

# **CPM ALLAHABAD (EAST) UNIT**

## **TENDER DOCUMENT**

**Name of Work: Dismantling of structures between Karchana to Mughalsarai coming in DFC alignment in the state of U.P. on Eastern Freight Corridor under CPM/ ALD (EAST)**

**(Tender No. ALD (E)/EN/ Structures Dismantling /2013/01)**

**AUG 2013**

**Dedicated Freight Corridor Corporation of India Ltd.  
1<sup>st</sup> Floor, Old G.M. Office Building, N. C. Railway,  
Balmiki Chaurha, Nawab Yusuf Road, Allahabad-211001**

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**Dedicated Freight Corridor Corporation of India Ltd.**  
**1<sup>st</sup> Floor, Old G.M. Office Building, N. C. Railway,**  
**Balmiki Chaurha, Nawab Yusuf Road, Allahabad-211001**

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**Dedicated Freight Corridor Corporation of India Ltd.**  
**(A Government Of India Undertaking)**  
**1<sup>st</sup> Floor, Old G.M. Office Building, N. C. Railway,**  
**Balmiki Chauraha, Nawab Yusuf Road, Allahabad-211001**

**NOTICE INVITING TENDER**

No. ALD (E)/EN/ Structures Dismantling /2013/01

Dated: 8<sup>th</sup> AUG 2013

CHIEF PROJECT MANAGER, DFCCIL, 1<sup>st</sup> Floor, Old G.M. Office Building, N. C. Railway, Balmiki Chauraha, Nawab Yusuf Road, Allahabad-211001 for and on behalf of DFCCIL invites sealed open tenders for the following work:

Name of Work	Completion Period	Last Date & Time of Submission	Date & Time of Opening	Approx. Cost	Earnest Money
Dismantling of structures between Karchana to Mughalsarai coming in DFC alignment in the state of U.P. on Eastern Freight Corridor under CPM/ ALD (EAST)	8 months	Up to <b>15.00 Hours on 25/9/2013</b> in the office of CPM/ ALD (E)	25/9/2013 at <b>15.30 Hrs</b> in the office of CPM/ ALD (E)	Rs. 65.44 <b>Lacs.</b> (Rs Sixty Five Lacs & Forty Four Thousand only)	Rs.1,30,900/- (Rs One Lakh thirty thousand Nine Hundred only)

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

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

**Note: Similar work means Any Civil Engineering Work.**

The Tenderer should submit documents in support of minimum eligibility criteria along with the tender. No document in support of minimum eligibility criteria will be accepted / entertained after opening of tender.

Tender form can be purchased from the office of CPM/ALLAHABAD (EAST), 1<sup>st</sup> Floor, Old G.M. Office Building, N. C. Railway, Balmiki Chauraha, Nawab Yusuf Road, Allahabad-

211001 on any working day before 25/9/2013 between 11:00 hours to 17:00 hours and on 25/9/2013 up to 12.00 Hours on payment of Rs 5000/- (Rs Five Thousand) (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 DFCCIL payable at New Delhi. The tender document can be downloaded from the website:

1. [www.dfccil.org](http://www.dfccil.org).
2. [www.eprocure.gov.in](http://www.eprocure.gov.in)
3. [www.dfcc.in](http://www.dfcc.in)

If downloaded tender document is used then cost of the tender document has to be submitted with tender document 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, ALLAHABAD (East), payable at ALLAHABAD. Tender submitted without cost of tender document/earnest money shall summarily be rejected.

In case tender opening date happens to be holiday, tender will be received/opened on the next working day at schedule time.

# Dedicated Freight Corridor Corporation of India Ltd.

## Section I

Dear Sir,

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

1. Chief Project Manager, DFCCIL, 1<sup>st</sup> Floor, Old G.M. Office Building, N. C. Railway, Balmiki Chauraha, Nawab Yusuf Road, Allahabad-211001 for ad on behalf of DFCCIL invites sealed open tenders from tenderers for undertaking the following work:

Tender No.	Name of work
ALD (E)/EN/ Structures Dismantling /2013/01	Dismantling of structures between Karchana to Mughal-sarai coming in DFC alignment in the state of U.P. on Eastern Freight Corridor under CPM/ ALD (EAST)

