc.
	Validity of offer	Section – III, Clause -14	90 days from date of opening of tender
	1.Performance security 2.Retention money (Security Deposit)	Section -III Clause 16-17	Prescribed amount on approved format
	Defect Liability Period	Section-III Clause 21	Nil

2. SUBMISSION OF TENDERS:-

- 2.1** The tenders shall be submitted as per the format of DFCC enclosed herewith before or on **07.01.2013** upto 15:00 hrs in the Office of Chief Project Manager, DFCCIL, B-12, Hanuman Nagar, Opp. Metro Hospital, Sirsi Road Jaipur
- 2.2** The tender shall be addressed to: “Chief Project Manager, DFCCIL, B-12, Hanuman Nagar, Opp Metro Hospital, Sirsi Road Jaipur “ and Name of Work clearly indicated on top.
- 2.3** Tenders submitted by post shall be sent as- “REGISTERED POST ACKNOWLEDGEMENT DUE” and shall be posted with due allowance for any postal delay. The tenders received after the due date and times of opening are liable to be rejected. Telegraphic offers and offers received by telex or e-mail shall not be considered.
- 3.** Tenders shall be opened at the date and time (**15.30 hr on 07.01.2013**) as specified in the tender notice and any amendments thereof in the presence of such of those Tenderers or their authorized representatives who may be present in the Office of Chief Project Manager, DFCCIL, B-12, Hanuman Nagar, Opp. Metro Hospital, Sirsi Road Jaipur.
- 4.** The Tenderer shall closely peruse all the clauses, specifications indicated in the Tender Documents before quoting. Should the Tenderer have any doubt about the meaning of any portion of the Tender specifications or find discrepancies/omissions in the tender documents issued or shall require clarification on any of the technical aspects, Scope of Work etc., he shall at once contact the authority inviting the tender for clarification at least seven days before the due date of submission of the tender.
- 5.** After award of contract to the successful Tenderer, if it is observed that there is any discrepancy or confusion about any specifications or interpretation of any item, the Interpretation of specifications shall be finalized by the Engineer in charge based on the functional and aesthetic requirements.

6. Before Tendering, the Tenderers are advised to inspect the site of work and the environments and be acquainted with the actual working and other prevalent conditions, facilities available, position of material and labour. No claim will be entertained later on grounds of lack of knowledge.
7. The Tenderers should quote one rate i.e. block percentage rate % above or below for all the items in the Tender schedule. The rates should be quoted in English Language in figures as well as in words. In case of difference in rates between words and figures, rates mentioned in words shall be treated as valid rate. For the purpose of tender, the metric system of units shall be used. In case of absence of rates in figure or words, the tender will be rejected. Multiple rates or rates not given in desired format shall not be evaluated.
8. All entries in the tender shall be written in ink. Erasers and over writing are not permitted. All cancellations and insertions shall be duly attested and signed by the Tenderers.
9. Lay out plans & other key plans are available in the office of CPM/JAIPUR for the guidance of the Tenderers.
- 10. BID SECURITY (EARNEST MONEY DEPOSIT)**

Every tender must be accompanied by the prescribed amount of Bid Security/Earnest Money Deposit of **Rs.2,51,000/-** in the form . Fixed deposit receipts, Term deposit receipts, Pay orders, Demand drafts, Bankers Cheque of scheduled banks of India approved by RBI drawn in favour of **Chief Project Manager, DFCCIL, Jaipur** payable at Jaipur.
11. Tenders received **without Bid Security/Earnest Money in full** in the manner prescribed above shall be summarily rejected.
- 11.1 The Bid Security/Earnest Money Deposit of the successful Tenderer, will be retained towards part of Retention Money/Security Deposit.
12. In case of unsuccessful Tenderers, the Bid Security/Earnest Money will be refunded to them after finalization / award of the tender.
- 12.1 Dedicated Freight Corridor Corporation of India Ltd. reserves the right of **forfeiture of Bid Security (Earnest Money Deposit)** in case the successful Tenderers:
 - a) After opening of Tender, revoke/withdraws his tender within the validity period or revises/alters his earlier quoted rates/conditions.
 - b) Fails to submit the Performance Security (Contract Performance Guarantee) as specified in General Conditions of Contract.
 - c) Fails to start work as may be indicated in the Letter of Acceptance.The forfeiture of Bid Security/Earnest Money Deposit shall also be applicable if the work is terminated at any stage as per the General Conditions of Contract.
- 13. AUTHORISATION AND ATTESTATION:**

Tenders shall be signed by the person duly authorized /empowered to do so. Certified copies of such authority (Power of Attorney) and relevant documents shall be submitted along with the tenders.

14. VALIDITY OF OFFER

The offer shall be kept open for acceptance for a minimum period of **90 days from the date of opening of tenders**. In case Dedicated Freight Corridor Corporation of India Ltd. calls for negotiations, such negotiations shall not amount to cancellation or withdrawal of the Original offer which shall be binding on the Tenderers.

15. EXECUTION OF CONTRACT

The successful Tenderers' responsibility under this contract commences from the date of issue of Letter to Proceed/Letter of Acceptance by Dedicated Freight Corridor Corporation of India Ltd. The successful Tenderer shall be required to execute an agreement in the prescribed Proforma enclosed herewith with the Dedicated Freight Corridor Corporation of India Ltd. within two weeks of acceptance of his tender.

16. PERFORMANCE SECURITY

The procedure for obtaining Performance Guarantee is outlined below:

- (a) The successful bidder shall have to submit a Performance Guarantee (PG) within 30 (thirty) days from the date of issue of Letter of Acceptance (LOA). Extension of time for submission of PG beyond 30 (thirty) days and upto 60 days from the date of issue of LOA may be given by the Authority who is competent to sign the contract agreement. However, a penal interest of 15% per annum shall be charged for the delay beyond 30 (thirty) days i.e. from 31st day after the date of issue of LOA. In case the contractor fails to submit the requisite PG even after 60 days from the date of issue of LOA, the contract shall be terminated duly forfeiting EMD and other dues, if any payable against that contract. The failed contractor shall be debarred from participating in re-tender for that work.
- (b) The successful bidder shall submit the Performance Guarantee (PG) in the form of irrevocable bank guarantee, amounting to **5% of the contract value**. Alternatively the Performance Guarantee may be submitted in the form of FDR in favour of Chief Project Manager, DFCCIL, Jaipur.
- (c) The Performance Guarantee shall be submitted by the successful bidder after the Letter of Acceptance (LOA) has been issued, but before signing of the contract agreement. This P.G. shall be initially valid upto the stipulated date of completion plus 60 days beyond that. In case, the time for completion of work gets extended, the contractor shall get the validity of P.G. extended to cover such extended time for completion of work plus 60 days.
- (d) The value of PG to be submitted by the contractor will not change for variation upto 25% (either increase or decrease). In case during the course of execution, value of the contract increased by more than 25% of the original contract value, an additional Performance Guarantee amounting to 5% (five percent) for the excess value over the original contract value shall be deposited by the contractor."
- (e) The Performance Guarantee (PG) shall be released after physical completion of the work based on "Completion Certificate" issued by the competent authority stating that the contractor has completed the work in all respects satisfactorily. The Security Deposit shall, however, be released only after expiry of the maintenance period if specified and after passing the final bill based on "No Claim Certificate" from the contractor.
- (f) Whenever the contract is rescinded, the Security Deposit shall be forfeited and the Performance Guarantee shall be encashed. The balance work shall be got done independently without risk & cost of the failed contractor. The failed contractor shall

be debarred from participating in the tender for executing the balance work. If the failed contractor is a JV or a Partnership firm, then every member/partner of such a firm shall be debarred from participating in the tender for the balance work in his/her individual capacity or as a partner of any other JV/partnership firm.

- (g) The engineer shall not make a claim under the Performance Guarantee except for amounts to which the DFCCIL is entitled under the contract (not withstanding and/or without prejudice to any other provision in the contract agreement) in the event of:
- (i) Failure by the contractor to extend the validity of the Performance Guarantee as described herein above, in which event the Engineer may claim the full amount of the Performance Guarantee.
 - (ii) Failure by the contractor to pay DFCCIL any amount due, either as agreed by the contractor or determined under any of the Clauses/Conditions of the Agreement, within 30 days of the service of notice to this effect by Engineer.
 - (iii) The Contract being determined for rescinded under provision of the GCC, the Performance Guarantee shall be forfeited in full and shall be absolutely at the disposal of the DFCCIL.

17. SECURITY DEPOSIT

The Bid security(EMD) deposited by the successful contractor with the tender will be retained by employer as part of security of the due and faithful fulfillment of the contract by the contractor and in addition, 10% will be deducted from On-Account bills progressively so that overall retained security deposit is **5% of the contract value including Bid security(EMD)**.

18. REJECTION OF TENDER AND OTHER CONDITIONS:-

- 18.1** The acceptance of tender will rest with Dedicated Freight Corridor Corporation of India Ltd. which does not bind itself to accept the lowest tender or any tender and reserves to itself full rights to reject any or all the tenders without assigning any reason whatsoever.
- 18.2** Conditional tenders, incomplete tenders or otherwise considered defective and not in accordance with the tender conditions, specifications etc. are liable to be rejected.
- 18.3** If the Tenderer deliberately gives wrong information in his tender DFCC reserves the right to reject such tender at any stage or to cancel the contract, if awarded and forfeit the Bid Security(Earnest Money)/Security Deposit/ Performance Security/any other moneys due.
- 18.4** Canvassing in any form in connection with the tender is strictly prohibited and the tenders submitted by the Contractor who resorts to canvassing are liable to be rejected.
- 18.5** Should a Tenderer or Contractor or in the case of a firm or Company of Contractors/one or more of its Partners /Share holders/ Directors have a relation or relations employed in DFCC , the authority inviting the tender shall be informed to the fact along with the offer, failing this, DFCC may at its sole discretion reject the tender or cancel the contract and forfeit the Bid security(Earnest Money)/Security Deposit.

19.0 Scope of works: The successful tenderer has to carry out the following works:

- (i) Dismantling of different type of structures acquired by DFCCIL, between Rewari to Madar along the alignment of DFCCIL.

20.0 ON ACCOUNT PAYMENT.

The contractor shall be entitled to be paid from time to time by way of "On Account" bills, only for such Works, as in the opinion of the Engineer, the contractor has executed in terms of the Contract.

The Contractor shall submit the On-Account bills, by the date stipulated by the Engineer, in the prescribed proforma, supported with measurements.

After preliminary scrutiny and certification by the Engineer, payment of the certified amount shall be made by the Employer. The amount certified shall account for all deductions, including statutory deductions, recoveries for advances and any amounts due from the contractor.

Such payments made by the Employer, shall not constitute any acceptance of the measurements or bill of quantities by the Employer and the Employer shall have the right to alter, modify, reduce or diminish the quantities or classification entered in the Measurement Books or Bills. The Employer shall have the right to recover any amount paid in the earlier bill from any subsequent bill and should the amount to be recovered be more than the amount of the subsequent bill, the Contractor shall on demand from the Engineer or Employer immediately refund the extra amount to the Employer within 3 days, failing which he shall have to pay interest @ 12% per annum till the said extra amount is paid back by him.

21.0 Defect Liability Period

There will be no defect liability period.

22.0 Minimum eligibility criteria for the work is as under:

- 1) The tenderer should have **physically** completed successfully at least **one similar single work for a minimum value of 35 % of advertised tender value** with Government/ Semi Government/ Big Corporate Organization during last three financial years and up to date of opening in the current year in (i.e current year and three previous years) up to the date of opening of the tender."
- 2) The tenderer should have received **total contract amount** for works with Government/ Semi Government/ Big Corporate Organization during last three financial years and up to date of opening in the current year **should be minimum 150% of advertised tender value** as per as per attested copies of authentic documents / certificates issued by employer / client or audited balance sheet certified by Chartered Accountant.

*** "Similar work means any Civil Engg. work"**

- (3) No JV firms are allowed to participate in the tenders of value less than Rs 25 crores.
- (4) New joint ventures will not be permitted. Only such joint ventures who satisfy the above criteria as JV for the works undertaken in the past will be considered.
- (5) Tenderers must submit the documents/certificates in support of information submitted against para 22.0 (1,2) failing which his/their offer may be rejected without

any correspondence with the tenderers at the sole discretion of DFCCIL. All the documents/certificates of the completed works should be from Govt. organization/ Indian Railways /PSUs /Public/ Private Ltd. Companies. The completed work should be available for inspection by DFCC. DFCC may hold discussion with senior management of the undertakings for whom the work has been undertaken.

The certificates from private individuals for whom such works are executed/being executed shall not be accepted.

NOTE:

The Tenderers using tender documents purchased from office / downloaded from the DFCC website www.dfcc.in or www.dfccil.org are required to keep visiting the website to download corrigendums, which may be issued from time to time. The final offer shall include all corrigendum's otherwise the offer shall be liable to be rejected. No separate communication will be made with the tenderers Who download tender documents from website.

**DEDICATED FREIGHT CORRIDOR CORPORATION
OF INDIA LTD.**

Section IV

GENERAL CONDITIONS OF CONTRACT (GCC)

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GENERAL CONDITIONS OF CONTRACT FOR

1. GENERAL PROVISIONS

1.1 Definitions

In the contract (defined below) the following works and expressions shall have the meanings assigned to them, except where the context requires otherwise. Works indicating persons or parties include corporations and other legal entities except where the context requires otherwise.

- a. "Employer" means Dedicated Freight Corridor Corporation of India Ltd. (DFCC), its legal successors and assignees.
- b. "**Engineer**" means any person nominated or appointed from time to time by the Employer to act as the Engineer for the purpose of the Contract and notified to the Contractor by the Employer.
- c. "**Engineer's Representative**" means any assistant of the Engineer, appointed from time to time by the Engineer.
- d. i). "**Contractor**" or "**Successful Tenderer**" means the person whose tender has been accepted by the Employer and the legal successors in title to such person. In this condition the two words are used interchangeably.
ii). "**Contractor's Representative**" shall mean a person named by the Contractor or appointed from time to time by the Contractor to act on behalf of Contractor.
- e. "**Sub Contractor**" means any person named in the contract as a sub contractor or any person appointed *by the contractor* with the approval of employer as a sub contractor for a part of the work and the legal successors in title to each of these persons.
- f. "**Other Contractor**" means a person employed by or having a Contract directly or indirectly with the employer otherwise than through the Contractor.
- g. "**Tenderer or Bidder**" means the person submitting a bid/Tender.
- h. "**Scheduled bank**" means a bank included in the second schedule to the Reserve Bank of India Act, 1934, or modifications thereto.
- i. "**Contract**" means the Contract agreement, the Letter of Acceptance, the Letter of Tender, these conditions, the specifications, the drawings, the schedules and the further documents (if any) which are listed in the Contract agreement or in the Letter of Acceptance..
- j. "**Tender or Bid**" means the offer made by the Tenderer to the Employer for the execution of the Works.
- k. "**Specification**" means the specification referred to in the Contract and any modification thereof or addition thereto, as may from time to time be furnished or approved in writing by the Engineer.
- l. "**Drawings**" means the Drawings of the works, as included in the contract and any additional/modified Drawings approved by the Engineer from time to time.
- m. "**Bill of Quantities**" means the priced and completed bill of quantities forming part of the tender.
- n. "**Contract Price**" or "**Contract Value**" means the sum stated in the letter of Acceptance, subject to such additions thereto or deductions there from as may be made under the provisions of the Contract.
 - o. i. "**Works**" means the Permanent Works or Temporary works, or either of them as appropriate.
ii. "**Permanent Works**" means the permanent works to be executed, completed and maintained in accordance with the Contract.
iii. "**Temporary Works**" means all temporary and enabling works of every kind required for the execution and completion of the works and the remedying of any defects therein.

- p. **“Contractor’s Documents”** means the calculations, computer programs and other softwares, drawings, manuals, models and other documents of a technical nature (if any) supplied by the Contractor under the Contract.
- q. **“Constructional Plant”** means all machinery, appliances or things of whatsoever nature, required for the execution, completion or maintenance of the works, but does not include material or other things, intended to form a forming part of the Permanent Works.
- r. **“Site”** means the places provided by the employer where the works are to be executed and to which plant, and materials are to be delivered, and any other places as designated in the Contract as forming part of the site.
- s. **“Materials”** means things of all kinds (other than Plant) to be provided and incorporated in the permanent Works by the Contractor, including the supply only items (if any) as specified in the contract.
- t. **“Test”** means such tests as are prescribed in the Specifications or by the Engineer or Engineer’s Representative, whether performed by the Contractor or by the Engineer or his Representative or any agency under the direction of the Engineer.
- u. **“Approval or Approved”** means Approval in writing including subsequent written confirmation of previous verbal approval.
- v. **“Defects Liability Period”** means the period for remedy of defects (if any) specified in the contract commencing from the date of completion of the work as certified by the Engineer.
- w. **“Letter of Acceptance”** means the formal acceptance letter from the Employer of the Tender.
- x. i. **“Day”** means a calendar day.
- ii. **“Month”** means a calendar month”
- iii. **“Year”** means 365 days.
- y. **“Terms and expressions not herein defined”** shall have the meanings assigned to them in the “Indian General Clauses Act, 1897” or the Indian Contract Act or the Indian Sale of Goods Act or any other applicable Indian law, as the case may be.

1.2 Interpretation

In the Contract except where the context requires otherwise:

- a. words indicating one gender include all genders:
- b. works indicating the singular also include the plural and words indicating the plural also include the singular and
- c. “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.

1.3 Communications and Language of Contract

1.3.1 Communications to be in writing

Communications between parties will be effective only when in writing. Verbal communication if any must be confirmed in writing later on. A notice will be effective only when delivered/*dispatched*.

1.3.2 Language of Contract

The contract document shall be in English.

1.4 Governing Law and Priority of Documents

1.4.1 Governing Law

The Contract shall be governed by the Acts and Laws of India, the rules, regulations and bye-laws of the concerned public bodies and authorities.

1.4.2 Jurisdiction of Courts

This is a condition of contract that the courts at Jaipur shall have the exclusive jurisdiction to try all disputes between the parties arising out of the agreement.

1.4.3 Priorities of documents

The several documents forming the contract are to be taken as mutually explanatory of one another. If any inconsistency or discrepancy is found in the documents, the Engineer shall issue any necessary clarification or instruction. For the purpose of interpretation, the priority of documents shall be in accordance with the following sequence:

- a) The letter of Acceptance.
- b) The Contract Agreement (if completed).
- c) The notice inviting Tender/Instructions to Tenderers.
- d) Special conditions of Contract.
- e) General conditions of Contract.
- f) Bill of Quantities
- g) Drawings.
- h) The specifications
- i) The schedules and any other document forming part of Contract.

1.5. Joint and Several Liability

If the contractor is (under applicable Laws) a joint venture, consortium, or other incorporated grouping of two or more persons:

- a. These Persons shall be deemed to be jointly and severally liable to the Employer for the performance of the Contract.
- b. These Persons shall notify the Employer of their leader who shall have authority to bind the Contractor and each of these persons: and
- c. The Contractor shall not alter its composition or legal status without the prior consent of the Employer.

2. EMPLOYER

2.1 General Obligations

The Employer shall provide the site and pay the Contractor in accordance with the Contract. The Employer shall give the Contractor right of access to and possession of the Site progressively to enable the Contractor to complete the Works as per schedule. The right and possession may not be exclusive to the Contractor.

2.2. Permits, License or approvals

It shall be contractor's responsibility to get approvals, permits or license required for the contract. However, the Employer shall (where he is in position to do so) provide reasonable assistance to Contractor at the request and cost of the Contractor in getting Permits, License or Approvals required during the Contract.

2.3 Assignment by the Employer

The Employer shall be entitled without the consent of the Contractor to fully assign the benefit of the Contract or any part thereof and interest therein or there under to any third party.

3. ENGINEER AND ENGINEER'S REPRESENTATIVE

3.1 Duties and Authority of Engineer

The Engineer shall carry out the duties specified or implied in the Contract. If the Engineer is required to obtain the Approval of the Employer before exercising a specified authority, as per the requirement in accordance with the contract. Any requisite approval shall be deemed to have been given by the Employer for any such authority exercised by the Engineer. The Engineer shall have no authority to amend the Contract nor to relieve the Contractor of any of its obligations of the Contract.

3.2 Delegation by the Engineer

- i. The Engineer may from time to time assign duties and delegate authority to Engineers Representative/assistants and may also revoke such assignments or delegations. The delegation or revocation shall be in writing.
- ii. Each Assistant to whom duties have been assigned or authority has been delegated shall be authorized 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 assistance shall have the same effect as though the act had been act of the Engineer. However,
 - a. Any failure to disapprove any work, plant or Materials shall not constitute Approval, and shall not therefore prejudice the right of the Engineer to reject the work, plant and 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.

3.3 Assistants to Engineer and Engineer's Representative

The Engineer or the Engineer's representative may appoint any number of assistants to assist them after duly notifying their names, duties and scope of authority to the contractor.

3.4 Instructions of the Engineer

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

- a. Gives an oral instruction
- b. Receives a written communication of the instruction, from (or on behalf of) the Contractor, within two working days after giving the instruction, and
- c. Does not reply by issuing a written rejection and/or instruction within two working days after receiving the confirmation, then the confirmation shall constitute the written instruction of the Engineer or delegated assistant (as the case may be).

4.0 CONTRACTOR

4.1 Contractor's General Obligations

The Contractor shall design (to the extent specified in the Contract), execute and complete the Works in accordance with the Contract and with the Engineer's instructions, and shall remedy any defects in the Works, as directed by the Engineer. 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 or a temporary or permanent nature, required in and for this design, execution, completion and remedying of

defects.

The Contractor shall be responsible for the adequacy, stability and safety of all such operations and of all methods of construction. The Contractor shall, whenever required by the Engineer, submit details of the arrangement 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.

If the Contract specifies that the Contractor shall design any part of the Permanent Works, then unless stated in Special Conditions of contract:

- a. The Contractor shall submit to the Engineer the Contractor's document for the part in accordance with the procedures specified in the Contract;
- b. These Contractor's Documents shall be in accordance with the specifications and Drawings, shall be written in the language for communications defined in and shall include additional information required by the Engineer to add to the Drawings for co-ordination of each party's designs;
- c. 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; and
- d. 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 without any extra cost in accordance with the Specifications 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 issue of Completion Certificate until these documents and manuals have been submitted to the Engineer.

4.2 Contractor's Warranty of Design

If it is specified in the Contract that the Contractor shall be responsible for design;

- a. The Contractor warrants that the Contractor's part of the design (in accordance with **Sub-Clause 4.1**) meets the specifications provided by the Employer and is fit for the purpose thereof. Where there is any inadequacy, insufficiency, impracticality or unsuitability in or of the specification or any part thereof, the Contractor's part of the design shall take into account, address or rectify such inadequacy, insufficiency, impracticality or unsuitability at Contractor's own cost.
- b. The Contractor shall indemnify the Employer against any damage, expense, liability, loss or claim, which the employer might incur, sustain or be subject to arising from any breach of the contractor's design responsibility and/or warranty set out in this clause.
- c. The contractor further specifies and is deemed to have checked and accepted full responsibility for the Contractor's part of the design (in accordance with **Sub Clause**
 - i. Notwithstanding that such design may be or have been prepared, developed or issued by the Employer, any of Contractor's consultants, his sub contractor's and/or his qualified personnel/persons or cause to be prepared, developed or issued by others.

- ii. Notwithstanding any warranties, guaranties and/or indemnities that may be or may have been submitted by any other person.
- iii. Notwithstanding that the same have been accepted by the Engineer.

4.3 Compliance with Regulations and Bylaws

The Contractor shall confirm in all respects with:

a. The Contractor shall conform to the provision of any statute relating to the works and regulation and bye-laws of any local authority and of any water and lighting companies or undertakings, with whose system the work is proposed to be connected and shall before making any variation from the drawings or the specifications that may be necessitated by so confirming give to the Engineer notice specifying the variation proposed to be made and the reason for making the variation and shall not carry out such variation until he has received instructions from the Engineer in respect thereof.

The Contractor shall be bound to give all notices required by statute, regulations or bye-laws as aforesaid and to pay all fees and taxes payable to any authority in respect thereof which will be reimbursed on production of proper record.

The provision of all laws of land in force and enacted from time to time will be complied by the Contractor.

b. The regulations or bye-laws of any local body and utilities.

c. The contractor shall be bound to give all notices required by statute, regulations or bye-laws, aforesaid and to pay all fees and bills payable in respect thereof. The contractor will arrange necessary clearances and approvals before the work is taken up. Nothing will be paid by employer on this account.

Ignorance of rules, regulations and bylaws shall not constitute a basis for any claim at any stage of work.

4.4 Representation of Works

The Contractor shall, when he is not personally present on the site of the works place and keep a responsible agent at the works during working hours who shall on receiving reasonable notice, present himself to the Engineer and orders given by the

Engineer or the Engineer's Representative to the agent shall be deemed to have the same force as if they had been given to the Contractor. Before absenting himself, the Contractor shall furnish the name and address of his agent for the purpose of this clause and failure on the part of the Contractor to comply with this provision at any time will entitle the DFCC to rescind the contract under Clause 11 of these conditions.

4.5 Provision of Efficient and Competent Staff

The Contractor shall employ and keep on the works at all times efficient and competent staff to give necessary directives to his workers for execution of works in a safe and proper manner. If the Engineer asks the Contractor to remove a person of his work force stating

the reasons, the contractor shall ensure that the person leaves the site within seven days and has no further connection with the work in the Contract.

4.6 **Securities:**

4.6.1 **Tender/Bid Security (Earnest Money Deposit):**

Tender shall be accompanied with tender/bid security in the form of—Fixed deposit receipts, Term deposit receipts, Pay orders, Demand drafts, Bankers Cheque of scheduled banks of India approved by RBI drawn in favour of **Chief Project Manager, DFCCIL, Jaipur** payable at **Jaipur**. The tender/bid security of the successful tender shall be kept as security deposit for fulfillment of contractual obligations.

Value of the work (Tender Value)	EMD
For works estimated to cost upto Rs.1crore	2% of the estimated cost of the work.
For works estimated to cost more than Rs.1crore	Rs.2 lakhs plus ½% (Half percent) of the excess of estimated cost of work beyond Rs.1crore subject to a maximum of Rs.1crore.

Tenders without the requisite security shall be summarily rejected. The tender/bid Security of unsuccessful tenderer/s shall be returned on award of contract.

4.6.2 **Performance Security (PERFORMANCE GUARANTEE)**

4.6.2.1 **Amount of performance Security**

The procedure for obtaining Performance Guarantee is outlined below:

- a) The successful bidder shall have to submit a Performance Guarantee (PG) within 30 (thirty) days from the date of issue of Letter of Acceptance (LOA). Extension of time for submission of PG beyond 30 (thirty) days and upto 60 days from the date of issue of LOA may be given by the Authority who is competent to sign the contract agreement. However, a penal interest of 15% per annum shall be charged for the delay beyond 30 (thirty) days i.e. from 31st day after the date of issue of LOA. In case the contractor fails to submit the requisite PG even after 60 days from the date of issue of LOA, the contract shall be terminated duly forfeiting EMD and other dues, if any payable against that contract. The failed contractor shall be debarred from participating in re-tender for that work.
- b) The successful bidder shall submit the Performance Guarantee (PG) in the form of irrevocable bank guarantee, amounting to **5% of the contract value**. Alternatively the Performance Guarantee may be submitted in the form of FDR in favour of Chief Project Manager, DFCCIL, Jaipur.
- c) The Performance Guarantee shall be submitted by the successful bidder after the Letter of Acceptance (LOA) has been issued, but before signing of the contract agreement. This P.G. shall be initially valid upto the stipulated date of completion plus 60 days beyond that. In case, the time for completion of work gets extended, the contractor shall get the validity of P.G. extended to cover such extended time for completion of work plus 60 days.

- d) The value of PG to be submitted by the contractor will not change for variation upto 25% (either increase or decrease). In case during the course of execution, value of the contract increased by more than 25% of the original contract value, an additional Performance Guarantee amounting to 5% (five percent) for the excess value over the original contract value shall be deposited by the contractor.”
- e) The Performance Guarantee (PG) shall be released after physical completion of the work based on „Completion Certificate’ issued by the competent authority stating that the contractor has completed the work in all respects satisfactorily. The Security Deposit shall, however, be released only after expiry of the maintenance period and after passing the final bill based on „No Claim Certificate’ from the contractor.
- f) Whenever the contract is rescinded, the Security Deposit shall be forfeited and the Performance Guarantee shall be encashed. The balance work shall be got done independently without risk & cost of the failed contractor. The failed contractor shall be debarred from participating in the tender for executing the balance work. If the failed contractor is a JV or a Partnership firm, then every member/partner of such a firm shall be debarred from participating in the tender for the balance work in his/her individual capacity or as a partner of any other JV/partnership firm.
- g) The engineer shall not make a claim under the Performance Guarantee except for amounts to which the President of India is entitled under the contract (not withstanding and/or without prejudice to any other provision in the contract agreement) in the event of:
 - i. Failure by the contractor to extend the validity of the Performance Guarantee as described herein above, in which event the Engineer may claim the full amount of the Performance Guarantee.
 - ii. Failure by the contractor to pay President of India any amount due, either as agreed by the contractor or determined under any of the Clauses/Conditions of the Agreement, within 30 days of the service of notice to this effect by Engineer.
 - iii. The Contract being determined or rescinded under provision of the GCC, the Performance Guarantee shall be forfeited in full and shall be absolutely at the disposal of the President of India.

4.6.2.2 Security Deposit.

The tender security deposited by the contractor with a tender will be retained by employer as part of security of the due and faithful fulfillment of the contract by the contractor and in addition, 10% will be deducted from on-account bills progressively so that overall retained security deposit is 5 % of contract value, including tender security (EMD).

4.6.2.3 Release of Performance Security & Security Deposit:

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

4.7 Assignment of Contract

The Contractor shall not assign a right or benefit under the Contract without first obtaining Employer's prior written consent, otherwise than by:

- a. Charge in favour of the Contractor's bankers of any money due or to become due under the contract, or
- b. Assignment to the Contractor's insurers (in cases where the insurers have discharged the Contractor's loss or liability) of the Contractor's right to obtain relief against any other party liable.

4.8 Subcontracting

- a. The contractor shall not subcontract the whole of the Works.
- b. Subcontracting does not alter the Contractor's obligations in any manner and the Contractor shall ensure sufficient superintendence as well as impose such terms and conditions on the subcontractor as are appropriate to the parts of the works Sub-Contractor, to enable the Contractor comply with his obligations under the Contract.
- c. The contractor shall not be required to obtain such consent for provision of labour and material and for petty contractors/piece works under direct supervision of Contractor's Representatives.

4.9 Assignment of Subcontractor's Obligations

If a Subcontractor's obligations extend beyond the expiry date of Defects Liability Period then the contractor shall assign the benefits of such obligations to the Employer.

4.10 Compensation for Breach

Any breach of **sub clauses 4.7 to 4.9** shall entitle the Employer to terminate the Contract under Clause **10.4** of these conditions and also render the contractor liable for loss or damage arising due to such termination.

4.11 Specifications and Drawings

4.11.1 Ownership

The contractor shall keep at site in good order, one copy of latest approved Specifications, drawings and other documents. All specifications and drawings shall remain the property of the Employer and shall be returned to the Employer on completion or on termination of the contract.

4.11.2 Adherence to specifications and Drawings

- i. The works shall be executed in conformity with the Specifications and drawings of the Contract issued to the Contractor by the Engineer from time to time. If the contractor does any work or part in a manner contrary to the specifications or drawings, he shall bear all the costs arising therefrom including dismantling and reconstruction strictly in accordance with the specifications and drawings and shall be responsible for all loss to the Employer.

- ii. If any ambiguity arises as to the meaning and intent of any portion of the Specifications and drawings or as to execution or quality of any work or material or as to the measurement of the works, the decision of the Engineer thereon shall be final and binding.
- iii. The term “drawings” in this sub clause includes also the drawings prepared by the Contractor and approved by the Engineer, as specified in the special Conditions of Contract.

4.11.3 Compliance with Contractor’s Request for Details

- i. The contractor shall give written notice to the Engineer whenever progress of the works is likely to be delayed or disrupted unless any further drawing, where the special conditions of Contract provide for such drawings to be prepared by the Engineer, or order, including a direction, instruction or approval is issued by the Engineer within a reasonable time. The notice shall include details of the Drawing or order required and of why and by when it is required and of any delay or disruption likely to be suffered if this issue is delayed.
- ii. The Engineer shall furnish with reasonable promptness, on receipt of request from the Contractor, additional instructions by means of drawings or otherwise necessary for the proper execution of the works or any part thereof. All such Drawings and instructions shall be consistent with the Contract documents and reasonable inferable therefrom. The Engineer may ask the Contractor for alternative proposals or clarifications or additional data or any other detail in respect Contractors request, if any.

If, due to any failure or inability of the Engineer to issue within a reasonable time any drawing or order requested by the Contractor as stated above, the contractor suffers delay and/or incurs additional costs, the Engineer shall take such delay into account while determining any extension of time to which the Contractor would be entitled and no claim whatsoever shall be entertained on this account.

4.12 Temporary Works

All temporary works necessary for the proper execution of the works shall be provided and maintained by the Contractor at his cost and subject to the consent of the Engineer shall be removed by Contractor at his own expense when they are no longer required and in such manner as the Engineer shall direct. In case the Contractor fails to get the same removed, than the same will be removed by the Engineer/Employer and cost thereof shall be recovered from the Contractor.

- 4.13** The contractor shall be responsible for safety of works at site. In this connection, Contractor is required to take note of all necessary provisions in Employer’s Safety, health and Environment Manual (SHE Manual), which shall be inclusive of all necessary costs to meet the prescribed safety standards. In the case, the contractor fails in the above; the Employer may provide the necessary arrangements and recover the costs from the Contractor.

4.14 Security of site and works

Unless otherwise stated in special Conditions of Contract

- a. The contractor shall be responsible for keeping unauthorized persons off the site.
- b. Authorized persons shall be limited to the Employees of the Contractor, subcontractor or persons authorized by the Engineer.

4.15 Site Data and Inspection of site

- i. The contractor shall be deemed to have obtained all necessary information as to risks, contingencies and other circumstances which may influence or affect the Tender or Works.
- ii. The contractor shall also be deemed to have inspected and examined the site, its surroundings, the above data and other available information and to have been satisfied before submitting the tender as to all the relevant matters, including without limitation:
 - a. The form and nature of the site, including the subsurface condition
 - b. The hydrological and climatic conditions
 - c. The extent and nature of work and goods necessary for the execution and completion of the work and the remedying of any defects.
 - d. The applicable laws, procedures and labour practices
 - e. The contractor's requirement for access, accommodation, facilities, personnel, power, transport, water and other services.

4.16 Sufficiency of accepted Contract amount

The contractor shall be deemed to have satisfied himself, before Tendering, as to the correctness and sufficiency of his tender for the works and of the rates and prices stated in the priced Bill of quantities and the schedule of rates and Prices, if any, all of which shall, except in so far as it is otherwise provided in the contract, cover all his obligations under the contract and all matters and things necessary for the proper execution and maintenance of the works. The tenders containing any deviation from the Contractual Terms and conditions, specifications and other requirements save as provided in this General Conditions of Contract or Special Conditions of Contract shall be rejected as non responsive.

4.17 Unforeseeable Physical conditions

In this clause "physical conditions" means natural physical conditions, which the Contractor encounters at Site while executing the Works excluding climatic conditions.

If during the execution of the works, the Contractor shall encounter physical conditions, which, in his opinion, could not have been reasonably foreseen by an experienced Contractor, the Contractor shall forthwith give written notice thereof to The Engineer and if, in the opinion of the Engineer, such conditions could not have been reasonably foreseen by an experienced Contractor, then the Engineer shall certify and the Employer shall pay reasonable additional cost to which the Contractor shall have been put by reason of such conditions in the following cases:

- a. For complying with any instruction which the Engineer may issue to the Contractor in connection therewith, and
- b. For any proper and reasonable measures approved by the Engineer which the Contractor may take in the absence of specific instructions from the Engineer, as a result

of such conditions or obstructions being encountered.

When the Engineer is required to determine value, cost or extension of time, he shall consult with the Contractor and the Employer in an endeavor to reach agreement. If agreement is not achieved, the Engineer shall determine the matter fairly, reasonably and in accordance with the Contract, with the approval of Employer.

4.18 Right of Way and Facilities

The Employer will acquire and provide land for Permanent Works and right of way (within DFCC's land). The contractor shall bear all cost and charges for special or temporary rights of way which he may require including those of access to the site. The contractor shall also obtain, at his risk and cost, any additional facility outside the site which he may require for the purpose of the Works the Employer/Engineer reserves the right to make use of these service roads/rights of way for itself or for other Contractors working in the area, as and when necessary without any payment to the Contractor.

4.18.1 Avoidance of Interference and Safety of Public

- i. The contractor shall not interfere unnecessarily or improperly with:
 - (a) The convenience of the public, or
 - (b) The access to and use of all roads, footpaths, waterways without the Prior permission of the Engineer.

The contractor shall indemnify and hold the Employer harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from any such unnecessary or improper interference.

- ii. During progress of work in any street or thoroughfare, the Contractor shall make adequate provision for the passage of traffic, for securing safe access to all premises approached from such street or thoroughfare and for any drainage, water supply or means of lighting which may be interrupted by reason of execution of Works and shall erect and maintain at his own cost save as provided in the Contract barriers, lights and other safeguards as prescribed by the Engineer for the regulation of traffic, and provide watchman necessary to prevent accidents. The Works shall in such cases be executed day and night if the Engineer so decides and so that the traffic is impeded for as short a time as possible.
- iii Existing road or watercourses shall not be blocked, cut through, altered, diverted or obstructed in anyway by the contractor, except with the permission of the Engineer. All compensation claimed for any unauthorized closure, cutting through, alteration, diversion or obstruction to such roads or water courses by the Contractor or his staff or Sub Contractors shall be recoverable from the Contractor by deduction from any sums which may become payable to him in terms of the Contract or any other amount due to him in any other Contract.
- iv. The contractor shall be responsible for taking all precautions to ensure safety of the public, whether on public or Employer's property and shall post such look-out men as may, in the opinion of the Engineer, be necessary to comply with the regulations appertaining to the work and to ensure safety.

4.19 Electricity, Water and Gas

The contractor shall be responsible for making his own arrangements at his own cost to obtain supply of water, electricity or gas for the works. The Employer where feasible may at his discretion assist the contractor in this respect.

The Employer may provide water, electricity or gas if available at the rates fixed by the Engineer but employer will not be responsible for any disruption of supply of these items and in that case, contractor will make his own arrangement to avoid suffering of progress of work.