## 2. DETAILS OF TENDER DOCUMENTS

- 2.1 **Tender Documents:** The interested Tenderers may collect the tender documents from the office of Chief Project Manager, DFCCIL, ALD (East) on any working day before 25/9/2013 between 11:00 hours to 17:00 hours and on 25/9/2013 up to 12.00 Hours on payment of **Rs.5,000/-** in the form of Demand Draft/Bankers Cheque issued by any nationalized bank of India or any scheduled bank of India, in favour of DFCCIL payable at New Delhi. Tender Documents can be downloaded from websites ([www.dfccil.org](http://www.dfccil.org), [www.eprocure.gov.in](http://www.eprocure.gov.in) & [www.dfcc.in](http://www.dfcc.in)). If downloaded tender document is used then cost of the tender document has to be submitted with tender document in the form of Demand Draft/Bankers Cheque issued by any nationalized bank of India or any scheduled bank of India, in favour of DFCCIL payable at New Delhi. Tender submitted without cost of tender document/earnest money shall summarily be rejected.
- 2.2 **Tenders must be accompanied by Bid Security (Earnest Money Deposit) of Rs.1,30,900/- (Rs One Lakh Thirty Thousand Nine Hundred only)** 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 DFCCIL payable at New Delhi. 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/ALD (East) and super scribed the name of work must be dropped in

the office of CPM/DFCCIL/ALD **up to & not later than 15:00 hrs on 25/9/2013 and the same shall be opened at 15:30 hrs** on the same day in 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 extent policy.

**2.4 Address for Communication:** Interested Tenderers may obtain further information from the office of “Chief Project Manager, DFCCIL, 1<sup>st</sup> Floor, Old G.M. Office Building, N. C. Railway, Balmiki Chauraha, Nawab Yusuf Road, Allahabad-211001.

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

**3. Completion Period** Total time for completion of work shall be **8 months** from the date of issue of Letter of Acceptance by DFCCIL. Time is the essence of the Contract.

#### **4. 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 the websites 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, it can be 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.



# 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, 1<sup>st</sup> Floor, Old G.M. Office Building, N. C. Railway, Balmiki Chauraha, Nawab Yusuf Road, Allahabad-211001

Sub: Dismantling of structures between Karchana to Mughalsarai coming in DFC alignment in the state of U.P. on Eastern Freight Corridor under CPM/ ALD (EAST).

Ref: Tender Notice No. ALD (E)/EN/ Structures Dismantling /2013/01 dated 8/8/2013

1. I/We..... have read the various conditions of tender attached hereto and hereby agree to adhere by the said conditions. I/We 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. 1,30,900/-** 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. No..... 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 DFCCIL 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 Percent) 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 option
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
Details of completed works in last 3 years and current year in the form prescribed in Annexure – I ii) The relevant documents and certificates from the client.	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 structures between Karchana to Mughalsarai coming in DFC alignment in the state of U.P. on Eastern Freight Corridor under CPM/ ALD (EAST).

#### 1. GENERAL

Conditions	Clause	Details in brief
Employer Name & Address	Section-I Clause 2.4	Chief Project Manager, DFCCIL, 1 <sup>st</sup> Floor, Old G.M. Office Building, N. C. Railway, Balmiki Chauraha, Nawab Yusuf Road, Allahabad-211001
Employers Representative	Sec.VI/ GCC Clause 3	DFCC nominated engineer
Address for communication	Section – 1 Clause 2.4	Chief Project Manager, DFCCIL, 1 <sup>st</sup> Floor, Old G.M. Office Building, N. C. Railway, Balmiki Chauraha, Nawab Yusuf Road, Allahabad-211001
Tender details: a. Date & Time for sale of Tenders	Section – 1, Clause- 2.1	Before 25/9/2013 between 11:00 hours to 17:00 hours and on 25/9/2013 up to 12.00 Hours
b. Cost of Tender documents	Section – 1, Clause - 2.1	Rs.5,000/- Chief Project Manager, DFCCIL, 1 <sup>st</sup> Floor, Old G.M. Office Building, N. C. Railway, Balmiki Chauraha, Nawab Yusuf Road, Allahabad-211001.
c. Address	Section – 1, Clause- 2.4	Chief Project Manager, DFCCIL, 1 <sup>st</sup> Floor, Old G.M. Office Building, N. C. Railway, Balmiki Chauraha, Nawab Yusuf Road, Allahabad-211001.
Estimated Cost of Work	Section-VI	Rs. <b>65,44,377/-</b>
Total time for Completion of work	Section – I Clause 3	8 months from the date of issue of Letter of Acceptance.
Earnest Money Deposit/ Bid Security	Section -I, Clause 2.2	Rs. 1,30,900/-
Last Date & time of Receipt of Tenders	Section – I , Clause 2.3	<b>15.00 Hrs on 25/9/2013</b>
Date & time of opening of Tenders	Section – I, Clause 2.3	<b>15.30 Hrs on 25/9/2013</b>