4.20 Contractor's Equipment

4.20.1 All constructional plant and materials provided by the Contractor once brought by the contractor to site shall be deemed to be extensively intended for the execution of the works and Contractor shall not remove them without the consent in writing of the Engineer.

4.20.2 The employer shall not at any time be liable for the loss or damage to any of the Constructional Plant, Temporary works or Materials save as mentioned in Clauses 18.5 and 18.1

4.20.3 In respect of any Constructional Plant which the Contractor shall have imported for the purpose of the works, the employer will assist the Contractor, where required, in procuring any necessary Government consent for re-export of the same after completion of the works.

4.20.4 The Employer may assist (but is not obligated to) the Contractor, where required, in obtaining clearance through the Customs of Constructional plant, materials and other things required for the Works.

4.21 Protection of Environment

The contractor shall comply with the Safety, health and Environmental manual of the Employer and shall submit a detailed Site safety manual and Environmental plan as **specified in special Conditions of Contract**. Nothing extra shall be payable to the Contractor on this account and his tender price shall be inclusive of expenditure required to be incurred for working as per SHE Manual.

The Contractor shall take all reasonable steps to protect the Environment (both on and off site) and to limit damage and nuisance to people and property resulted from pollution, dust, 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. The Contractor will ensure strict compliance of provisions in regard to protection of environment of Special Conditions of Contract.

4.22 Tools, Plants and Equipment supplied by the Employer

Except for any specific item mentioned in the Special Conditions of Contract, the Contractor shall provide all tools, plants and equipment for the works. In respect of such exceptional tools, plants and equipment committed to be provided by the Employer under terms and conditions specified in the Special Conditions of contract, the Contractor shall take all reasonable care and shall be responsible for all damages or loss caused by him, his representatives, sub-contractors or his workmen or others while they are in his charge. On completion of the works, the Contractor shall hand over the unused balance of the tools, plants and equipments to the Employer in good order and repair, fair wear and tear expected, and shall be responsible for any failure to account for the same or any damage done thereto. The decision of the Engineer as to the amount recoverable from the Contractor on this account shall be final and binding.

4.23 Sheds, Stores, Yards

It shall be the responsibility of the Contractor to provide at his own expense the required sheds, store houses, and yards for both Permanent and Temporary Works and provide free access to the Engineer and the Engineer's Representative who will have right of inspection including that of instructing the Contractor to remove a particular material from the stores and not to use the same on the works.

4.24 Use of Explosives

Explosives if required on the work shall be used by Contractor only with prior Approval of the Engineer and in the manner and to the extent permitted by him. The contractor shall be responsible for safe upkeep of such explosives in a special magazine as per the law on explosives as well as for taking all the precautions in the usage of the explosives with proper license and at contractor's cost, sole risk and responsibility.

The contractor shall hold the Employer harmless and indemnify for the above.

4.25 Employer's Material

4.25.1 Materials to be supplied by the Employer

Except for items mentioned in the Special Conditions of Contract, the Contractor shall provide all materials for the works. Material, if any, to be provided by Employer will be done only in a phased manner as per pre-approved program, against a bank guarantee for the value of the Material and at terms and conditions for issue, upkeep, usage, return and recovery of such materials as specified in special conditions of contract.

4.26 Discoveries

Anything of historical importance or of significant interest discovered on the site shall be the property of the Employer. The Contractor shall notify the Engineer of such discoveries promptly and carry out Engineer's instructions for dealing with that.

4.27 Excavated materials

Materials of any kind obtained from execution of the site shall be property of the Employer and shall be disposed of as the Employer/Engineer may decide.

4.28 Housekeeping at the Site of works

The contractor shall at all times, maintain the site free from unnecessary obstructions and shall store or dispose neatly any Contractor's equipment and surplus materials. The contractor shall clear away and remove from site any wreckage, rubbish or Temporary Works no longer required.

On completion of the works, the contractor shall clear away and remove from site all constructional plant, surplus material and Temporary Works. He should leave the whole of the site and works in a clean, tidy and workmen like condition to the satisfaction of the Engineer. In case, the contractor even fails to clear the site as required within seven days from the issue of notice than site shall be cleared by the Engineer/Employer and cost thereof shall be recovered from the dues of the contractor.

On completion of work the contractor shall also clear away the labour camps, hutments and other related installations and restore the land to its original condition to the satisfaction of the Engineer within 45 days of the physical completion of the work, failing which it will be done by engineer on Contractors cost.

No final payment in settlement of the accounts for works shall be made till site clearance and clearance of labour camps etc. shall have been affected by the Contractor in addition to any other condition necessary for settlement of such final payment.

4.29 Extraordinary Traffic

4.29.1 Avoidance of damage to roads

The contractor shall use every reasonable means to prevent any of the highways or bridges communicating with or on the routes to the site from being damaged or injured by any traffic of the contractor or any of his representatives or sub- contractors and, In particular, shall select routes, choose and use vehicles and restrict and distribute loads so that any such extraordinary traffic as will inevitably arise from the moving of plant and material from and to the site shall be limited., as far as reasonably possible, and so that no unnecessary damage or injury may be occasioned to such highways and bridges. Should any such damage or injury occur, the cost of rectification or reconstruction thereof shall be borne by the Contractor and he shall indemnify the Employer fully against any claim on this account.

4.29.2 Special Loads

Save in so far as the Contract otherwise provides, the contractor shall be responsible for and shall pay the cost of strengthening any bridges or altering or improving any road communicating with or on the routes to the site to facilitate the movement of Contractor's plant or materials or execution of Temporary works and the Contractor shall indemnify and keep indemnified the Employer against all claims for damage to any such road or bridge caused by such movement, including such claims as may be made directly against the employer, and shall negotiate and pay all claims arising solely out of such damage.

4.29.3 Settlement of Extraordinary Traffic Claims

If, notwithstanding **sub clause 4.29.1**, any damage occurs to any bridge or road communicating with or on the routes to the site arising from the transport of materials

or plant, the contractor shall notify the engineer with a copy to the Employer, as soon as he becomes aware of such damage or as soon as he receives any claim from the authority entitled to make such claim. Where under any law or regulation the hauler of such materials or plant is required to indemnify the road authority against damage, the Employer shall not be liable for any costs, charges or expenses in respect thereof or in relation thereto. In other cases, the Employer shall negotiate the settlement and pay all sums due in respect of such claim and shall indemnify the Contractor in respect thereof and in respect of all claims, proceedings, damages, cost, charges and expenses in relation thereto. Provided that if and so far any such claim or part thereof is, in the opinion of the Engineer, due to any failure on the part of the contractor to observe and perform his obligations under **Sub Clause 4.29.1** and **4.29.2** then the amount, determined by the Engineer, after due consultation with the Employer and the Contractor, to be due to such failure shall be recoverable from the contractor by the Employer and may be deducted by the employer from any monies due or to become due to the contractor and the Engineer shall notify the Contractor whenever a settlement is to be negotiated and, where any amount may be due from.

4.30 Disclosure of Relationship

If the contractor or any partner of the contractor or Director of the Contractor's company is closely related to any of the Officers of the employer or the Engineer, or alternatively, if any close relative of an officer of the Employer or the Engineer has financial interest/stake in the Contractor's firm, the same shall be disclosed by the Contractor at the time of filling his tender. Any failure to disclose the interest involved, shall entitle the Employer to rescind the Contract, without payment of any compensation to the contractor. The Contractor shall note that he is prohibited from developing such interest during the Contract period without specific approval of the employer.

4.31 Opportunity for other Contractors

4.31.1 Reasonable Opportunity

The contractor shall, in accordance with the requirements of the Engineer, afford all reasonable facilities for any other contractor who may be carrying out, on or adjacent to any site any work not included in the Contract but required by the Employer, any utilities undertaking or other duly constituted authority.

The contractor shall, on the written request of the engineer, make available to any such other contractor or to the employer or any such authority, any roads or ways for the maintenance of which the contractor is responsible, for which no additional payment shall be made by the Employer.

4.31.2 Inspection of work of other Contractors

If any part of the contractor's work depends upon the work of another Contractor, he shall inspect and promptly report to the Engineer any defects in such work that may render it unsuitable for such proper execution. The contractor's failure to so inspect and report shall constitute acceptance of the other Contractor's work as fit and proper except as to defects which may develop in the other Contractor's work after execution of his work.

4.32 Progress Reports

Unless otherwise stated in special conditions of Contract, monthly progress shall be prepared by the Contractor and submitted to the Engineer. The first report shall cover the period up to the end of the first calendar month following the commencement of works in accordance with **sub clause 9** Reports shall be submitted monthly thereafter, each within 7 days after the last day of the period to which it relates.

Reporting shall continue until the contractor has completed all work, which is known to be outstanding at the completion date stated in the completion Certificate for the works:

Each report shall include:

- a. Charts and detailed descriptions of progress, including each stage of design (**in accordance with sub clause 4.1**), contractor's document, procurement, manufacture, delivery to the site, construction, erection and testing; and including these stages for work by each subcontractor.
- b. Copies of quality assurance documents, test results and certificates of materials.
- c. List of notices given by either party.
- d. Safety statistics, including details of any hazardous incidents and activities relating to environmental aspects and public relations; and
- e. Comparisons of actual and planned progress, with details of any events or circumstances which may jeopardize the completion in accordance with Contract and measures being adopted to overcome delays.
- f. Labour welfare compliance report if desired by the Engineer in accordance with **sub clause 6**.
- g. Details of labour, engineers, tools & plants at site during the month under reference.
- h. Any problem/hindrance faced by the contractor in proper execution of the work.

5.0 CORRUPT OR FRAUDULENT PRACTICES

5.1 The employer requires that the bidders/contractors observe the highest standards of ethics during Tendering and execution of this contract. In pursuance with this policy, the employer:

- a. Defines, for the purpose of these provisions, the terms set forth below as follow:
 - i. "**corrupt practice**" means the offering, giving, receiving or soliciting of anything of value to employer, engineer or any of their employees, influence in the procurement process or in contract execution; and
 - ii. "**fraudulent practice**" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the employer, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the employer of the benefits of free and open competition.
- b. will reject the tender for the work or terminate the Contract if the employer determines that the bidder/Contractor has engaged in corrupt or fraudulent practices.

- c. Will declare a Contractor ineligible, either indefinitely or for a slated period of time, to be awarded a Contract/s if he at any time determines that the Contractor has engaged in corrupt or fraudulent practices.

5.2 Action against Contractor on termination of Contract under this clause

In the event of termination of contract under sub clause 5.1 action will be taken in terms of clause 10. 4.2.

6.0 FACILITIES FOR LABOUR

6.1 Provision of accommodation

The contractor shall provide at his own expense, all necessary accommodation and the welfare facilities for his stag and labour. This includes good practices like provision of temporary crèche (Bal Mandir) where 50 or more women are employed at a time. All accommodation shall be maintained in a clean and sanitary condition, by the contractor at his cost and provision of law of land in force and enacted from time to time.

The contractor shall have a labour welfare Organisation which shall be responsible for labour welfare and compliance with prevalent labour laws, statutes and guidelines. In this context, the contractor is also required to familiarize himself with DFCC labour welfare Fund Rules as specified in Special conditions of Contract and comply with the same.

The Contractor shall prepare and submit compliance reports of adherence to labour laws as and when desired by the Engineer.

6.2 Compliance with Rules for Employment of labour

The contractor shall be responsible for compliance with all the statutes, guidelines and rules for the time being in force regarding engagement of labour by the Contractor or through his petty Contractors or Sub contractors. The contractor shall also ensure that he or his sub-contractors fully comply with all labour laws relating to engagement of labour and other related labour laws as in force and enacted from time to time.

6.3 Labour to be Contractor's employee

If the contractor directly or through petty contractors or sub contractors supplies any labour to be used wholly or partly under the direct orders and control of the Engineer or the Employer, whether in connection with any work being executed by the Contractor or otherwise for the purposes of the Employer, such labour shall, for the purpose of this clause, be deemed to be persons employed by the contractor. The contractor shall indemnify the employer for any claim or payment becoming payable to labourers due to his failure to comply with labour laws.

6.4 Preservation of Peace

The contractor shall be responsible for preservation of peace at the site and its neighborhood by Contractor's employees, Representatives, petty contractors, sub contractors etc. In case, deployment of a special Police Force, becomes necessary at or near site, during the tenure of works, the expenses for the same shall be borne by the contractor.

6.5 Health and safety

Precautions shall be taken by the contractor to ensure the health and safety of his staff and labour. The contractor shall in collaboration with and to the requirements of the local health authorities, ensure that medical staff, first aid facilities, other medical facilities, sick bay and ambulance are available at the accommodation and on the site at all times, and

that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics. The contractor shall maintain records and make reports concerning health, safety and welfare of persons and damage to property, as per the Engineer's requirement and will ensure complete compliance with relevant clauses of Employer's safety, Health and Environmental manual (SHE manual), which shall be binding on the contract.

6.6 Use of Intoxicants

The contractor shall ensure that no labour or employee is permitted to work at the Site in an intoxicated state or under influence of drugs.

7.0 Staff and Labour

7.1 Engagement

The contractor shall make his own arrangements for the engagement of all staff and labour at its own cost.

7.2 Labour Laws

In dealing with labour and employees, the Contractor and his sub-Contractors (including piece rate and petty Contractor) shall comply fully with all laws and statutory regulations pertaining to engagement, payment and upkeep of the labour in India.

7.3 Rates of Wages and Conditions of Labour

Full compliance of statutory requirements apart, the Contractor shall pay rates of wages and observe conditions of labour not less favourable than those established for the trade or the industry where the work is carried out.

7.4 Working Hours

The normal working hours shall be the day time. The contractor if required, after notifying the Engineer shall carry out Works during night hour or in shifts unless specifically provided in the contract. No increase in rates or extra payment shall be admissible for night work. The Contractor shall provide adequate lighting and safety arrangement at his own cost.

7.5 Persons in the service/retired of employer/engineer

- a. the contractor and/or any of his sub contractors shall not recruit or attempt to recruit, staff and labour from amongst the employer and the Engineers personnel.
- b. Employment of Retired Officer/Engineer
The contractor and/or any of his sub contractors at the Tendering stage or during constructing stage will not employ any retired employee of Employer or Engineer of the Employer in any capacity unless such employee has completed at least two years post retirement period or has obtained the no-subjection certificate from Employer for being employed with the contractor. It will be responsibility of the contractor to collect the Employer's no objection certificate from such retired employee and submit the same back to the employer.
- c. In case of non compliance of above, in addition to any or several of the courses, referred in sub-clauses **10.4** being adopted by the Employer the contractor on termination of the contract for the aforesaid reasons will have no claim whatsoever against the employer.

7.6 Claim on account of violation of Labour Laws

The contractor shall be solely responsible for violation of any labour law by it, its petty contractors or sub contractors and will pay any such claim/damage to the authorities forthwith on demand. If any moneys shall, as a result of any instructions,

directions or decisions from the Authorities or claim or application made under any of the labour laws or regulations, be directed to be paid by the Employer, such moneys shall be deemed to be moneys payable to the Employer by the Contractor and he will pay the same to the Employer forthwith on demand, without demur and without asking for any reasons/explanations from the Employer. On failure of the contractor to repay the Employer any moneys paid or to be paid by it as aforesaid within seven days after the same shall have been demanded, the Employer shall be entitled to recover the amount from any moneys due or incurring to the contractor under this or any other contract with the Employer.

7.7 Report of accidents to labour.

The Contractor shall be responsible for safety of all employees, employed by him on works, directly or through petty contractors or sub-contractors, and shall report accidents to any of them, however, and wherever occurring on Works, to the Engineer or the Engineers Representative, and shall make every arrangement to render all possible assistance and to provide prompt and proper medical attention. The compensation for affected Workers or their relatives shall be paid by the contractor in such cases with utmost expeditious in accordance with the Workmen's Compensation Act.

8.0 QUALITY CONTROL

The contractor shall institute a quality assurance system to demonstrate compliance with the requirements of the contract. The system shall be in accordance with the requirements in the Special conditions of Contract. The Engineer shall be entitled to audit any respect of the system. Compliance with the quality assurance system shall not relieve the contractor of any of his duties, obligations or responsibility in the contract.

8.1 Manner of Execution

All plant, materials, goods and workmanship shall be of the respective kinds described in the contract and in accordance with the Engineer's instructions.

Subject from time to time to such Tests as the Engineer may require at the place of manufacture, fabrication, or on the site or any such other place or places as may be specified in the contract.

8.2 COVERING UP OF WORK

8.2.1 Examination of work before covering up

A work or part of work shall be covered up or put out of view, in the presence of the Engineer or the Engineer's Representative.

8.2.2 Cost of uncovering the work already covered up

The contractor shall uncover any part or parts of the works, or make openings in or through the same, as the Engineer may from time to time direct, and shall reinstate and make good such part or parts, to the satisfaction of the Engineer. If any such part or parts, to the satisfaction of the Engineer. If any such part or parts have been covered up, or put out of view after compliance with the requirement and the works are found to be executed in accordance with the Contract, the expenses of uncovering, making openings in or through, reinstating and making good the same, shall be borne by the Contractor.

9.0 TIME MANAGEMENT

9.1.1 SIGNING OF AGREEMENT

The Engineer/Employer shall prepare the Agreement in the Performa prescribed

annexed as Annexure V of these conditions, duly incorporating all the terms of agreement between the two parties. However, the successful tenderer shall arrange the necessary Non-judicial stamp papers of requisite value and attend the DFCC office to execute the agreement within two weeks of the date of receipt of the "Letter of acceptance" duly acknowledged and signed by the successful tenderer. Up on executing the agreement the original agreement will be retained by the employer and one copy of the Agreement duly signed by the Employer and the Contractor through their authorised signatories, will be supplied by the Employer to the contractor.

9.1.2 Commencement of work

The contractor shall commence the works on the date specified in the letter of Acceptance or if no date is specified in the Letter of acceptance, on the date specified in an instruction in writing to that effect from the Engineer. 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 the contract and time for completion shall run from the date the contractor is to commence the works under this clause.

9.2 Programme of Work

The contractor shall submit a detailed programme to the Engineer after receipt of the Letter of acceptance, not later than 28 days from the date of receipt of Letter of Acceptance. The contractor shall also submit a revised programme whenever the Engineer finds that the previous programme is inconsistent with actual progress or with the contractor's obligations. Each program shall include:

- a. The order and procedure in which the Contractor proposes to carry out the works
- b. The sequence and timing of inspections and tests specified in the contract.
- c. A supporting report which includes a general description of the method which the contractor intends to adopt and of major stages in the execution of the works.

No significant alterations to the programme or to such arrangements and methods shall be made without obtaining the approval of the Engineer. Approval by the Engineer to the Programme of Works shall not relieve the Contractor of any of his responsibilities or obligations under the contract.

9.3 Handing Over, Possession and use of Site

No land belonging to or in possession of the Employer shall be occupied without the permission of the Engineer or the Employer. The Contractor shall not use, or allow the site to be used for any purpose other than that of executing the works.

The employer shall give the contractor, right to or right of access to or possession of all parts of site as the case may be from time to time as stated to in the contract and as conforming with the requirement of the programme of the works.

In the event of any failure or delay by the employer or the engineer, to hand over to the contractor the possession of site necessary for execution of works then such failure or delay, shall in no way affect or vitiate the contract or alter the character thereof, or entitle the contractor to damages or compensation thereof but in any such case, the engineer shall grant such extension or extensions of time to complete the work as in his opinion is/are reasonable without penalty and with PVC as applicable.