Minimum Eligibility Criteria	Section – III, Clause-22	Should have completed one similar work in Govt. Dept/ Semi Govt. 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 **25/9/2013** up to 15:00 hrs in the Office of Chief Project Manager, DFCCIL, 1<sup>st</sup> Floor, Old G.M. Office Building, N. C. Railway, Balmiki Chauraha, Nawab Yusuf Road, Allahabad-211001
- 2.2 The tender shall be addressed to: “Chief Project Manager, DFCCIL, 1<sup>st</sup> Floor, Old G.M. Office Building, N. C. Railway, Balmiki Chauraha, Nawab Yusuf Road, Allahabad-211001 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 as specified in the tender notice and any amendments thereof in presence of such of those tenderers or their authorized representatives who wish to be present.
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 may 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/ALD (East) 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.1,30,900/-** 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 **DFCCIL** payable at New Delhi.
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.
  - 11.2 In case of unsuccessful tenderers, the Bid Security/Earnest Money will be refunded to them after finalization/award of the tender.
12. 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 (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 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 Tenderer's 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 15 days of deposit of PG.

**16. PERFORMANCE GUARANTEE:** The procedure for obtaining Performance Guarantee is outlined below:

- (a) The successful bidder shall have to submit a Performance Guarantee (PG) within 30 (thirty) days from the date of issue of Letter of Acceptance (LOA). Extension of time for submission of PG beyond 30 (thirty) days and up to 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 31<sup>st</sup> 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, Allahabad (EAST).
- (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 up to 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 up to 25% (either increase or decrease). In case during the course of execution, val-

ue 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 for the due and faithful fulfillment of the contract. The balance amount shall be recovered from the running bills. The rate of recovery shall be at the rate of 10% of the bill amount till the full security deposit is recovered. Security deposit for the work shall be 5% of the contract value.

**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.
- 19. Scope of works:** The successful tenderer has to carry out the Dismantling of structures between Karchana to Mughalsarai coming in DFC alignment.
- 20. 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. **Defect Liability Period:** There will be no defect liability period.
22. **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 during last three financial years and up to date of opening of the tender in the current year (i.e. current year and three previous years).
  - 2) The tenderer should have received **total contract amount** for works with Government/ Semi Government during last three financial years and up to date of opening of the tender 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.

**NOTE: "Similar work means any Civil Engineering work". Certificates from Private individuals will not be accepted.**

- 3) No JV firms are allowed to participate in the tenders of value less than Rs 25 crore.
- 4) New joint ventures will not be permitted. Only such joint ventures that 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 (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 DFCCIL. DFCCIL 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 website ([www.dfcc.in](http://www.dfcc.in), [www.dfccil.org](http://www.dfccil.org), or [www.eprocure.gov.in](http://www.eprocure.gov.in)) are required to keep visiting the website to download corrigendum, which may be issued from time to time. The final offer shall include all corrigenda otherwise the offer shall be liable to be rejected. No separate communication will be made with the tenderers who download tender documents from website.

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# **Dedicated Freight Corridor Corporation of India Ltd.**

## **Section IV**

### **GENERAL CONDITIONS OF CONTRACT (GCC)**

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# STANDARD GENERAL CONDITIONS OF CONTRACT

## FOR USE IN CONNECTION WITH WORKS CONTRACTS

### DEFINITIONS AND INTERPRETATION

#### 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 a calendar year.
  - 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. words 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.

#### **GENERAL OBLIGATIONS**

2. **Execution Co-Relation And Intent Of Contract Documents:**

- 2.1 The contract documents shall be signed in triplicate by the DFCCIL and the Contractor. The contract documents are complementary and what is called for by anyone shall be as binding as if called for by all, the intention of the documents is to include all labour and materials, equipments and transportation necessary for proper execution of work. Materials or works not covered by or properly inferable from any heading or class of the specifications shall not be supplied by the DFCCIL to the contractors unless distinctly specified in the contract documents. Materials or works described in words which so applied have a well-known technical or trade meaning shall be held to refer to such recognised standards.
- 2.2 If a work is transferred from the jurisdiction of one DFCCIL UNIT to another DFCCIL UNIT or to a Project authority or vice versa while contract is in subsistence, the contract shall be binding on the Contractor and the Successor DFCCIL UNIT/Project in the same manner & take effect in all respects as if the Contractor and the Successor DFCCIL UNIT/Project were parties thereto from the inception and the corresponding officer or the Competent Authority in the Successor DFCCIL UNIT/Project will exercise the same powers and enjoy the same authority as conferred to the Predecessor DFCCIL UNIT/Project under the original contract/agreement entered into.

- 2.3 If for administrative or other reasons the contract is transferred to the Successor DFCCIL UNIT, the contract shall, notwithstanding any things contained herein contrary there to, be binding on the Contractor and the Successor DFCCIL UNIT in the same manner and take effect in all respects as if the Contractor and the Successor DFCCIL UNIT had been parties thereto from the date of this contract.
- 3.
- 3.1 **Law Governing The Contract** : The contract shall be governed by the law for the time being in force in the Republic of India.
- 3.2 **Compliance To Regulations And Bye-Laws** : The Contractor shall conform to the provision of any statute relating to the works and regulations and bye-laws of any local authority and of any water and lighting companies or undertakings, with whose system the work is proposed to be connected and shall before making any variation from the drawings or the specifications that may be necessitated by so confirming give to the Engineer notice specifying the variation proposed to be made and the reason for making the variation and shall not carry out such variation until he has received instructions from the Engineer in respect thereof. The Contractor shall be bound to give all notices required by statute, regulations or bye-laws as aforesaid and to pay all fees and taxes payable to any authority in respect thereof.
4. **Communications To Be In Writing**: All notices, communications, reference and complaints made by the DFCCIL or the Engineer or the Engineer's Representative or the Contractor interse concerning the works shall be in writing and no notice, communication, reference or complaint not in writing shall be recognized.
5. **Service Of Notices On Contractors** : The Contractor shall furnish to the Engineer the name, designation and address of his authorized agent and all complaints, notices, communications and references shall be deemed to have been duly given to the Contractor, if delivered to the Contractor or his authorised agent or left at or posted to the address so given and shall be deemed to have been so given in the case of posting on day on which they would have reached such address in the ordinary course of post or on the day on which they were so delivered or left. In the case of contract by partners, any change in the constitution of the firm shall be forthwith notified by the Contractor to the Engineer.
6. **Occupation And Use Of Land**: No land belonging to or in the possession of the DFCCIL shall be occupied by the Contractor without the permission of the DFCCIL. The Contractor shall not use, or allow to be used; the site for any purposes other than that of executing the works. Whenever non-DFCCIL bodies/persons are permitted to use DFCCIL premises with competent authority's approval, conservancy charges as applicable from time to time may be levied.