9.4 Access to Site of work

9.4.1 Access for Engineer The Contractor shall allow the Engineer or the Engineer's representative, at all times access to the site, and to any place where work in connection with the Contract is being carried out or is intended to be carried out and to any place where materials or plant are being manufactured, fabricated and/or assembled for the works. The contractor shall ensure that sub contracts if any shall contain provisions entitling the Engineer or any person authorized by him to have such access.

9.4.2. Access Road and Way Leaves Providing access roads/way leaves to the site will be contractor's responsibility at his own cost.

9.5 Time for Completion

The time allowed for execution and completion of the works or part of the works as specified in the contract, in accordance with contract conditions, shall be the essence on the part of the contractor subject to any requirement in the contract as to completion of any portion or portions of the works before completion of the whole work. The Contractor shall fully and finally complete the whole of the works comprised in the contract.

9.5.1 Time to continue to be the essence of the Contract in spite of extension of time.

It is an agreed term of the contract that notwithstanding grant of extension of time under any of the sub-clauses mentioned herein, time shall continue to be the essence of contract on the part of the Contractor.

9.6 Delay

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.

In case of delay on the part of the contractor, the contractor shall be liable to pay liquidated damages in addition to any other compensation for the damages suffered by the Employer. This is without prejudice to the right of the Employer to rescind the contract in terms of **Clause 10.4.**

9.7 Extension of time for completion not on Contractor's fault

The time with which, the works or any phase or part of the work is to be completed, may be extended by the Engineer by such further period of time as may reasonably reflect delay in completion of works notwithstanding due diligence and the taking of all reasonable steps by the contractor to avoid or reduce such delay, caused by any of the following events.

- i. "Force Majeure" referred to in clause 17.0
- ii. The issue of any instruction or major violation by the Engineer.
- iii. The contractor not being given possession of or access to the site or any part.
- iv. Instruction of the engineer to suspend the works and the Contractor not being in default as to reasons of suspension.
- v. Acts or omissions of other contractors in executing the work not forming part of this contract and on whose performance, the performance of the contractor necessarily depends.

- vi. Any act of prevention or breach of contract by the Employer and not mentioned in this clause.
- vii. Any order of Court restraining the performance of the contract in full or in any part thereof.
- viii. Due to extra or additional work ordered by the engineer for execution.
- ix. Due to modifications, if any in the contract which if necessitates extension of time
- x. Any other event or occurrence which, according to the employer is not due to the contractor's failure or fault.

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. 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, together with any notice required by the contract and relevant to such clause.

9.7.1 Contractor to apply for extension of time

In case, the contractor feels that work cannot be completed within the specified period in the contract than he shall be responsible for requesting extension of the date as he may consider necessary as soon as cause thereof shall arise and in any case not less than one month before the expiry of the original date for completion of the works giving detailed reasons for delay in completion of the work.

9.8 Extension of time for delay due to Contractor and Liquidated damage

9.8.1 Extension of time for delays due to contractor

If the delay in the completion of the whole works or a portion of the works, for which an earlier completion period is stipulated, is due to the contractor's failure or fault, and the Engineer is of the view that the remaining works or the portions of works can be completed by the contractor in a reasonable and acceptable short time, then, the Engineer may allow the contractor extension or further extension of time at its discretion with liquidated damages, for completion as he may decide.

9.8.2 Liquidated damages

In case the Engineer decides to extend the contract with liquidated damages for delays due to contractor, in that case without prejudice to any other right or remedy available to the Employer, the liquidated damages shall be levied at the rate of 0.1 percent of the contract value for the Works for each week or part of the week or any token fixed amount the contractor is in default subject to a maximum of 5% of the total Contract value.

If the delay relates to a portion of the works with a separate and earlier completion period, the contract value shall be restricted to the cost of that portion of the works only.

The decision of the Engineer as to the liquidated Damages payable by the Contractor under this clause shall be final and binding.

9.8.2.1 Consequences of Objection by the contractor for grant of extension with LD

In case the contractor does not agree/raise any objection to the grant of extension with levy of the liquidated damages then action will be taken under clause 10.4.2 for termination of contract. In case no objection is raised by the contractor within 7 days of issue of sanction for extension then it will be deemed that contractor has accepted extension with LD. No claim/dispute shall be entertained later on this account.

9.9 Rate of Progress

If for any reason which does not entitle the contractor to an extension of time, the rate of

progress of the works is at any time, in the opinion of the Engineer too slow to ensure timely completion of the works or any part thereof, the Engineer may so notify the contractor in writing. The contractor shall thereupon take such steps as are necessary or in default of taking such steps, shall take such steps as the Engineer may reasonably instruct to expedite progress so as to complete the works or any part thereof within date of completion. The contractor shall not be entitled to any additional payment for taking such steps. If any step taken by the Contractor in meeting his obligations under this Sub clause cause the Employer to incur additional costs, such costs shall be recoverable from the Contractor and shall be deducted by the Employer from any monies due, or become to the Contractor.

9.10 Suspension

9.10.1 Suspension of work.

The Contractor shall, on the order of the Engineer, suspend the works or any part thereof, for such time and in such manner, as the Engineer may consider necessary, and shall during such suspension properly protect and secure the works as it is necessary in the opinion of the Engineer.

The Contractor shall not be entitled to extra cost, damages or loss of any anticipated profit during the period of suspension of work. However, the contractor shall be entitled to such extension of time for completion of work, as the Engineer may consider proper, having regard to the period of such suspensions.

If the suspension of the whole of the works or any part or group of the works exceeds 12 weeks, the contractor shall have the option to ask for closure of the contract, or deletion from the Contract of that part of works which has been suspended by giving 28 days' notice to the Engineer for restart of work. If no permission is granted then treat suspension as default of employer and terminate/omit that part of the work/contract after giving 14 days' notice.

10.0 TERMINATION OF CONTRACT

10.1 Termination for Employer's Convenience

- (i) The Employer may terminate the Contract by giving notice to the Contractor with effect from the date stated in the notice, for its convenience and without need to give reasons.
- (ii) The Contractor must comply with the instructions of the Employer to wind down and stop work and the Contractor must leave the Site by the date stated in the termination notice and remove all Temporary Works it has brought on to the Site except for those items identified in the termination notice as to be retained on the Site.
- (iii) After termination under **Clause 10.1**, subject to its other rights under the Contract, the Employer shall pay to the Contractor:
 - a. The value of approved Materials actually brought to the Site and reasonably required to execute the Works during next three months, as per approved programme, and
 - b. Value of Work completed up-to-date by the Contractor at rates specified in the Contract, after taking into account any deductions, retentions, setoff
 - c. In addition, a sum not exceeding 2% (two percent) of the value of the work remaining incomplete on the date of Termination notice taking effect after adjusting the variation in cost of work as permissible under the contract.
- (iv) The payment as above are full compensation for termination under this clause and the Contractor has no claim for damages or other entitlements whether under the Contract or

otherwise.

- (v) Any remaining tools, plants, equipment and surplus Materials of Employer with Contractor will be returned to the Employer at Employer's depot at Contractor's cost. In case of failure of the Contractor to do so, the Employer will be entitled to recover their cost from the Contractor from the amount becoming due to the Contractor or from any other money due in any other Contracts. The decision of the Engineer of amount to be recovered will be final decision and full credit at rates initially charged to the Contractor shall be allowed for such Materials. Similarly the Employer shall be entitled to recover the cost of unreturned material, plant, equipment and tools from the Contractor where such Materials have been supplied free of cost and plant, equipment and tools free of cost or on lease basis to the Contractor as stipulated in the Special Conditions of Contract.
- (vi) Provided further, that any diminution of quantities against individual items of the Contract, merely as a variation when the work is completed, shall not constitute foreclosure of Contract in terms of this clause, and no compensation or payment whatsoever as per this clause will be due or payable to the Contractor on that account.
- (vii) The Contract shall only be settled as above after furnishing no claim certificate by the Contractor and relieving the employer from all contractual liabilities under the contract.

10.2 Termination for Default of Employer

- i. In the event of the Employer:
 - a) Failing to pay to the Contractor the amount due without reasonable cause, under any certificate of the Engineer, within ninety days after the same shall have become due under the terms of the Contract, subject to any deduction that the Employer is entitled to make under the Contract, or
 - b) Becoming bankrupt or, being a company, going into liquidation, other than for the purpose of a scheme of reconstruction or amalgamation then, the Contractor may give notice requiring the Employer to remedy the default within 28 days after receipt of the notice. If the Employer fails to remedy the default or fails to propose steps reasonably acceptable to the Contractor to do so and in that case Contract after issue of 14 days' notice to the Employer with a copy to the Engineer. In this case, the Contractor shall be compensated as per **Sub clause (iii) of 10.1**.
The Engineer's decision on the account payable on this account shall be final and binding.

10.3 Rescission of Contract Due To Death Of Contractor/Partner

If a Tenderer expires after the submission of his tender or after the acceptance of his tender, The DFCC shall deem such tender as cancelled without financial repercussions on each side. If a partner of a firm expires, after the submission of their tender or after the acceptance of their tender, the DFCC shall deem such tender as cancelled without financial repercussions on each side unless the firm retains its character. The heir of the Contractor or remaining partner of the firm shall only be paid for the work executed at site and nothing extra shall be paid.

10.4 Termination Of Contract Due To Contractor's Default

10.4.1 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 remedy it within a specified time as the Engineer may deem reasonable.

10.4.2 Conditions Leading To Termination Of Contract

The Employer shall be entitled to terminate the Contract if the Contractor or any one of its constituents,

- a) Fails to comply with a notice under Sub clause 10.4.1 above.
- b) Abandons or repudiates the Contract
- c) Without reasonable excuse fails to commence the Works in accordance with the Contract.
- d) Sub contracts the whole of the Works or assigns the Contract without approval of the Employer as per provision of the contract.
- e) Becomes bankrupt or insolvent or goes into liquidation except voluntary liquidation for the purpose of amalgamation or reconstruction
- f) Persistently disregards instructions of the Engineer or contravenes any provisions of the Contract,
- g) Fails to adhere to the agreed programme of work by margin of 10% of the stipulated period or 21 days, whichever is earlier, or fails to complete the Works or parts of the Works within the stipulated or extended period of completion, or is unlikely to complete the whole Work or part thereof within time because of poor record of progress;
- h) Fails to remove Materials from the Site, or pull down and replace work, after receiving notice from the Engineer to the effect that the said Materials or Works have been condemned or rejected.
- i) Fails to take steps to employ competent and/or additional staff and labour.
- j) Fails to afford the Engineer or his representative proper facilities for inspecting the Works or any part thereof.
- k) Indulges in corrupt or fraudulent practices as explained in Clause 5.1 (a) (ii) of this GCC
- l) Does not agree with the decision of the Engineer to grant extension with LD under Clause 9.8.2 of this GCC.
- m) Fails to comply with provision of clause 7.5 of this GCC.
- n) Fails to advise change in constitution of the firm and insist for this change if the same is not acceptable to the Engineer/Employer as per clause 19.4 of this GCC.

In any of these events or circumstances, the Employer may upon giving 14 days notice to the Contractor, terminate the Contract and expel the Contractor from the Site. The Employer shall give a 2 days notice to the Contractor towards the end of this 14 day period following which the Contractor shall remove all his Plants and Machinery from the site within these two days. The Employer's election to terminate the Contract shall not prejudice any other rights of the Employer under the Contract.

After termination of the contract, the Engineer/Employer shall be entitled to get the balance work completed by another agency, the manner & method in which such work is completed, shall be in the entire discretion of the Engineer whose decision shall be final.

On termination of Contract due to Contractor's default

- a. On termination of the contract, the security deposit of the contractor shall be forfeited and the performance guarantee shall be encashed and the balance work shall be got done without risk & cost of the original contractor.
- b. Final bill of the terminated contract shall be drawn and any legitimate amount due to the contractor after making necessary deductions as per provisions of contract shall be released on furnishing a no claim certificate relieving the employer of contractual liabilities under the contract.

10.4.3 Non-exercise of power not to constitute waiver.

Provided always that in case any of the powers conferred upon the Employer by Sub Clause 10.4.1 and sub clause 10.4.2 above, shall have become exercisable, and the same may not have been exercised, the non-exercise thereof shall not constitute waiver of any of the conditions thereof.

10.4.4 Execution of balance work by another agency.

In case of termination, original contractor shall be debarred from participating in the tender for executing the balance work. If the failed contractor is a JV or a partnership firm, then every member/partner of such a firm would be debarred from participating in the tender for the balance work either in his/her individual capacity or as a partner of any other JV/partnership firm.

11.0 VARIATIONS

11.1 Authority to order modifications

Engineer acting on behalf of Employer shall have the authority to make any variation of the form, quality or quantity of the Works or part thereof, which in his opinion may be necessary at any time before whole completion of work. The Contractor shall execute and to be bound by each variation ordered by the Engineer and shall do any of the following:

- a) Increase or decrease the quantity of any item or part of work included in the Contract.
- b) Omit any such work included in the Contract.
- c) Add a new part or item of the Work not included in the Contract.
- d) Change the character or quality or kind of any such work.
- e) Change the levels, lines, positions and dimensions of any part of the Works.
- f) Execute additional work of any kind necessary for the completion of the Works or
- g) Change any specified sequence or timing of construction of any part of the Works.

No such variation shall in any way vitiate or invalidate the Contract. The decision of the Engineer under this clause shall be final.

11.2 Variations to be authorized in writing.

All Variations shall be recorded in a written instruction/s from the Engineer and shall not be implemented by the Contractor without such an instruction in writing from the Engineer. In urgent cases, verbal instructions of the engineer shall be implemented but the same must be confirmed immediately thereafter. On receipt of an instruction from the Engineer to execute variation, the Contractor shall forthwith proceed to carry out the variation and be bound to these conditions in doing so as if such variation was stated in the Contract. The work shall not be delayed for fixing the rates/prices under this Sub clause.

11.3 Value Engineering or Innovation

11.3.1 Value Engineering Proposals

The Contractor may submit to the Employer, in writing at its own cost, value engineering proposals for modifying the Specifications for the purpose of reducing construction costs. The value engineering proposal shall not impair the essential character, functions or characteristics or the Work, including service life, economy of operation, ease of maintenance, desired appearance, or design and safety standards.

11.3.2 Value Engineering Proposals – Contents

If the Employer requires it, and if the Contractor wants to proceed with the proposal, the Contractor must provide (at no cost to the Employer) a detailed report, acceptable to the

Employer and which shall include:

- (a) A general description of the original Contract requirements for the Works and the proposed changes.
- (b) An itemized list of all the proposed modifications to the Drawings and Specifications.
- (c) An itemized list of all Work and goods affected by the value engineering proposal.
- (d) A detailed estimate of the construction cost based on the original Contract requirements and based on the proposed changes.
- (e) Any resultant time extensions or reductions for the Contract.
- (f) Statement to the extent of minimum saving expected. The Contractor's cost of preparing value engineering proposal shall be excluded in determining the estimated net savings in construction basis.

11.3.3 Value Engineering Proposals – Employer Review

The Employer may in his sole discretion, accept or reject the value engineering proposal or any part thereof and determine the estimated net saving in the construction cost. The Employer shall not be liable for delays or damages to the Contractor due to any failure of the Employer to accept or act upon any value engineering proposal submitted pursuant to this Clause. If the submitted value engineering proposal is similar to a change/variation already under consideration by the Employer, the Employer may make such changes as deemed fit with no extra cost.

11.3.4 Amendments – Employer Issuance

If the value engineering proposal is acceptable to the Employer in whole or in parts, it will accept by execution of an amendment. Such amendment shall identify all the changes in the Specifications, Contract Period etc, shall specify net savings on construction costs and shall provide that the Contractor be paid 30% of saved net savings amount based on the difference between the amounts contained in the Contract and the estimated net savings both as determined by the Employer.

11.3.5 Contractor's Acceptance and Payment.

The Contractor shall either accept or reject any proposed amendment executed by the Employer pursuant to this section within 5 working days of its receipt date from the Employer. If the Contractor does not reject the same in the period stipulated above, the amendments shall be deemed to be accepted by the Contractor and shall become a variation to the Contract. The Contractor's acceptance shall be unconditional and compensation of 30% of the value shall constitute the full compensation. The Contractor will be paid this 30% but not more at the time of final payment on Engineer's certification that the net savings as intended by value engineering have been achieved.

11.4 Variation In The Bill Of Quantities.

The quantities of items shown in the Bill of Quantities are approximate, and liable to vary during the actual execution of the Work. Some items/group of items may have to be altered, added or omitted. The Contractor shall be bound to carry out and complete the stipulated work as instructed by the Engineer, irrespective of the magnitude of variations including additions, alterations or omissions in the Bill of Quantities, individual items or group of items, specified in the Bill of Quantities.

The procedure detailed below shall be adopted for dealing with variations in quantities during execution of works contracts:

1. Individual NS items in contracts shall be operated with variation of plus 25 %or minus 50% and payment would be made as per the agreement rate. For this, no finance concurrence would be required.
2. In case an increase in quality of an individual item by more than 25% of the agreement quantity is considered unavoidable; the same shall be got executed by floating a fresh tender. If floating a fresh tender or operating that item is considered not practicable, quantity of that item may be operated in excess of 125% of the agreement quantity subject to the following conditions:
 - i. Operation of an item by more than 125% of the agreement quantity needs the approval of an officer of the rank not less than CPM Grade;
 - a) Quantities operated in excess of 125% but upto 140% of the agreement quantity of the concerned item, shall be paid at 98% of the rate awarded for that item in that particular tender;
 - b) Quantities operated in excess of 140% but upto 150% of the agreement quantity of the concerned item shall be paid at 96% of the rate awarded for that item in that particular tender;
 - c) Variation in quantities of individual items beyond 150% will be prohibited and would be permitted only in exceptional unavoidable circumstances with the concurrence of associate finance and shall be paid at 96% of the rate awarded for that item in that particular tender.
 - ii. The variation in quantities as per the above formula will apply only to the Individual items of the contract and not on the overall contract value.
 - iii. Execution of quantities beyond 150% of the overall agreemental value should not be permitted and, if found necessary, should be only through fresh tenders or by negotiating with existing contractor. The negotiation shall be done by the committee nominated for the purpose.
3. In cases where decrease in involved during execution of contract:
 - a) The contract signing authority can decrease the items upto 25% of individual item without finance concurrence.
 - b) For decrease beyond 25% for individual items or 25% of contract agreement value, the approval of Competent Authority may be taken, after obtaining „No Claim Certificate' from the contractor and with finance concurrence, giving detailed reasons for each such decrease in the quantities.
 - c) It should be certified that the work proposed to be reduced will not be required in the same work.
4. The limit for varying quantities for minor value items shall be 100% (as against 25% prescribed for other items). A minor value item for this purpose is defined as an item whose original agreement value is less than 1% of the total original agreement value.
5. No such quantity variation limit shall apply for foundation items.

However, if the Engineer or the Employer so directs the Contractor shall be bound to carry out any such additional quantities beyond the limits stated above original quantities and or new items and the disagreement or the difference regarding rates to be paid for the same, shall be settled in the manner laid down under the conditions for the settlement of dispute.

Daywork:

The Engineer may, if in his opinion it is necessary or desirable issue an instruction that any varied work or new item of work shall be executed on a daywork basis. The Contractor shall be then paid for such item based on the actual expenditure made on daily basis under the terms set out in daywork schedule included in the Contract and at the rates and prices affixed by him in the Tender.

The Contractor shall furnish such receipts or other vouchers as may be necessary to prove the amounts paid and before ordering Materials shall submit to the Engineer the quotations for the same for his Approval. The Contractor shall furnish to the Engineer or his representative, a daily list (with name, occupation and shift time) of all workmen deployed on the work, in duplicate for checking and Approval. The Contractor shall submit to the Engineer a priced statement of labour, material, plant, etc., actually used on the work, together with the output of work at the end of each calendar month and / or as soon as the work is completed. The payment for the new item of work will be certified by the Engineer based on this submission.

12.0 PRICE VARIATION

12.1 The rates quoted by tenderer and accepted by DFCCIL shall hold good till the completion of the work and no additional individual claim will be admissible on account of fluctuation in market rates, increase in taxes/ any other levies/- tolls etc. except that payment/recovery for overall market situation shall be made as per **Price Variation Clause (for tenders of value more than Rs.50 (Fifty) Lakhs)** given in para below:

12.2 No cognizance will be given for any sort of fluctuations in taxes and other market conditions etc. for any individual item for the purpose of making adjustment in payments. The contract shall, however, be governed by the general price variation clause as under:

12.3 Adjustment for variation in prices of material, labour, fuel, explosives, detonators shall be determined in the manner prescribed below :

12.4 The percentage component of various items in contract on which variation in prices shall be admissible as prescribed for the respective category of work as shown in the statement given below:

12.5 (a) Earthwork Contract

Labour component	50%
Fuel component	20%
Other material components	15%
Fixed component	15% *

(b) Ballast and Quarry Products Contracts

Labour component	55%
Fuel component	15%
Other material components	15%
Fixed component	15%*

(c) Other works Contracts

Labour component	30%
Material component	25%
Fuel component	15%
Fixed component	30%*

*Will not be considered for any price variation.

The above weightage will be applied on the value arrived at after deducting the cost of steel and cement from the total contract value.

12.6 (A-1) The amount of variation in prices in the several components (labour material etc.) shall be worked out by the following formulae (except cost of steel and cement supplied by contractor as a separate NS item) :-

$$(i) \quad L = \frac{R \times (I - I_0)}{I_0} \times \frac{P}{100}$$

$$(ii) \quad M = \frac{R \times (W - W_0)}{W_0} \times \frac{Q}{100}$$

$$(iii) \quad U = \frac{R \times (F - F_0)}{F_0} \times \frac{Z}{100}$$

$$(iv) \quad X = \frac{R \times (E - E_0)}{E_0} \times \frac{S}{100}$$

$$(v) \quad N = \frac{R \times (D - D_0)}{D_0} \times \frac{T}{100}$$

L – Amount of Price Variation in Labour

M – Amount of Price Variation in Materials

U – Amount of Price Variation in Fuel

X – Amount of price variation in Explosives

N – Amount of price variation in Detonators

R – Gross value of the work done by the contractor as per on account bill(s) excluding

Cost of materials supplied by DFCCIL at fixed price

Cement and steel provided by the contractor for which separate PVC formulae is given.

Specific payment, if any, to be made to the consultants engaged by the contractors (such payment will be indicated in the contractor's offer).

I_0 = Consumer Price Index Number for Industrial Workers – All India – as Published in RBI Bulletin for the base period.

I = Consumer Price Index Number for industrial Workers – All India- as published in RBI Bulletin based on the average price index of the three months of the quarter.

Wo = Index Number of wholesale Prices – By Groups and sub-groups – All commodities –as published in the RBI Bulletin for the base period.

W = Index Number of wholesale Prices – BY groups and sub groups – All commodities – as published in the RBI Bulletin based on the average price index of the three months of the quarter.

Fo = Index Number of wholesales Prices – By Groups and sub-Groups for Fuel, Power, Light and Lubricants as published in the RBI Bulletin for the base period.

F = Index Number of wholesale Prices – By Group and sub-groups for Fuel, Power, Light and Lubricants as published in the RBI Bulletin based on the average price index of the three months of the quarter

Eo = Cost of explosives as fixed by DGS & D in the relevant rate contract of the firm from whom purchases of explosives are made by the contractor for the base period.

E = Cost of explosive as fixed by DGS & D in the relevant rate contract of the firm from whom purchases of explosives are made by the contractor for the first month of the quarter under consideration.

Do = Cost of detonators as fixed by DGS&D in the relevant rate contract of the firm from whom purchases of detonators are made by the contractor for the base period.

D - Cost of detonators as fixed by DGS&D in the relevant rate contract of the firm from whom purchases of detonators are made by the contractor for the first month of the quarter under consideration.

P =% of labour component Q =% of material component Z =% of fuel component
S =% of explosive component

,T =% of detonators component

NOTE :-

1. The Price Variation Clause shall be applicable for tenders of value more than **Rs.50 (Fifty) Lakhs** irrespective of the contract completion period and PVC shall not be applicable to the tender of value less than Rs.50 (Fifty) Lakhs.
2. Price variation is payable/recoverable during the extended period of contract, provided the Price Variation Clause was part of the original contract and the extension has been granted on administrative ground i.e. under Clause 9.7 of this GCC.
3. No maximum value for the price variation is prescribed.
4. If, in any case, the accepted offer includes
 - (i) Cost of materials supplied by DFCCIL at fixed price.
 - (ii) Cement and steel provided by the contractor for which separate PVC formulae is given.
 - (iii) Specific payment, if any, to be made to the consultants engaged by the contractors (such payment will be indicated in the contractor's offer).
Such payments would be excluded from the gross value of the work for purpose of payment/recovery of variations.

5. The index number for the base period will be the index number as obtained for the month of opening of the tender and the quarters will commence from the month following the month of opening of tender. However, if the rates quoted in negotiated tender are accepted, the base month for the price variation clause is the month in which negotiations are held.
6. The adjustment for variation in prices if required shall be made once every quarter in the on-account payments, if more than one on-account payment is made to the contractor in a quarter, the adjustment, if required shall be made in each bill.
7. The price variation should be based on RBI's average price index of the 3 months of the quarter.
8. The demands for escalation of the cost may be allowed on the basis of provisional indices made available by the Reserve Bank of India. Any adjustment needed to be done based on the finally published indices is to be made as and when they become available.
9. The weightage would be applied on the value arrived at after deducting the cost of steel and cement from the total contract value.
10. The price variation implies both increase as well as decrease in input prices and, therefore price variation during the currency of the contract may result in extra payment or recovery as the case may be.

12.7 A-2 (I) Price Variation in case of Steel supplied by the contractor

This special Price Variation Clause will be applicable only on Iron and Steel supply items of tender schedule without value addition.

The amount of variation for the component of supply of steel shall be adjusted (paid/recovered) by the following formulae :-

Ms = Q (Bs-Bso) where

Ms= Amount of price variation in steel payable/recoverable.

Q= Weight of steel in tones supplied by the contractor as per the on account bill for the month under consideration.

Bs=SAIL's (Steel Authority of India Limited) ex-works price plus Excise Duty thereof (in rupees per tone) for the relevant category of steel supplied by the contractor as prevailing on the first day of the month in which the steel was purchased by the contractor (or) as prevailing on the first day of the month in which steel was brought to the site by the contractor whichever is lower.

Bso= SAIL's ex-works price plus Excise Duty thereof (in rupees per tonne) for the relevant category of steel supplied by the contractor as prevailing on the first day of the month in which the tender was opened.

NOTE:

1. Relevant categories of steel for the purpose of operating the above price variation formula based on SAIL's ex-works price plus Excise Duty thereof are as under:-

	Category of steel supplied in the DFCCIL work	Category of steel produced by SAIL whose ex-works price plus Excise Duty thereof would be adopted to determine price variation.
	Reinforcement bars and other rounds.	TMT 8 mm IS 1786 Fe 415/ Fe 500
	All types and sizes of angles.	Angle 65x65 x 6 mm IS 2062 E250A SK
	All types and sizes of plates.	PM Plates above 10-20 mm IS 2062 E 250A SK
	All types and sizes of channels and joints.	Channels 200 x 75 mm IS 2062 E250A SK
	Any other section of steel not covered in the above categories and excluding	Average of price for the 3 categories covered under sl. No. 1,2,3 above.

2. The prevailing ex-works price of steel per tone as on 1st of every month for the above categories of steel as advised by SAIL to Railway Board would be circulated to DFCCIL.

3. Separate items for „supply of steel' for RCC/PSC work should have been incorporated in the tender schedule to know the cost of steel actually consumed at any given point of time.

4. The Price Variation Clause shall be applicable for tenders of value more than **Rs.50 (Fifty) Lakhs** irrespective of the contract completion period and PVC shall not be applicable to the tender of value less than **Rs.50 (Fifty) Lakhs**.

5. Price variation is payable/recoverable during the extended period of contract, provided the Price Variation Clause was part of the original contract and the extension has been granted on administrative ground i.e. under Clause 9.7.

6. No maximum value for the price variation is prescribed.

7. If, in any case, the accepted offer includes

(i) Cost of materials supplied by DFCCIL at fixed price

(ii) Value of steel, for which PVC is being paid/ recovered under this clause

(iii) Specific payment, if any, to be made to the consultants engaged by the contractors (such payment will be indicated in the contractor's offer).

Such payments would be excluded from the gross value of the work for purpose of payment/ recovery of variations.

8. The SAIL's Ex-work price plus Excise Duty there of (in Rupees per tone) for the relevant category of steel, as prevailing on first day of the month in which tender is

opened, will be considered. However, if the rates quoted in negotiated tender are accepted, the base month for PVC will be the month in which negotiations are held.

9. The adjustment for variation in prices, if required, shall be made every month in the on- account payments as per above formula.

10. The APM/PM concerned will maintain a register showing receipt of steel from contractor on site (supported by documentary evidence of purchase) and consumption thereof.

11. The price variation implies both increase as well as decrease in input prices and, therefore price variation during the currency of the contract may result in extra payment or recovery as the case may be.

12. Steel supplied free or at firm price by DFCCIL, as per contract, if any, will not be considered for calculation of PVC.

12.7 A-2(II) Price Variation in case of Cement supplied by the contractor

This special Price Variation Clause will be applicable only on Cement supply items of tender schedule without value addition.

1. The amount of variation for the component of supply of cement shall be adjusted (paid/recovered) by the following formulae :- Where

$$M_c = R \times (W_c - W_{co}) / W_{co}$$

Where M_c = Amount of price variation in material (-Cement).

R = Value of Cement supplied by contractor as per on account bill in the quarter under consideration.

W_{co} = Index No. of Wholesale price of sub-group (of cement) as published in RBI Bulletin for the base period.

W_c = Index No. of wholesale price of sub group (of cement) as published in RBI Bulletin for the first month of the quarter under consideration.

Note:

1. Separate items for „supply of cement’ for RCC/PSC work should have been incorporated in the tender schedule to know the cost of cement actually consumed at any given point of time.
2. The Price Variation Clause shall be applicable for tenders of value more than Rs.50 (Fifty) Lakhs irrespective of the contract completion period and PVC shall not be applicable to the tender of value less than Rs.50 (Fifty) Lakhs.
3. Price variation is payable/recoverable during the extended period of contract, provided the Price Variation Clause was part of the original contract and the extension has been granted on administrative ground i.e. under Clause 17 (1), (2) and (3) of this GCC.

4. No maximum value for the price variation is prescribed.
5. If, in any case, the accepted offer includes
 - (i) Cost of materials supplied by DFCCIL at fixed price
 - (ii) Value of cement, for which PVC is being paid/ recovered under this clause
 - (iii) Specific payment, if any, to be made to the consultants engaged by the contractors (such payment will be indicated in the contractor's offer).
Such payments would be excluded from the gross value of the work for purpose of payment/ recovery of variations.
6. The index number for the base period will be the index number as obtained for the month of opening of the tender and the quarters will commence from the month following the month of opening of tender. However, if the rates quoted in negotiated tender are accepted, the base month for the Price Variation Clause is the month in which negotiations are held.
7. The adjustment for variation in prices, if required, shall be made once every quarter in the on-account payments, if more than one on-account payment is made to the contractor in a quarter, the adjustment, if required shall be made in each bill.
8. The price variation would be based on the price index of the first month of the quarter under consideration.
9. The demands for escalation of the cost may be allowed on the basis of provisional indices made available by the Reserve Bank of India. Any adjustment needed to be done based on the finally published indices is to be made as and when they become available.
10. The price variation implies both increase as well as decrease in input prices and, therefore price variation during the currency of the contract may result in extra payment or recovery as the case may be.
11. Cement supplied free or at firm price by DFCCIL , as per contract if any, will not be considered for calculation of PVC.

13.0 CONTRACT PRICE AND PAYMENTS

13.1 Rates For Items Of Work.

The Contractor shall be paid only at accepted rates for finished work as per approved construction Drawings. Where such rates are not available the Contractor shall be paid as per Clause 11.0 read with Clause 11.4 "Variation" of these Conditions.

13.1.1 Rates accepted for BOQ are for complete item of work

The rates entered in the accepted Bill of Quantities of the Contract, shall provide for Works duly and properly completed in accordance with these Conditions of Contract, Special Conditions of Contract and the Specification and Drawings, together with such enlargement, extension, diminution, reduction, alteration or addition, as may be ordered in terms of conditions of Contract, and without prejudice to the generality thereof, shall inter-alia be deemed to include and cover all charged relating to labour and superintendence thereof, supply including all cost and freight of Materials, stores, equipments, profiles, moulds,

cuttings, centerings, scaffoldings shuttering, machinery, derricks, tackles, ropes, pegs, posts, tools and all apparatus and plants, required at / for the work, and contingencies, complete in all respects, except such items as may be specified in the Special Conditions of Contract to be supplied to the Contractor by the Employer. The rates quoted shall also include:

- o Erection, maintenance and removal of all Temporary Works and Buildings.
- o All watching, lighting, pumping and draining unless otherwise provided for.
- o All barriers and arrangements for safety of the property, utilities, public or of Employees/workers during the execution of Works.
- O All sanitary and medical arrangements for labour camps as may be prescribed.
- o The setting out of all Works of construction, repair and up-keep of all centre lines, benches, brackets, etc.
- o Site clearance.
- o All taxes, royalties, duties, cess, octroi and other levies payable to various authorities except as provided in Sub-clause 13.1.1. and 13.1.3

13.1.2 Nothing extra payable over the accepted rates

Subject to **Sub-clause 13.1.1** above, nothing extra shall be payable over the quoted rates, notwithstanding any provision to the contrary in any law for the time being in force, save and except what is specifically provided in General or Special Conditions of Contract.

13.1.3 Changes in cost due to subsequent legislation.

If after the date for submission of tender, there is change/increase/decrease in various taxes through national or state statute, ordinance, decree or other law or any regulation or bye-law of any local or other duly constituted authority which causes additional or reduced cost to the contractor as otherwise permissible in the execution of the contract, such additional or reduced cost shall be determined by the engineer and shall be added to or deducted from the contract price as the case may be.

13.2 Payment on actual measurements

The quantities set out in the Bill of Quantities, are the estimated quantities and not the actual quantities of work to be executed by the Contractor. The Contractor shall be paid for the Works, at applicable rates based on the actual measurements or as per the special condition of contract. Measurements of the work in progress shall be taken by the Contractor in presence of the Engineer. These measurements shall be recorded at such intervals, as in the opinion of the Engineer shall be proper having regard to the progress of the work in the Measurement Books to be supplied by the Engineer. The Contractor or his authorized representative shall sign the result of the measurements, which shall also be signed by the Engineer or the Engineer's representative as an acknowledgement and acceptance of the accuracy thereof.

The Engineer or the Engineer's Representative shall have the right to delete or correct any measurement if it is found at a later stage that the work is incomplete, defective and / or not conforming to the Specifications.

13.3 Payment Currency:

The mode of payment in the Contract will be Indian Rupees unless specified otherwise.

13.4 On Account Payment

13.4.1 Procedure for On-Account payment.

- a. The Contractor shall be entitled to be paid from time to time normally once in a calendar month, by way of "On-account" bills, only for such Works, as, in the opinion of the Engineer,

- the Contractor has executed in terms of the Contract.
- b. The Contractor shall submit the On-account bills, by the date stipulated by the Engineer, in the prescribed proforma, supported with measurements.
 - c. After preliminary scrutiny and certification by the Engineer, payment of 80% of the certified amount shall be made by the Employer within 7 days. The amount certified shall account for all deductions, including statutory deductions, recoveries for advances and any amounts due from the Contractor. The balance 20% shall be paid within 28 days, from the date of the preliminary certification of the bill by the Engineer.
 - d. Such payments made by the Employer, shall not constitute any acceptance of the measurements or bill of quantities by the Employer and the Employer shall have the right to alter, modify, reduce or diminish the quantities or classification entered in the Measurement Books or Bills. The Employer shall have right to recover any amount paid in the earlier bill from any subsequent bill and should the amount to be recovered be more than the amount of the subsequent bill, the Contractor shall on demand from the Engineer or Employer immediately refund the extra amount to the Employer within 7 days, failing which he shall have to pay interest @ 12% per annum till the said extra amount is paid back by him. In addition to above, if contractor claims more on-account payment than due, second time, the facility of making 80% on-account payment within 7 days shall be withdrawn.

13.4.2 On-Account Payment without prejudice

„On account’ payments made in respect of work; done or Materials delivered by the Contractor, shall be without prejudice to the final accounts, (except where measurements are specifically noted in the measurement book as “final measurements” and have as such been signed by the Contractor), and shall not be considered by itself to be evidence of any facts, stated in or to be inferred from such payments or of any work done or Materials supplied, or of the manner of its execution.

13.5 Final Measurements And Payments.

- (i) Soon after the issue of the Completion Certificate, as per Clause 15.1 and 15.2 the Engineer shall have the final measurements taken, recorded and signed, as in the case of interim measurements referred to in Clause 13.2. A joint accountal of any plant, equipment and Materials issued by the Employer to the Contractor, shall also be prepared and signed jointly.
- (ii) Based on above, the Contractor shall submit a draft Final Bill with supporting documentation at the earliest but not later than 60 days from the issue of the Completion Certificate.
- (iii) The Engineer shall check the bill within 60 days of its receipt and return the bill to the Contractor for correction if any. Employer shall pay 75% of the undisputed amount of the bill to the Contractor at the stage of returning the bill.
- (iv) The Contractor shall resubmit the bill with corrections within 30 days of the return together with a written discharge in form of “No Claim Certificate” (Annexure VI of these conditions) representing full or final settlement of all money due to the Contractor under or in connection with the Contract or a list of total unsettled claims in accordance with Clause 14.1.
The Employer, shall, on receipt of the Certificate, arrange to make payment, subject always to any deductions under these presents, due to the Contractor, within a period of further 30 days failing and after which the Employer shall be liable to pay interest at 10% per annum which shall be compounded every 3 months. Provided always, that, no interest shall be payable on any amount disallowed or withheld under Clause 13.10 and 16.2 or disputed by the Engineer or the Employer in any case.
The Engineer for his pure convenience retains the right to instruct the Contractor to furnish

the details of both on account and final bill in soft form as well.

13.6 Round Off

In every payment to the Contractor, sums of less than fifty paise shall be omitted and sums of fifty paise and more up to one rupee shall be reckoned as one rupee.

13.7 Payment By Cheque/E-Payment.

All payments to the Contractor will be made by cheque or through "E-Payment" as decided by the Employer.