7. **Assignment Or Subletting Of Contract :** The Contractor shall not assign or sub-let the contract or any part thereof or allow any person to become interested therein any manner whatsoever without the special permission in writing of the DFCCIL. Any breach of this condition shall entitle the DFCCIL to rescind the contract under Clause 62 of these Conditions and also render the contractor liable for payment to the DFCCIL in respect of any loss or damage arising or ensuing from such cancellation. Provided always that execution of the details of the work by petty contractor under the direct and personal supervision of the Contractor or his agent shall not be deemed to be sub-letting under this clause. The permitted sub-letting of work by the Contractor shall not establish any contractual relationship between the sub-contractor and the DFCCIL and shall not relieve the Contractor of any responsibility under the Contract.
8. **Assistance By DFCCIL For The Stores To Be Obtained By The Contractor :** Owing to difficulty in obtaining certain materials (including Tools & Plant) in the market, the DFCCIL may have agreed without any liability therefore to endeavour to obtain or assist the Contractor in obtaining the required quantities of such materials as may be specified in the Tender. In the event of delay or failure in obtaining the required quantities of the aforesaid material, the Contractor shall not be deemed absolved of his own responsibility and shall keep in touch with the day to day position regarding their availability and accordingly adjust progress of works including employment of labour and the DFCCIL shall not in any way be liable for the supply of materials or for the non-supply thereof for any reasons whatsoever nor for any loss or damage arising in consequence of such delay or non-supply.
9. **FREE Passes:** No free passes shall be issued by the DFCCIL to the Contractor or any of his employee/worker.
10. **Carriage Of Materials:** No forwarding orders shall be issued by the DFCCIL for the conveyance of Contractor's materials, tools and plant by Rail which may be required for use in the works and the contractor shall pay full freight charges at public tariff rates therefor.
11. **Use Of Ballast Trains :** The DFCCIL may agree to allow the Contractor use of the ballast or material trains under such conditions as shall be specially prescribed, provided that the Contractor shall pay for the use thereof charges calculated at public tariff rates on the marked carrying capacity of each vehicle subject to specified minimum charge per day or part of day and provided further that the Contractor shall indemnify the DFCCIL against any claims or damages arising out of the use or misuse thereof and against any liabilities under the Workmen's Compensation Act, 1923 or any statutory amendments thereto.

12. **Representation On Works:** The Contractor shall, when he is not personally present on the site of the works place and keep a responsible agent at the works during working hours who shall on receiving reasonable notice, present himself to the Engineer and orders given by the Engineer or the Engineer's representative to the agent shall be deemed to have the same force as if they had been given to the Contractor. Before absenting himself, the Contractor shall furnish the name and address of his agent 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 DFCCIL to rescind the contract under Clause 62 of these Conditions.
13. **Relics And Treasures:** All gold, silver, oil and other minerals of any description and all precious stones, coins, treasures relics antiquities and other similar things which shall be found in or upon the site shall be the property of the DFCCIL and the Contractor shall duly preserve the same to the satisfaction of the DFCCIL and shall from time to time deliver the same to such person or persons as the DFCCIL may appoint to receive the same.
14. **Excavated Material :** The Contractor shall not sell or otherwise dispose of or remove except for the purpose of this contract, the sand, stone, clay ballast, earth, rock or other substances or materials which may be obtained from any excavation made for the purpose of the works or any building or produced upon the site at the time of delivery of the possession thereof but all the substances, materials, buildings and produce shall be the property of the DFCCIL provided that the Contractor may, with the permission of the Engineer, use the same for the purpose of the works either free of cost or pay the cost of the same at such rates as may be determined by the Engineer.
15. **Indemnity By Contractors:** The Contractor shall indemnify and save harmless the DFCCIL from and against all actions, suit proceedings losses, costs, damages, charges, claims and demands of every nature and description brought or recovered against the DFCCIL by reason of any act or omission of the Contractor, his agents or employees, in the execution of the works or in his guarding of the same. All sums payable by way of compensation under any of these conditions shall be considered as reasonable compensation to be applied to the actual loss or damage sustained, and whether or not any damage shall have been sustained.
- 16.
- 16(1) **Security Deposit:** The Earnest Money deposited by the Contractor with his tender will be retained by the DFCCIL as part of security for the due and faithful fulfillment of the contract by the contractor. The balance to make up the Security Deposit, the rates for which are given below, may be deposited by the Contractor in cash or may be recovered by percentage deduction from the Contractor's "on account" bills. Provided also that in case of defaulting contractor, the DFCCIL may retain any amount due for payment to the Contractor on the pending "on account

bills" so that the amounts so retained may not exceed 10% of the total value of the contract.

- 16(2)** Unless otherwise specified in the Special Conditions, if any, the Security Deposit/rate of recovery/mode of recovery shall be as under:
- (a) Security Deposit for each work should be 5% of the contract value,
  - (b) The rate of recovery should be at the rate of 10% of the bill amount till the full Security Deposit is recovered,
  - (c) Security Deposits will be recovered only from the running bills of the contract and no other mode of collecting SD such as SD in the form of instruments like BG (except Note (ii) below); FD etc. shall be accepted towards Security Deposit.