13.8 Tax Deduction at Source.

Tax deductions will be made at source as per statutory requirement from every payment made to the Contractor at rates notified from time to time.

13.9 Production of Vouchers

- I. The Contractor shall, whenever required by the Engineer, produce or cause to be produced for examination by the Engineer, any quotation, invoice, cost or other account books, vouchers, receipts, letters, memoranda or any copy of or extract from any such documents and also furnish information and returns, as may be required, relating to the execution of this Contract or relevant for verifying or ascertaining the cost of execution of this Contract or ascertaining the Materials supplied by the Contractor are in accordance with the Specifications laid down in the Contract. The Engineer's decision on the question of relevancy of any documents, information or returns shall be final and binding on the parties.
- II. If any part or item of the work is allowed to be carried out by a sub-Contractor, assignee or any subsidiary or allied firm through the Contractor, and shall have power to examine and inspect the same. The above obligations are without prejudice to the obligations of the Contractor under any statute, rules or orders.

13.10 Withholding Any Lien For Sums Claimed.

- i. The Employer shall have lien over all or any moneys that may become due and payable to the Contractor under the Contract, and / or over the deposit of Performance Guarantee/Security deposit or any other amount or amounts made under the Contract and which may become payable to the Contractor.
- ii. And further, unless the Contractor pays and clears immediately on demand any claim of the Employer, the Employer shall at all times be entitled to deduct the amount of the said claim from the moneys, securities and / or deposits which may have become or will become payable to the Contractor under these presents, or under any other Contract or transaction whatsoever between the Employer and the Contractor even if the matter stands referred to Arbitration. The Contractor shall have no claim for any interest or damage whatsoever in respect of any amounts withheld or treated as withheld under the lien referred to above and duly notified as such to the Contractor.

13.11 Signature on Receipts For Payments.

Every receipt of payment to Contractor including refund of the Performance Security shall be signed by the person authorized to do so on his behalf. In the event of death of any of the Contractor's partners in case the Contractor is a partnership firm, during the currency of the Contract, it is hereby expressly agreed that every receipt by any one of surviving Contractor's partners, shall, if so signed as aforesaid, be a good and sufficient discharge as aforesaid, provided that nothing in this Clause shall be deemed to prejudice or affect any claim, which the Employer may hereafter have against the legal representatives of any Contractor's partner so dying, for or in respect of breach of any of the conditions of the

Contract. Provided also that nothing contained in this clause shall be deemed to prejudice or affect the respective rights and obligations of the Contractor's partners, or of the legal heirs/representatives of any deceased Contractor/partner interse.

13.12 Post Payment Audit.

It is an agreed term of the Contract, that the Employer reserves to himself the right to carry out a post payment audit and /or technical examination of the Works, and the Final bill including all supporting vouchers, abstracts, etc, and to make a claim on the Contractor for the refund of any excess amount paid to him, if as a result of such examination, any over-payment to him is discovered to have been made in respect of any work done or alleged to have been done by the Contractor, under the Contract. If any under-payment is discovered, the same shall be paid by the Employer to the Contractor. Such payments or recoveries, however, shall not carry any interest.

14 CLAIMS & LIENS IN RESPECT OF CLAIMS IN OTHER CONTRACTS.

14.1 Claims

The Contractor shall send to the Engineer's Representative once in every three months an account giving particulars, along with full details and justification, of all claims for any additional payment to which the Contractor may consider himself entitled and of all extra or additional work ordered by the Engineer which he has executed during the preceding three months. No final or interim claim for payment for any such work or expense will be considered which has not been included in such particulars.

14.2 Lien in Respect of Claims in Other Contracts.

Any money due to the Contractor either alone or jointly with others, including the Performance Guarantee/Security deposit amount returnable to him, may be withheld or retained by exercise of lien by the Employer, against any claim of the Employer in respect of payment of a sum of money arising out of or under any Contract other than the present Contract made by the Contractor, alone or jointly with the Employer. It is an agreed term of Contract that the sums of money so withheld or retained under this clause by the Employer, shall be kept withheld or retained till the claims arising out of or under the other Contract, are either mutually settled or determined by the Arbitrator, or by the competent Court, as the case may be and the Contractor will have no claims of interest or damage in this regard whatsoever.

15. COMPLETION AND MAINTENANCE CERTIFICATE

15.1 Completion and Completion Certificate

After completion of the Work the Contractor shall serve a written notice of such completion, (whether of the whole of the Works or any part of the work for which a separate date of completion is stipulated in the Contract) to the Engineer. The Engineer or Engineer's representative within 30 days of the receipt of this notice shall conduct a complete joint survey of the Works (including carrying out any Tests as prescribed in the Contract) and prepare a Defects List jointly with the Contractor. The defects pointed by the Engineer or Engineer's representative shall be rectified by the Contractor within 30 days and there after acceptance report be signed jointly by the Contractor and Employer or Engineer on his behalf. This report shall be treated as "Completion Certificate".

15.2 Completion Certificate not to Absolve.

The Contract requires defects free Completion and completion certificate issued as per Completion Certificate Sub-Clause 15.1 above, shall not absolve the Contractor from his liability to make good defects, imperfections and shrinkages or faults, which may appear

during the Defects Liability Period specified in the Contract, arising in the opinion of the Engineer from any design for which the Contractor is responsible or any Materials or workmanship being not in accordance with Drawings or Specifications or instructions of the Engineer. These defects shall be rectified by the Contractor at his own cost and if he fails to do so, the Engineer may employ labour, plant and machinery and Materials or appoint another agency or Contractor, to amend and make good such defects, imperfections, shrinkages and faults all costs for the same, and, shall be borne by the Contractor and shall be recoverable from any moneys due to him under this or any other contract.

15.3 Cessation of Employer's Liability.

The Employer shall not be liable to the Contractor for any matter, arising out of or in connection with the Contractor, or the execution of the Works, unless the Contractor shall have made a claim in writing in respect thereof within 60 days from the date of completion of the Works.

15.4 Unfulfilled obligations.

Notwithstanding the issue of Maintenance Certificate, the Contractor and the Employer, shall remain liable for the fulfillment of any obligation incurred under the provision of the Contract, prior to the issue of the Maintenance Certificate, which remain unperformed at the time such certificate is issued, and for the purpose of determination of the nature and extent of any such obligation, the Contract shall be deemed to remain in force between the parties hereto.

16 RISK & RESPONSIBILITY.

16.1 Contractor's Care of Work.

- i. The Contractor shall take full responsibility for the care of Works from the commencement of the Works until the date stated in the Completion Certificate for the whole of the Works is issued pursuant to Clause 15.1 and 15.2.
- ii. The Contractor shall not demolish, remove or alter structures or other facilities on the Site without prior Approval of the Engineer.
- iii. If the Engineer shall issue a Completion Certificate in respect of any part of the Permanent Works for which a separate date of completion is stipulated as provided for in Sub Clause 15.2, the Contractor shall cease to be liable for the care of that part of the Permanent Works from the date stated in the Completion Certificate in respect of that part for which responsibility to take care will shift to Employer.
- iv. Provided further that the Contractor shall take full responsibility for the care of any outstanding work, which he shall have undertaken to finish during the Defects Liability Period. If any loss or damage happens to Works during the period for any cause while the Contractor shall be responsible for the care thereof, the Contractor shall rectify the loss or damage at Contractor's risk and cost so that the Works conform with the Contract.
- v. In the event of any such damage, loss or injury happening from any of "**Force Majeure**" for the portion of work already measured, the Contractor if and to the extent required by the Engineer shall undertake the repair and make good the defect at the cost of the Employer.
- vi. The Contractor shall also be liable for any damage to the Works occasioned by him in the course of any operations carried out by him for the purpose of completing any outstanding work or complying.

16.2 Urgent Repairs.

If, by reason of any accident, or failure, or other event occurring to or in connection with the Works, or any part thereof or proximity thereof, either during the execution of the Works, or during the Defects Liability Period, any remedial or other work or repair shall, in the opinion of

the Engineer or the Engineer's Representative, be urgently necessary and the Contractor is unable or unwilling to do such work or repair or other work at once, the Engineer may authorize the carrying out of such repair or other work by a person other than the Contractor. If the work or repair so got done by the Employer is work which, in the opinion of the Engineer, the Contractor was liable to do at his own expense under the Contract, all expenses incurred by the Employer in carrying out the same shall be recovered by the Employer from the Contractor.

16.3 Damage To Employer's Property, Private Property And Life.

The Contractor shall be responsible for all risks to the Works and for trespass and shall make good, at his own expense, all loss or damage to the Works themselves or to any other property of the Employer or the lives, persons and property of others from whatsoever cause in connection with Works until they are taken over by the Employer; in case the Employer is called upon to make good any such costs, loss or damages, or to pay compensation (including that payable under the provisions of Workmen's Compensation Act or any statutory amendments thereof or under any other law of land applicable to contract) to any person or persons sustaining damage as aforesaid by reason of any act, omission or negligence on the part of the Contractor the amount of any costs or charges (including costs and charges in connection with legal proceedings), which the Employer may incur in reference thereto, shall be charged to the Contractor. This will include any payment made by the Employer for any legal proceedings.

16.4 Indemnity By Contractor:

16.4.1 Indemnity Against All Actions of Contractor:

The Contractor shall hold and save harmless and indemnify the Employer, from and against all actions, suits, proceedings, loss, costs, damages, charges, claims and demands of every nature and description brought or recovered against the Employer, by reason of any act or omissions of the Contractor, his Representative or his employees, in the execution of the Works or in the guarding of the same. All sums payable by way of compensation under these conditions shall be considered reasonable compensation payable to the Employer, without reference to the actual loss or damage sustained, and whether or not any damage shall have been sustained.

16.4.2 Indemnity Against All Claims of Patent Rights And Royalties.

The Contractor shall defend, indemnify and save harmless the Employer from and against all claims and proceedings for or on account of infringements of any patent rights, design, trademark name or copyright or other protected rights in respect of any construction equipment, Plants, Materials, goods or design (submitted by the Contractor pursuant to his obligations under the Contract) used for or in connection with or for incorporation in the Works and from or against all loss, expense, costs or damages whatsoever in respect of such claims or proceedings or in relation thereto, except here such infringement results from compliance with the design or Specifications provided by the Engineer.

16.5 Indemnity By Employer.

The Employer shall indemnify and hold harmless the Contractor against all claims, damages, losses, and expenses in respect of:

- a. Bodily injuries or damages to persons which is attributable to any negligence, willful act or breach of the Contract by the Employer.
- b. Where the injury is contributed partially by the other Contractor, the proportion of the liability to be borne by each party will be decided by the Engineer.

17 FORCE MAJEURE

If, at any time during the currency of the Contract, the performance in whole or in part by either party of any obligation under this Contract shall be prevented or delayed by reasons of any war, hostilities, invasion, acts of public or foreign enemies, rebellion, revolution, insurrection, civil commotion, sabotage, large scale arson, floods, earthquake, large scale epidemics, nuclear accidents any other catastrophic unforeseeable circumstances, quarantine restrictions, any statutory rules , regulations, orders or requisitions issued by a Government department or competent authority or acts of God (hereinafter referred to as "event") then, provided notice of the happening of such an event as given by either party to the other within 21 days of the occurrence thereof.

- a. Neither party shall be reason of such event be entitled to terminate the Contract or have claim for damages against the other in respect of such non-performance or delay in performance.
- b. The obligation under the Contract shall be resumed as soon as practicable after the event has come to an end or ceased to exist.
- c. In case of doubt or dispute, whether a particular occurrence should be considered an "event" as defined under this clause, the decision of the Engineer shall be final and binding.
- d. Works that have already been measured shall be paid for by the Employer even if the same is subsequently destroyed or damaged as a result of the event. The cost of rebuilding or replacing any work that has been measured shall be borne by the Employer.
- e. If the Contract is terminated under this Clause, the Contractor shall be paid fully for the work done under the Contract, but not for any defective work or work done which has been destroyed or damaged before its measurement.

18. SETTLEMENT OF DISPUTES AND ARBITRATION.

18.1 Dispute to be Referred To And Settled By Engineer-In-Charge At The First place.

Should any dispute or difference of any kind whatsoever arise between the Employer and the Contractor, touching, in connection with, or arising out of the Contract, or subject matter thereof, or the execution of Works, whether, during the progress of Works or completion and whether before or after termination, abandonment or breach of Contract, it shall, in the first place, subject to the provisions under Sub-clause 15.3 be referred to and settled by the Engineer-In-Charge, who shall, within a period of sixty days after being requested in writing by the contractor to do so, give written notice of his decision to the Contractor. The Engineer-In-Charge while considering the matters of dispute referred to him, shall be competent to call for any records, vouchers, information and enforce the attendance of the parties either in person or through authorized representatives, to sort out or clarify any issue, resolve the differences and to assist him to decide the matters referred to him. Subject to arbitration, as hereinafter provided, such decision in respect of every matter so referred shall be given by the Engineer-In-Charge and parties shall proceed with the execution of works with all due diligence irrespective of whether contractor goes in for appeal against decision or desires to go in for arbitration. If no intimation of reference of any claim to arbitration has been sent to him by Contractor within a period of sixty days from receipt of such notice, the said decision of the Engineer-In-Charge shall remain final and binding upon the Contractor and the same shall be deemed to have accepted by him. The Contractor shall not seek any arbitration thereafter.

18.2 Referring Of Dispute For Arbitration

If the Engineer-In-Charge shall fail to give notice of his decision, as aforesaid, within a period of sixty days after being requested or the Contractor be dissatisfied with any such decision of the Engineer-In-Charge, then the matter in dispute shall be referred to arbitration as herein provided.

18.3 Dispute Due For Arbitration

Disputes or differences shall be due for arbitration only if all the conditions in Sub- clauses 18.1 and 18.2 are fulfilled.

18.4 Settlement of Disputes

The demand for arbitration shall specify the matters, which are in question, or subject of the dispute/s or difference/s as also the amount of claim item wise. Only such dispute/s or difference/s in respect of which the demand has been made by the party/parties shall be referred to arbitration and other matters if any shall not be included in the reference.

18.5 Nomination of Arbitrators/Sole Arbitrator.

Matters to be arbitrated upon shall be referred to a sole Arbitrator if the total value of the claim is upto Rs 5 million and to a panel of three Arbitrators if total value of claims is more than Rs 5 million. The Employer shall provide a panel of three arbitrators which may also include DFCC officers for claims upto Rs 5 million and a panel of five Arbitrators which may also include DFCC officers for claims of more than Rs 5 million. The Employer at the time of offering the panel of Arbitrator(s) to be appointed as Arbitrator shall also supply the information with regard to the qualifications of the said Arbitrator nominated in the panel along with their professional experience, phone nos. and addresses to the contractor. The Contractor shall have to choose the sole Arbitrator from the panel of three and/or one Arbitrator from the panel of five in case three Arbitrators are to be appointed. The Employer shall also choose one Arbitrator from this panel of five and the two so chosen will choose the third arbitrator from the panel only. The competent authority shall then indicate the presiding arbitrator among three arbitrators. The Arbitrator(s) shall be appointed within a period of 30 days from the date of receipt of written notice/demand of appointment of Arbitrator from either party.

The arbitration proceedings shall be held in DFCCIL HQ office or respective CPM office or any other place nominated by employer. The language of proceedings that of documents and communication shall be English.

This is a condition of contract agreement /Arbitration that Arbitrators so nominated shall be professional Engineer/s. In case of 3 Arbitrators, one of the arbitrators shall be an accounts officer.

This is also a condition of contract that in case above procedure for nomination of arbitrator/s cannot be adopted due to whatsoever reason may be, then it will be deemed that no arbitration clause exist in contract agreement and normal law of land shall prevail to settle the disputes.

18.6 No Suspension of Work.

The reference to arbitration shall proceed notwithstanding that works shall not then be or be alleged to be complete, provided always that the obligations of the Employer and the contractor shall not be altered by reasons of arbitration being conducted during the progress of Works. Neither party shall be entitled to suspend 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.

18.7 Award To Be Binding On All Parties.

The award of the sole arbitrator or a bench of three arbitrators shall be binding on all parties.

18.8 Rules Governing The Arbitration Proceedings.

The arbitration proceedings shall be governed by Indian Arbitration and Conciliation Act 1996, as amended from time to time including provisions in force at the time the reference is made.

18.9 Limitation of Time.

No dispute or difference shall be referred to Arbitration after expiry of 60 days from the date of decision by the Engineer-In-Charge, if notified, or from the date when the Engineer-In-Charge ought to have given his decision in terms of provisions under Sub-clause 18.1.

18.10 Interest on Awarded Amount

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

18.11. Fee to Arbitrator/s

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 the rates fixed by the DFCC from time to time.

19 NOTICES

19.1 Notices to Contractor

- i. All notices to the Contractor shall be served by post or telex or telefax or by hand to the Contractor or his authorized representatives
- ii. The Contractor shall, on award of the Contract, furnish to the Engineer, the name, designation, address and telephone, telex and telefax numbers and e-mail address of his representative referred to in **Clause 4.4**.

19.2 Notice to Employer and Engineer

All notices to the Employer or Engineer shall be served by post or telex or telefax, or by delivering by hand to the address nominated for the purpose.

19.3 Change of Address

Parties to the Contract may change the nominated address with a notice to all concerned failing which all correspondence made on given address will be deemed to have been duly received by the concerned parties.

19.4 Change in Constitution of Firm

The Contractor shall forth with notify the Employer of any change in constitution of the firm. It is agreed terms & conditions of contract that no such change will be made effective unless specifically approved by the Employer failing which contract is liable to be terminated under Clause 10.4 of this GCC.

Dedicated Freight Corridor Corporation of India Ltd.

SECTION –V

SPECIAL CONDITIONS OF CONTRACT.

A. GENERAL

1. The Tenderer shall visit the site and shall satisfy himself as to conditions under which the work is to be performed. He shall also check, ascertain the locations of any existing structures or equipment or any other situation which may affect the work. No extra claim as a consequence of ignorance or on ground of insufficient description will be allowed at a later date.
2. The price of items includes all accessories, consumables etc. as required to make the item complete in all respects, compatible with other related/associated items and fully functional.
3. Contractor shall be fully responsible for any error, difficulty in execution/damage incurred owing to discrepancy in drawings which has been overlooked by him. However, the several documents forming the contract are to be taken as mutually explanatory of one another, detailed drawing being followed in preference to small scale drawing and figured dimensions in preference to scaled dimensions.

In the case of discrepancy between schedules of quantities, the specifications and/or the drawings, the following order of preference shall be observed:

- i. Description in the Schedule of Items, Rates and Quantities (BOQ)
- ii. Drawings.
- iii. Technical Specifications.

If there are varying or conflicting provisions made in any one document forming part of the contract, the accepting authority or the Employer shall be the deciding authority with regard to the intention of the document. Any error in decision, quantity or rate in Schedule of Quantities or any omission therefrom shall not vitiate the contract or release the contractor from the execution of the whole or any part of the work comprised therein according to drawing and specification or from any of his obligations under the contract.

4. LAND FOR CONTRACTORS ESTABLISHMENT

For the purpose of construction of Contractor's store yard, godowns, site office etc, the contractors may utilize with the permission of the Employer/Architect, portion and/or space belonging to the Employer if available, at such location as would not interfere with the execution of the work. The contractor shall for this purpose submit to the Employer for his approval a plan or plans of the proposed layouts for the site facilities. The Employer/Architect reserve the right to modify the contractor's proposal

as he may deem fit.