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

**Note:**

- (i) After the work is physically completed, Security Deposit recovered from the running bills of a contractor can be returned to him, if he so desires, in lieu of FDR/irrevocable Bank Guarantee for equivalent amount to be submitted by him.
  - (ii) In case of contracts of value Rs. 50 crore and above, irrevocable Bank Guarantee can also be accepted as a mode of obtaining security deposit.
- 16(3)** No interest will be payable upon the Earnest Money and Security Deposit or amounts payable to the Contractor under the Contract, but Government Securities deposited in terms of Sub-Clause (1) of this clause will be payable with interest accrued thereon.

**16(4) Performance Guarantee**

The procedure for obtaining Performance Guarantee is outlined below:

- (a) The successful bidder shall have to submit a Performance Guarantee (PG) within 30 (thirty) days from the date of issue of Letter Of Acceptance (LOA). Extension of time for submission of PG beyond 30 (thirty) days and upto 60 days from the date

of issue of LOA may be given by the Authority who is competent to sign the contract agreement. However, a penal interest of 15% per annum shall be charged for the delay beyond 30 (thirty) days, i.e. from 31st day after the date of issue of LOA. In case the contractor fails to submit the requisite PG even after 60 days from the date of issue of LOA, the contract shall be terminated duly forfeiting EMD and other dues, if any payable against that contract. The failed contractor shall be debarred from participating in re-tender for that work.

- (b) The successful bidder shall submit the Performance Guarantee (PG) in 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, ALLAHABAD (EAST).
- (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 up to 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 up to 25% (either increase or decrease). In case during the course of execution, value of the contract increases by more than 25% of the original contract value, an additional Performance Guarantee amounting to 5% (five percent) for the excess value over the original contract value shall be deposited by the contractor.
- (e) The Performance Guarantee (PG) shall be released after physical completion of the work based on 'Completion Certificate' issued by the competent authority stating that the contractor has completed the work in all respects satisfactorily. The Security Deposit shall, however, be released only after expiry of the maintenance period and after passing the final bill based on 'No Claim Certificate' from the contractor.
- (f) Whenever the contract is rescinded, the Security Deposit shall be forfeited and the Performance Guarantee shall be encashed. The balance work shall be got done independently without risk & cost of the failed contractor. The failed contractor shall be debarred from participating in the tender for executing the balance work. If the failed contractor is a JV or a Partnership firm, then every member/partner of such a firm shall be debarred from participating in the tender for the balance work in his/her individual capacity or as a partner of any other JV /partnership firm.
- (g) The engineer shall not make a claim under the Performance Guarantee except for amounts to which the President of India is entitled under the contract (not with-



standing and/or without prejudice to any other provisions in the contract agreement) in the event of:

- (i) Failure by the contractor to extend the validity of the Performance Guarantee as described herein above, in which event the Engineer may claim the full amount of the Performance Guarantee.
- (ii) Failure by the contractor to pay President of India any amount due, either as agreed by the contractor or determined under any of the Clauses/Conditions of the Agreement, within 30 days of the service of notice to this effect by Engineer.
- (iii) The Contract being determined or rescinded under provision of the GCC, the Performance Guarantee shall be forfeited in full and shall be absolutely at the disposal of the DFCCIL.

17. **Force Majeure Clause** : If at any time, during the continuance of this contract, the performance in whole or in part by either party of any obligation under this contract shall be prevented or delayed by reason of any war, hostility, acts of public enemy, civil commotion, sabotage, serious loss or damage by fire, explosions, epidemics, strikes, lockouts or acts of God (hereinafter, referred to events) provided, notice of the happening of any such event is given by either party to the other within 30 days from the date of occurrence thereof, neither party shall by reason of such event, be entitled to terminate this contract nor shall either party have any claim for damages against the other in respect of such non-performance of delay in performance, and works under the contract shall be resumed as soon as practicable after such event has come to an end or ceased to exist, and the decision of the Engineer as to whether the works have been so resumed or not shall be final and conclusive, PROVIDED FURTHER that if the performance in whole or in part of any obligation under this contract is prevented or delayed by reason of any such event for a period exceeding 120 days, either party may at its option terminate the contract by giving notice to the other party.