5. CONTRACTOR'S GENERAL RESPONSIBILITIES:

- 5.1** The Contractor shall execute and maintain the works with due care and diligence and shall provide all materials, labour including supervision thereof, constructional payment, temporary works, transport and all other things, whether of temporary or permanent nature, required for the proper execution and maintenance of the works.
- 5.2** The Contractor shall execute the whole and every part of the work, in the most substantial and workmanlike manner, both as regards materials and labour and in every respect in strict accordance with the contract documents. The Contractor shall conform exactly, fully and faithfully to the designs, drawings, and instructions relating to the works.
- 5.3** Before commencing any item of work, the Contractor shall correlate all relevant drawings and information and satisfy himself that the information available thereof is complete, unambiguous and without any discrepancies. The Contractor shall be responsible for any errors in the execution of the works and/or his sub contractor and/of the specialist agency to which has been assigned is not brought to the notice of the DFCC.
- 5.4** The dimensions and other information shown on the drawings are believed to be correct. The contractor shall however, verify them for himself and no claim of allowance whatsoever shall be entertained on account of any errors or omissions in the dimensions etc. from those shown in the drawings.
- 5.5** The Contractor shall pay, in full, all the third party suppliers and sub-contractors the amounts due in respect of the purchases of goods and services made of the works and shall on demand from the DFCC provide evidence of such payments. It is clarified the DFCC is not responsible to the third party suppliers and/or sub contractor for the payment of any dues.
- 5.6 TECHNICAL EXAMINATIONS:** The proposed work covered under this tender during its progress is subject to inspection by the Chief Technical Examiner/ Technical examiner, Central Vigilance Commission, Govt. of India or by an officer of the Vigilance cell of the Employer. The contractor will be required to extend all assistance and facilities for each inspection.
- 5.7 GUARANTEE:** Wherever a provision for submission of a guarantee has been advised, the same shall be submitted from the specialized agency along with a counter guarantee by the main contractor engaged for the work. The guarantee shall be furnished on a non-judicial stamp paper of appropriate value. If the contractor is required to submit guarantee/guarantees for any item/items for a period of more than 12 months, the guarantee/guarantees in case of these items shall remain valid even after expiry of the defect liability period of 6 months as stipulated.
- 5.8 WATER:** The rates quoted by the contractor shall include all expenditure for

providing all the water for the full contract period required for the work, including that for the work people and all staff on the site. He shall make his own arrangement for the supply of good quality water. He shall obtain municipal connection. And all charges for the connection & consumption shall be borne by him. If municipal water is not available or inadequate, he shall make other arrangements like sinking tube wells, or making bore wells or transport from outside by tanker or any other suitable means entirely at his own and no separate payment for the same shall be made.

5.9 POWER: The contractor shall at his own cost arrange for necessary power connection and lighting for the entire period of contract. If, however, separable power is available in the premises, the contractor shall make his own arrangements to obtain necessary connections, maintain efficient services of electric lights and power and shall pay for all the requisite charges for the same. The employer, as well as the consultant shall give the recommendations necessary to obtain power and water connections from the concerned authorities, but the responsibilities for obtaining the same shall rest with the contractor.

If any other contractor, appointed by the employer, is required to use water and power, he shall be allowed to use the same and make temporary connections from the supply arranged by the main contractor at rates, terms and conditions that may be decided by the Employer/Consultant.

5.11 FIRST-AID FACILITIES: The contractor shall at his own expense arrange to ensure availability of medical attendance promptly when necessary. He shall provide properly equipped first-aid station, in charge of qualified person at suitable location within easy reach of the workmen and staff. The contractor shall also provide for transport of serious cases to the nearest hospital. The contractor shall be responsible for any liability which may be excluded from the insurance policies referred in above mentioned clause and also for all other damages to any person, animal or property arising out of or incidental to the negligence or defective carrying out of this contract. He shall also indemnify the Employer in respect of any cost, charges or expenses arising out of any claims or proceedings and also in respect of any award of compensation and damages arising there from. The Employer shall with the concurrence of the consultant be entitled to deduct the amount of any damages, compensation, cost, charges and expenses arising from or occurring from or in respect of any such claim or damages from any or all sums due to or become to the contractor without prejudice to the employer's rights in respect thereof.

5.12 FIRE EXTINGUISHERS The contractor shall at his own expenses provide at suitable, prominent and easily accessible places, requisite number of fire extinguishers buckets – some filled with sand and some with water.

6. CONTRACTOR'S SUPERVISION:

- 6.1 The contractor shall provide all necessary supervision during the execution of the works and the guarantee period for the proper fulfillment of the Contractor's obligations under the contract document.
- 6.2 The Contractor shall employ for the execution of the works- such technical persons as are qualified and experienced and such representatives, Foremen and supervisory staff as are competent to supervise the works and in the course of any operations carried out by him for the purpose of completing any outstanding work or rectification of defects during the Guarantee Period.
- 6.3 The supervisors deployed can be demobilized on instructions of DFCC, if not found fit for the job.
- 6.4 Any material rejected by DFCC shall be removed from premises within 24 hours by the contractor at his own cost.

7. CO-OPERATION AND INTERFACE WITH OTHER CONTRACTORS:

- 7.1 The Contractor shall co-operate and interface with other Contractors and consulting agencies and freely exchange with them such technical information as necessary for the proper execution of the work.
- 7.2 The Contractor shall afford all reasonable opportunities to other Contractors, their workmen and to the workmen of DFCC for carrying out their works.
- 7.3 All operations necessary for the execution of works shall be carried out so as not to interfere unnecessarily with the execution of works by other.

Contractors execution of works under this contract shall be coordinated with the works of other contractors where it would interfere with their works or working. The DFCC and the concerned Contractor shall be informed well in time for effective coordination and proper execution of works.

8. CO-ORDINATION OF WORK:

- 8.1 At the commencement of work, and from time to time, the Contractor shall interface with other Contractors, sub-contractors, persons engaged on separate contracts in connection with the works, and with the DFCC for the purpose of coordination and execution of the various phases of works. The Contractor shall ascertain from the other Contractors, sub-contractors and persons engaged in separate contracts in connection with the works the extent of all chasing, cutting and forming of all opening, holes, groves etc., as may be required to accommodate the various services.

- 8.2** The Contractor shall ascertain the routes of all services and the position of all floors and wall outlets, traps etc., in connection with the installation of plant. services and arrange for the construction of work accordingly. The breaking and cutting of the work must be done as per the instructions of representative of the competent authority. Generally, all breaking shall be by the Contractor for civil works and no work shall be done over broken or patched work without first ascertaining that the broken surface is adequately prepared and reinforced to receive and hold further work.
- 8.3** The contractor shall protect and preserve the works from all damages or accidents.
- 8.4** The contractor shall properly clean the work as it progresses and shall remove all rubbish and debris from the site from time to time as is necessary and as directed. On completion, the contractor shall ensure that the premises and/or site are cleaned, surplus materials, debris, sheds etc. removed, all fixtures cleared and polished wherever necessary, all appliances commissioned so that the whole installation is left fit for immediate occupation or use and to the satisfaction of the Employer.
- 9. PROGRAMME/PROGRESS EVALUATION AND REVIEW:**
- 9.1** Network based integrated time schedule shall be submitted by the contractor. The time schedule shall include details of mobilization of resources, materials, equipment and labour. After the award of contract, the DFCC shall require the Contractor to expand the information given in the programme, until it is suitable for the effective review of progress during the execution of the works. The critical path shall be determined. The Contractor has to submit a time schedule that has to be duly approved by the DFCC and is available prior to the commencement of the works.
- 9.2** The Contractor shall review and update this programme time to time and furnish for the information to the DFCC, in writing, details of the Contractor's arrangement for executing the works, materials procured, erected, balance at site and expected deliveries the next week, skilled/unskilled labour, foremen, supervisors working at site and steps proposed for speeding up progress of work. A progress report, in writing, comparing the actual work to the completion schedule should be provided to the DFCC on as directed by Engineer in charge.
- 9.3** If, at any time it appears to DFCC, that the progress of the work does not conform to the approved programme, the Contractor shall furnish a revised programme and take such steps at his cost, as are necessary to expedite progress and ensure completion of works within the completion period or extended date of completion.
- 9.4** Approval by DFCC of such programme or the furnishing of such particulars shall not relieve the Contractor of any of his duties or responsibilities under the contract documents.

- 9.5** The Contractor shall be called upon to attend co-ordination meetings with DFCC, and shall fully cooperate with persons and agencies involved in these discussions. The Contractor shall take notes of the discussions during the meeting and shall strictly adhere to the decisions of DFCC in performing the works.
- 9.6** The Employer shall have the right to take possession of or use any completed or partially completed part of work. Such possession or use will not be an acceptance of any work not completed in accordance with the contract agreement.
- 10. INSPECTION OF WORKS:**
- 10.1** The DFCC or any person authorized by them shall at all times access to the works and the contractor shall assure and make available every facility and assistance in obtaining the right to access at his own cost.
- 10.2** All works embracing more than one process shall be subject to examination and approval at each stage thereof and the Contractor shall give due notice to the DFCC when such each stage is ready.
- 11. ADHERENCE TO TIME SCHEDULE:** Timely completion of work is the essence of the contract.
- 12. WITHHOLDING OF PAYMENTS:** DFCC may withhold or on account of subsequently discovered evidence, nullify the whole or part of any certificate to such extent as may be necessary to protect DFCC from loss on account of:
- (a) Defective work not remedied.
 - (b) Failure of the contractor to make payments properly to sub-contractors for materials or equipments or labor.
 - (c) Damage to works of another Contractor or Sub-Contractor.
 - (d) A reasonable doubt that the contractor is unlikely to complete the contract for the balance amount unpaid.
 - (e) A reasonable doubt that the contractor intends to leave the work incomplete. (f) Delay the work at site.
- 13.** In no event shall the contractor be entitled to collect any additional fees or further payments for general condition, administrative or overhead costs or expenses or profit in connection with any change in the works. No change in the works, whether by way of alteration or addition to the works shall be carried out unless the authorization is received. No course of conduct or dealings between the parties, nor expenses or implied acceptance of alterations or additions to the work and no claim that DFCC has been unjustly enriched by any alteration or addition to the work whether or not there is in fact any such unjust enrichment, shall be the basis for any claim to an increase in the contract sum or extend the completion date.

14. The work as detailed in this Tender shall be executed and completed in all respects in accordance with the Tender document, Instructions to Tenderers, Bill of Quantities, General & Special Condition Of The Contract, technical specifications, Schedules and Drawings to the satisfaction of DFCC.
15. DFCC does not bind itself to accept the lowest tender and reserves the right to reject any or all the tenders without assigning any reasons whatsoever.
16. **Difference of opinion:-**
- i) In case any difference of opinion, contractor shall submit his opinion to Engineer-in-charge.
 - ii) The appeal against decision of Engineer-in-charge shall lie with GM/Co/WC/DFCC.
 - iii) The decision of GM/Co/WC/DFCC of the project shall be final and binding in the interpretation of the clause of the codes and specifications under the Special Conditions relating to Site Data and Specifications of this tender document and no claim whatsoever shall be entertained on this account by DFCCIL.
 - iv) Items under this scope shall be deemed to be "excepted matters".

17.0 MAINTAINING RECORD OF CONSTRUCTION WORK:

- 17.1 The contractor is required to take and supply to the Engineer-in-charge colored photographs detailing the various stages of construction activities and achievements of milestones as directed by the Engineer-in - charge.
- 17.2 The coloured photographs shall be taken by the contractor of various activities pertaining to the work at regular intervals as directed by the Engineer-in-charge. A sets of 5"x3" prints of each shall be supplied. The negatives or soft copy of all the photographs taken shall be supplied to the Engineer-in-charge.
- 17.3 All the cost of reels, taking, developing and printing etc. shall be deemed to have been included in rates quoted against various items and nothing extra shall be paid for the item of work under the clause as above. The DFCCIL shall have full ownership of copyright of these entire photograph and the contractor shall indemnify the DFCCIL against any claim of any sort.

17.4 RECORDS AND REGISTERS

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

- i. SITE ORDER REGISTER :- The contractor shall promptly comply with site orders given therein by the Engineer or his representative or superior officers. The compliance shall be reported by the contractor to the Engineer in reasonable time so that it can be checked.
- ii. LABOUR REGISTER : This register will be maintained to show daily strength of labour in different categories employed by the contractor.
- iii. PLANT AND MACHINERY REGISTER : This register will record daily particulars of machinery with the contractor.
- iv. DAILY ACTIVITY REGISTER: All activities are required to be chronologically logged in this book, shifts-wise and date-wise.
- v. UNUSUAL OCCURENCES REGISTER: All unusual occurrences are required to be chronologically logged in this book.

18. TIME SCHEDULE:

On acceptance of tender, the contractor shall provide the detailed bar chart including the starting & finishing date of each and every activity, which shall be approved by Engineer- In-Charge. Thus contractor then, start the work as per the approved bar chart.

19. HIRING OF TOOLS AND PLANTS.

- 19.1** The contractor will be entirely responsible to arrange all necessary machinery required for successful completion of work and their spare parts required for sufficient and methodical execution of work and transport them to the site of work. Delay in procurement of such items due to their non-availability on account of import difficulties or any other cause whatsoever, will not be taken as excuse for slow or non-performance of the work. Safety of plants and machinery will be the responsibility of the contractor and for any loss due to any cause or wash away in flood, or otherwise no claim will be entertained on this account whatsoever carried out without hindering the Railway traffic in any way. Suitable arrangements shall have to be made by the contractor without infringing the schedule of dimensions.

DFCCIL shall not be responsible for any loss or damage to contractor's men, materials, equipments, tools and plants etc from any cause whatsoever. No claim for idle labour, idle machinery/plant etc on any account shall be entertained by DFCCIL. Similarly no claim will be entertained for business loss or any such loss for whatsoever reason.

20.0 Arbitration Clause

In the event of any dispute or difference between the parties in connection with this work, arbitration clause No 18 of General Conditions of Contract, regulations and instructions to tenderer/s and standard form of contract with replacement of work contract by contractor Architects/Consultant shall be applicable.

21.0 SUPPLY OF ELECTRIC POWER:

21.1 The Contractor shall be responsible for the arrangements to obtain supply of electric power necessary for the work. He shall preferably arrange his own electric generating set, especially in view of erratic and unreliable electric supply.

21.2 On request of contractor, DFCCIL will forward the contractor's application for getting electric supply to local authorities but it will be sole responsibility of contractor to get connection on his cost and time.

22.0 LABOUR

22.1 The contractor/s will be held responsible for compliance with provision of various laws, acts and rules & regulations related to contract labour even in respect of labour employed by his/their sub-contractor in the execution of the works contracted by him/them.

22.2 The contractor/s shall obtain labour license/registration certificate from the appropriate licensing officer/labour enforcement authority of the area before commencement of the work and shall produce a copy thereof along with the original to the CPM,DFCCIL,JAIPUR to start the work.

22.3 In any case, in which by virtue of provisions of contract labour (regulation and abolition) Act. 1970, the DFCCIL is obliged to provide amenities and/or pay wages to labour employed by the contractor directly or through petty contractor/s or sub-contractor/s under this contract then the contractor shall indemnify the DFCCIL fully and the DFCCIL shall be entitled to recover from the contractor the expenditure incurred on providing the said amenities and wages so paid by deducting it from the security deposit or from any sum due to the contractor from the DFCCIL provided that if any dispute arises as to the expenditure incurred by the DFCCIL on provisions of the said amenities, the decision of the Engineer-in-charge shall be final and binding on the contractor.

22.4 The DFCCIL will not take any responsibility or make arrangements for supply of food stuff to the contractor's staff or his/their labourers.

22.5 The contractor/s shall make his/their own arrangements at his/their own cost for supply of water to his/their staff and labour and the DFCCIL undertake no responsibilities for such supply of water to the contractor's staff or labourers.

22.6 The contractor/s shall take all precautionary measures in order to ensure protection of his own personnel moving about or working on the DFCCIL premises & shall have to conform to the rules and regulations as per instructions of Project Incharge. If any unforeseen incident or injury happens to any of contractor's personnel while working the contractor shall be solely responsible for the same.

22.7 The Contractor/s shall maintain necessary records such as employment cards, service certificates etc to be displayed on board in accordance with provisions of contractor labour act and contract labour rules.

23.0 WATER

The contractor shall be responsible for the arrangement to obtain supply of water necessary for the work at his own cost and rates quoted should take into account the cost of wells or any other arrangements required to be made for procuring water and loading/transporting/conducting water to the site of work, irrespective of the distance from the source. Quality of water in accordance with relevant BIS specifications depending upon the type of work will have to be confirmed. DFCCIL has no source of supply of water so far as construction of this work is concerned.

24.0 NOTICES TO PUBLIC BODIES

The contractor/s shall give to the municipality, police and other authorities, all notices that may be required by law and obtain all requisite licenses for temporary obstructions, enclosures and pay all fees, taxes and charges, which may be leviable on account of his operations in executing the contract. He should make good any damage to adjoining premises whether public or private and supply and maintain any lights etc. required at night. Nothing extra shall be payable on any such account and accepted rates of various items in the schedule of items, rates and quantities shall be deemed to cover any such aspect.

25.0 FIRST AID

The contractor/s shall maintain in a readily accessible place First Aid appliances including adequate supply of sterilized cotton wool. The appliances shall be placed under the charge of a responsible person who shall be trained for the purpose and shall be readily available during working hours.

26.0 CONDITIONAL TENDERS

Conditional tenders are liable to be rejected straight away. DFCCIL reserve the right to reject such tenders summarily without assigning any reasons whatsoever

27 Special condition of NS Items -

27.1 Item No. 1/NS/1:- Dismantling of all type of structure up to ground level consisting of Brick/stone masonry (plastered/pointed) CC.....

(a) Masonry structure

1. The rates include dismantling of all the masonry/framed structures covered with RCC/stone patti /RB roof.
2. If structure is covered with any other roof such as AC/CGI sheets, Chhappar/thatch

- roof over masonry, manglore tiles or roof of stone patties without CC or lime concrete payment will be made 20% less than the accepted rates.
3. If Any structure is to be dismantled partially i.e. to safeguard the part of structure, payment will be made at 20% higher than the accepted rates.
 4. It will be the responsibility of the contractor to safeguard the remaining structure. Any necessary arrangements such as strutening, scaffolding etc will be made by the contractor and no extra payment will be made on this account.
 5. Contractor will be liable for any damage to remaining/other structure any kind of injury/loss of human life/animal life of occupant of the structure at the time of dismantling.
 6. Any usable material recovered will be the property of original owner of the structure as per land acquisition act and Contractor is liable to safeguard released material like electrical appliances, doors/windows, grills, toilet fittings till handed over to structure owner. "In case original owner of property refuse to take any usable material the same shall be disposed off outside the ROW treating the same as unusable material by the contractor and no extra payment will be made to the contractor on this account".
 7. Contractor will take suitable precautions for safeguard against electric wiring etc for his workers & occupants during dismantling.

27.2 Item No. 1/NS/1 (b) Thatch roof with ballies.....

1. Item covers the dismantling of thatched roof, AC/CGI sheets mounted on the wooden ballies or wooden posts or on the temporary support.
2. Material released from dismantling will be the property of the owner of the structure. The material which is not taken by owner will be disposed off by the contractor at suitable place outside the Railway (DFCC) boundary or within the railway boundary as directed by Engineer in charge. No extra will be paid on this account.

28.3 Item No. 1/NS/1 (c):- Plain Boundary wall/ Wall in any type of masonry/cement concrete.....

1. Item includes dismantling of all type of boundary wall/wall up to any height if not covered with the roof.
2. Material released from the dismantling will be the property of the owner of the structure. Surplus material not taken over by the owner should be disposed of by the contractor at suitable place outside the Railway (DFCC) boundary or within the railway boundary as directed by Engineer in charge.

28.4 Item No. 1/NS/1 (d):- Plain Boundary wall/ Wall in any type of masonry/cement concrete.....

1. Item includes dismantling of all type of miscellaneous structures such as chabutara, RCC/Masonry tank etc.
2. Material released from the dismantling will be the property of the owner of the structure. Surplus material not taken over by the owner should be disposed of by the contractor at suitable place outside the Railway (DFCC) boundary as per the

instructions of Engineer in-charge.

Note: -

1. All the payment will be made as per the actual measurement or plinth area paid to the owner of the structure whichever is less. The plinth area measurement will be taken from the valuation done by the registered valuer during land acquisition.
2. If any structure has been dismantled by the owner partly, new measurements of the remaining structure will be made and payment will be made in the appropriate item as per the category of remaining part of the structure on the basis of actual measurements.
3. Contractor will make his own arrangements for disconnecting electric connections/water supply connections. He will also take necessary action for co-ordination with electrical department or PHED if required. No extra will be paid on this account.
4. After completion of dismantling of particular structure, he will realive the connection if structure is partially dismantled and remaining part of the structure is being used by the occupants. No extra will be paid on this account.
5. If any structure, other than the acquired structure under Railway acquisition act-2008 is required to be dismantled, payment of dismantling of such structure shall be made at the rate of 50% of the accepted rates and release material will be the property of contractor & no extra payment will be made for transportation, contractor has to take material outside Railway premises.

Date

SIGNATURE OF THE
TENDERER WITH
RUBBER STAMP

**DEDICATED FREIGHT CORRIDOR CORPORATION
OF INDIA LTD.**

Section-VI

SCHEDULE OF ITEMS, RATES & QUANTITIES

SCHEDULE OF ITEMS, RATES & QUANTITIES

Name of Work: Dismantling of acquired structures from Rewari to madar along DFCC alignment in the state of Haryana and Rajasthan on Western Freight Corridor under CPM/ JAIPUR .

Item No.	Description	Unit	Rate	Quantity	Amount
1NS/1	Dismantling of all type of structure up to ground level consisting of Brick/stone masonry (plastered /pointed) CC/ Terrazzo flooring, RCC/ Stone patti roof, including water supply/ sanitary/ electric fittings level and disposal of released material at suitable location outside the railway land boundary or as per the instruction of Engineer in charge. The rates include cost of all labour, machinery, T & P, lead lift crossing of nallah/canal/track taxes, royalties etc and all incidental charges as a complete job as per direction of Engineer in charge.				
(a)	Masonry structure Note: - 1. If any structure is to be dismantled partially, extra payment @ 20% will be paid to safeguard remaining structure 2. For any structure other than RCC/stone Patti roof, payment will be made @20% reduced rates. 3. For structure to be dismantled at 1st floor, extra payment @ 20% will be paid	Sq m	530.00	32000	1,69,60,000.00
(b)	Thatch roof with ballies or wooden posts/by any other temporary material	Sq m	50.00	3000	1,50,000.00
(c)	Plain Boundary wall/ Wall in any type of masonry/cement concrete (Not covered with roof)	RM	95.00	17000	16,15,000.00
(d)	Any other structure such as underground tank, Chabutara etc	Sqm	267.00	5500	14,68,500.00
TOTAL Estimated Cost Rs.					2,01,93,500.00

(Rs. Two Crore One Lakh Ninety Three Thousand Five Hundred Only)

Rate quoted by the tenderer-

In figure%(percentage) above/ below /at par

**In word%(percentage) above/
below /at par of the estimated cost
(to be filled by the Bidder/Tenderer)**

NOTE:

1. Bidders should quote %age above/below/at par both in words and figures.
2. In case of cutting/overwriting, the rates in words shall be taken as final.
3. Contractor has to quote a single flat percentage in the blank space above.
4. All cuttings and over-writings should be signed by the bidders.
5. Any drawings required to be seen by the bidder can be seen in the office of CPM/DFCCIL at B-12, Hanuman Nagar, Opp. Metro hospital, Sirsi Road Jaipur.
6. Multiple rates or rates not quoted in the desired format shall not be considered for evaluation.

Tender No. JP/AD/dismantling/2012/0-R

Date:

Signature of tenderer

ANNEXURE-I

STATEMENT OF WORKS COMPLETED BY THE CONTRACTOR DURING LAST THREE FINANCIAL YEARS & CURRENT FINANCIAL YEAR

SNo	Name and Place of Work	Authority/Agency/Company for which work was carried out	Date of award & agreement no
1	2	3	4

Date of Completion(original/actual)	Agreement cost/Completion cost	Scope of work in brief	SNo at which relevant certificate/documents are attached
5	6	7	8

Note: The relevant documents & certificates from clients must be enclosed.

**DETAILS OF CONTRACTUAL PAYMENT RECEIVED IN LAST THREE
FINANCIAL YEARS & CURRENT FINANCIAL YEAR**

SNo	Financial Year	Total Turnover
1	2009-10	
2	2010-11	
3	2011-12	
4	2012-13	
	Total	

- For 2009-10, 2010-11 & 2011-12 copies of the audited balance sheets may please be attached.
- For 2012-13, unaudited results of turnover of company upto date may be submitted under the certification of CA.

CONSTITUTION OF THE FIRM/ COMPANY

1. Full name of contractor's firm and year of establishment:
2. Registered Head Office address:
3. Branch offices in India

Address on which correspondence regarding this tender should be done.

4. Constitution of firm (give full details including name of partners/ executives/ Power of Attorney/ Holders etc.
5. Particulars of registrations with Government

ANNEXURE-IV

**FORM OF PERFORMANCE SECURITY
(BANK GUARANTEE)**

(On non-judicial stamp paper of the appropriate value in accordance with stamp Act. The stamp Paper to be in the name of Executing Bank)

From:

.....
Name and address of bank

To:

The Managing Director
Dedicated Freight Corridor Corporation of India Ltd.
5th Floor Pragati Maidan Metro Station Building Complex
New Delhi- 110001

WHEREAS, Dedicated Freight Corridor Corporation of India Ltd. hereinafter called "the Employer" acting through (insert designation and address of the Employers' Representative).....has accepted the tender for.....(name of the work).....vide Letter of Acceptance No.....dated.....to M/s.....(Name of the contractor).....(Name of members of the consortium).....hereinafter called the „Contractor’.

AND

WHEREAS the Contractor is required to furnish a „Performance Security’ in the form of Bank Guarantee for the sum of Rs.... in amount.....(Rupees.....in words.....) which is a condition precedent to the signing of the Contract Agreement.

AND

Whereas.....(Name of the bank).....with is branch at(address).....having our Head Office at.....(address including name of country).....hereinafter called " the Bank" acting through.....have, at request of the Contractor, agreed to give the guarantee as hereinafter contained:

KNOW ALL MEN by these presents that we the undersigned....Names of authorized representatives of the Bank).....being fully authorized to sign and incur obligations for and on behalf of(full name of the Bank).....that the said Bank will guarantee the Dedicated Freight Corridor Corporation of India Ltd. the full amount in the sum of Rs.....(amount in words).....As stated above.

After the Contractor has signed the aforementioned Contract Agreement with the DFCC, the Bank undertakes to immediately pay to Dedicated Freight Corridor Corporation of India Ltd., any amount upto and inclusive of aforementioned full amount upon written order from DFCC without any demur, reservation or recourse;

The Bank shall pay the amount so demanded without any reference to the Contractor and without the DFCC being required to show grounds or give reasons for its demand or the

amount demanded.

The Guarantee hereinbefore shall not be affected by any change in the constitution of our Bank or in the constitution of the Contractor.

We agree that no change, addition to or other modifications to the terms of the Contract Agreement or to any documents which have or may be made between DFCC and the Contractor will in any way release us from any liability under this guarantee and we waive any requirement for notice of any such change, addition or modification.

This guarantee is valid and effective from its date. This guarantee and our obligations under it will terminate on (the issue of) the..... day of.....And any demand for payment under it must be received at this office on or before that date.

We agree that our obligation to pay any demand made by DFCC before the termination of this guarantee will continue until the amount demanded has been paid in full.

Date.....
Place.....

Signature of Authorised person of bank
.....
(Name in Block letters)
(Designation)
(Address.....)

Witness:

1. Signature

Name & Address & Seal

Bank's Seal

Authorisation

2. Signature

Name & Address & Seal

FORM OF AGREEMENT

TO BE EXECUTED ON A RS.100/- NON-JUDICIAL STAMP PAPER

Name of the work:

This Agreement is made on the ---- day of ----- 2013 between DFCC hereinafter called “the Employer” of the one part and M/s-----hereinafter called “the contractor” of the other part.

Whereas the Employer is desirous that as Detailed in Section 2.0 - Scope of work “ hereinafter called the “them Works” and has accepted a Tender by the contractor for the execution and completion of such works.

NOW THIS AGREEMENT WITNESSETH as follows:

1. In this Agreement words and expression shall have the same meanings as are respectively assigned to them in the conditions of contract hereinafter referred to. The following documents shall be deemed to form and be read and construed as part of this Agreement viz. a. TENDER NO: comprising of Notice Inviting Tender, Instructions to Tenderers, Scope of work, Technical specifications, Special Conditions of Contract and Bill of Quantities.

b. Your offer through your letter No. -----

c. Our Letter of acceptance No.:-----

In consideration of the payment to be made by the Employer to the contractor as hereinafter mentioned, the contractor hereby covenants with the Employer to execute and complete the works by ----- and remedy any defects therein in conformity in all respects with the provisions of the contract. The Employer hereby covenants to pay the contractor in consideration of the execution and completion of the works and the remedying of defects therein, the Contract price of Rs. ----- being the sum stated in the letter of acceptance subject to such additions thereto or deductions there from as may be made under the provisions of the contract at the times and in the manner prescribed by the contract.

IN WITNESS WHEREOF the parties hereto have caused their respective common Seals to be hereunto affixed / (or have hereunto set their respective hands and seals) the day and year first above written.

For and on behalf of the Contractor

Name of the official
Stamp/Seal of the contractor

In the presence of

Witness

Name
Address

For and on behalf of the Employer

Name of the official
Stamp/Seal of the Employer

In the presence of

Witness

Name
Address

No Claim Certificate

1. I/We Was/Were awarded the work namely

2. The work has been completed and jointly measured and full payment has been made to me/us in terms of the measurement so recorded and in accordance with provisions of work order/agreement.

3. I/We have no other claim against M/s Dedicated Freight Corridor Corporation of India Ltd

4. I/We have made payments to the labourers & sub contractors strictly as per labour laws and other rules/laws of land in force. M/s DFCC shall be responsible for any dispute arisen between me/us with labourers & sub contractors later on.

5. I/We hereby undertake and reiterate that I/We have given this No Claim Certificate with free consent and without any corrosion as such M/s DFCC stands relieved from all contractual obligations for above noted work order/agreement.

Thanking you,

Yours Faithfully,

Witness:-

1. Name
Full address with
date

2. Name
Full address with
date

(Signature)
Name of the Contractor
With date

Note:- In case any contractor is not willing to sign this no claim certificate before passing the final bill, then the matter may please be referred to Employer giving comments/reason as to why the contractor is not willing to sign the said no claim certificate. The final bill should only be passed after further instructions from employer.

Real Time Gross Saving(RTGS)/ National Electronic Fund Transfer(NEFT)

(Model Mandate Form)

(Investor/customer's option to receive payments through RTGS/NEFT)

1. Investor/customer's name
2. Particular's of Bank Account:
 - A) Name of the Bank:
 - B) Name of the Branch.
Address
Telephone No.
 - C) RTGS/NEFT IFS Code.
 - D) Type of the account (S.B./ Current or Cash Credit)
With code (10/11/13).
 - E) Ledger and Ledger folio number.
 - F) Account number (as appearing on the Cheque book) (in lieu of the bank certificate to be obtained as under, please attach a blank cancelled cheque or a photocopy of a cheque or front page of your savings bank pass book issued by your bank for verification of the above particulars)
- 3 Date of effect

I hereby declare that the particulars given above are correct and complete. If the transaction is delayed or not effected at all for reasons of incomplete or incorrect information, I would not hold the user institution responsible. I have read the option invitation letter and agree to discharge the responsibility expected of me as a participant under the scheme.

(.....)
Signature of the Investor/ Customer
Date

Certified that he particulars furnished above are correct as per our records.

Bank's Stamp

Signature of Bank Authority
(with seal)
Signature of the tenderer/s

Guidelines for submitting tenders by Partnership Firms and their Eligibility Criteria

- 1** The Partnership Firms participating in the tender should be legally valid under the provisions of Indian Partnership Act.
- 2** Partnership Firms are eligible to quote tenders of any value.
- 3** The Partnership Firm should have been in existence or should have been formed prior to submission of tender. Partnership firm should have either been registered with the competent registrar or the partnership deed should have been notarized prior to date of tender opening, as per Indian partnership Act.
- 4** Separate identity/name should be given to the partnership firm. The partnership firm should have PAN/TAN number in its own name and PAN/TAN number in the name of any of the constituent partners shall not be considered. The valid constituents of the firm shall be called partners.
- 5** Once the tender has been submitted, the constitution of firm shall not be allowed to be modified/alterd/terminated during the validity of the tender as well as the currency of the contract except when modification becomes inevitable due to succession laws etc, in which case prior permission should be taken from DFCCIL and in any case the minimum eligibility criteria should not get vitiated. The reconstitution of firm in such cases should be followed by a notary certified Supplementary Deed. The approval for change of constitution of the firm, in any case, shall be at the sole discretion of the DFCCIL and the tenderer shall have no claims whatsoever. Any change in the constitution of Partnership Firm after opening of tender shall be with the consent of all partners and with the signatures of all partners as that in the Partnership deed. Failure to observe this requirement shall render the offer invalid and full EMD shall be forfeited. If any partner/s withdraw from the firm after opening of the tender and before award of the tender, the offer shall be rejected. If any new partner joins the firm after opening of tender but prior to award of contract, his/her credential shall not qualify for consideration towards eligibility criteria either individually or in proportion to this share in the previous firm. In case the tenderer fails to inform DFCCIL beforehand about any such changes/modification in the constitution which is inevitable due to succession laws etc. and the contract is awarded to such firm, then it will be considered a breach of contract conditions, liable for determination of contract under General Condition of Contract.
- 6** A Partner of the firm shall not be permitted to participate either in his individual capacity or as a partner of any other firm in the same tender.
- 7** The tender form shall be purchased and submitted only in the name of partnership firm and not in the name of any constituent partner. The EMD shall be submitted only in the name of Partnership Firm. The EMD submitted in the name of any individual partner or in the name of authorized partner(s) shall not be considered.
- 8** One or more of the partners of the firm or any other person(s) shall be designated as the authorized person(s) on behalf of the firm, who will be authorized by all the partners to act on behalf of the firm through a "Power of Attorney" specifically authorizing him/them to submit & sign the tender, sign the agreement, receive

payment, witness measurements, sign measurement books, make correspondences, compromise, settle, relinquish any claim(s) preferred by the firm, sign "No Claim Certificate", refer all or any dispute to Arbitration and to take similar such action in respect of the said tender/contract. Such "Power of Attorney" should be notarized /registered and submitted along with tender.

- 9** A notary certified copy of registered or notarized partnership deed shall be submitted along with the tender
- 10** On award of the contract to the partnership firm, a single Performance Guarantee shall be submitted by the firm as per tender conditions. The entire guarantee like Performance guarantee, guarantee for Mobilization advance, Plant and Machineries advance shall be submitted only in the name of the partnership firm and no splitting of guarantees among the partners shall be acceptable.
- 11** On issue of LOA, contract agreement with partnership firm shall be executed in the name of the firm only and not in the name of any individual partner
- 12** In case, the contract is awarded to a partnership firm, the following undertakings shall be furnished by all the partners through a notarized affidavit before signing of contract agreement:-
 - a) Joint and several liabilities:- The Partners of the firm to which the contract is awarded, shall be jointly and severally liable to the DFCCIL for execution of the contract in accordance with general and special conditions of the contract. The partners shall also be liable jointly and severally for the loss, damages caused to the DFCCIL during the course of execution of the contract or due to non-execution of the contract or part thereof.
 - b) Duration of the partnership deed and partnership firm agreement:-

The partnership deed/partnership firm agreement shall normally not be modified, altered, terminated during the currency of contract and the maintenance period after the work is completed as contemplated in the conditions of the contract. Any change carried out by partners in the constitution of the firm without permission of DFCCIL, shall constitute a breach of contract liable for determination of contract under General Conditions of Contract.
 - c) Governing Laws:- The partnership firm agreement shall in all respect be governed by and interpreted in accordance with the Indian Laws.
 - d) No partner of the firm shall have the right to assign or transfer the interest right or liability in the contract without the written consent of the other partner and that of the DFCCIL in respect of the tender/contract.
- 13** The tenderer shall clearly specify that the tender is submitted on behalf of a partnership concern. The following documents shall be submitted by the partnership firm, with the tender. -
 - a) A copy of registered/notarized partnership deed duly authenticated by Notary.
 - b) Power of Attorney duly stamped and authenticated by a Notary Public or by a Magistrate from all partners of the firm in favour of one or more of the partners(s) or any other person(s) as detailed in para (8) above.

c) An undertaking by all the partners of the partnership firm shall be given that they have not been black listed or debarred by DFCCIL or any other Ministry/Department of the Govt. of India/any State Govt. from participation in tenders/contract on the date of opening of bids either in their individual capacity or in any Firm in which they were/are partners. Concealment/wrong information in regard to above shall make the contract liable for determination under General Conditions of Contract.

14 Evaluation of eligibility of a partnership firm Technical and Financial eligibility of the firm shall be adjusted based on satisfactory fulfillment of the following conditions:-

i) Technical eligibility criteria:- The tenderer should satisfy either of the following criteria:-

a) The partnership firm shall satisfy the full requirement of technical eligibility criteria (defined in "Para 23 of General Instructions to Tenderers (Section-III)") in its own name and style;

OR

b) In case the partnership firm does not fulfill the technical eligibility criteria in its own name and style, but one of its partners has executed a work in the past either as a sole proprietor of a firm or as a partner in a different partnership firm, then such partner of the firm shall satisfy the technical eligibility criteria (defined in "Para 23 of General Instructions to Tenderers (Section-III)") on the basis of his/her proportionate share in that proprietorship/partnership firm reduced further by his/her percentage share in the tendering firm.

ii) Financial eligibility criteria:- The tenderer shall satisfy either of the following criteria:-

a) The partnership firm shall satisfy the full requirements of the financial eligibility criteria (as defined in "Para 23 of General Instructions to Tenderers (Section-III)") in its own name and style.

OR

b) In case the partnership firm does not fulfill the financial eligibility criteria in its own name and style, but one or more of its partners have executed a work/contract in the past either as sole proprietor or as partner in different firms, then the arithmetic sum of the contractual payments received by all the partners of the tendering firm, derived on the basis of their respective proportionate share in the such firms reduced further by their respective percentage share in the tendering firm, tendering firm shall satisfy the full requirements of the financial eligibility criteria (as defined in Para 23 of General Instructions to Tenderers (Section-III)").

(END OF DOCUMENTS)