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

- (i) If any modifications have been ordered which in the opinion of the Engineer have materially increased the magnitude of the work, then such extension of the contracted date of completion may be granted as shall appear to the Engineer to be reasonable in the circumstances, provided moreover that the Contractor shall be responsible for requesting such extension of the date as may be considered ne-

cessary as soon as the cause thereof shall arise and in any case not less than one month before the expiry of the date fixed for completion of the works.

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

**17-B Extension Of Time For Delay Due To Contractor:** The time for the execution of the work or part of the works specified in the contract documents shall be deemed to be the essence of the contract and the works must be completed not later than the date(s) as specified in the contract. If the contractor fails to complete the works within the time as specified in the contract for the reasons other than the reasons specified in Clause 17 and 17-A, the DFCCIL may, if satisfied that the works can be completed by the contractor within reasonable short time thereafter, allow the contractor for further extension of time (Performa Annexure-VII) as the

Engineer may decide. On such extension the DFCCIL will be entitled without prejudice to any other right and remedy available on that behalf, to recover from the contractor as agreed damages and not by way of penalty a sum equivalent to ½ of 1% of the contract value of the works for each week or part of the week.

For the purpose of this Clause, the contract value of the works shall be taken as value of work as per contract agreement including any supplementary work order/contract agreement issued. Provided also, that the total amount of liquidated damages under this condition, shall not exceed the under noted percentage value or of the total value of the item or groups of items of work for which a separate distinct completion period is specified in the contract.

- (i) For contract value up to Rs. 2 lakh - 10% of total value of the contract
- (ii) For contracts valued above Rs. 2 lakh - 10% of first Rs.2 lakh and 5% of balance

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

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

- 18(1) Illegal Gratification :** Any bribe, commission, gift or advantage given, promised or offered by or on behalf to the Contractor or his partner, agent or servant or, anyone on his behalf, to any officer or employee of the DFCCIL, or to any person on his behalf in relation to obtaining or execution of this or any other contract with the DFCCIL shall, in addition to any criminal liability which he may incur, subject contractor to the rescission of the contract and all other contracts with the DFCCIL and to the payment of any loss or damage resulting from such decision and the DFCCIL shall be entitled to deduct the amounts so payable from any moneys due to the Contractor(s) under this contract or any other contracts with the DFCCIL.
- 18.(2)** The Contractor shall not lend or borrow from or have or enter into any monetary dealings or transactions either directly or indirectly with any employee of the DFCCIL and if he shall do so, the DFCCIL shall be entitled forthwith to rescind the contract and all other contracts with the DFCCIL. Any question or dispute as to the commission or any such offence or compensation payable to the DFCCIL under this Clause shall be settled by the General Manager of the DFCCIL, in such a

manner as he shall consider fit & sufficient and his decision shall be final & conclusive. In the event of rescission of the contract under this Clause, the Contractor will not be paid any compensation whatsoever except payments for the work done up to the date of rescission.

## **EXECUTION OF WORKS**

- 19.(1) Contractor's Understanding :** It is understood and agreed that the Contractor has, by careful examination, satisfied himself as to the nature and location of the work, the conformation of the ground, the character, quality and quantity of the materials to be encountered, the character of equipment and facilities needed preliminary to and during the progress of the works, the general and local conditions, the labour conditions prevailing therein and all other matters which can in any way affect the works under the contract.
- 19.(2) Commencement Of Works :** The Contractor shall commence the works within 15 days after the receipt by him of an order in writing to this effect from the Engineer and shall proceed with the same with due expedition and without delay
- 19.(3) Accepted Programme Of Work :** The Contractor who has been awarded the work shall as soon as possible but not later than 30 days after the date of receipt of the acceptance letter in respect of contracts with initial completion period of two years or less or not later than 90 days for other contracts have to submit the detailed programme of work indicating the time schedule of various items of works in the form of Bar Chart/PERT/CPM. He shall also submit the details of organisation (in terms of labour and supervisors) plant and machinery that he intends to utilize (from time to time) for execution of the work within stipulated date of completion. The programme of work amended as necessary by discussions with the Engineer, shall be treated as the agreed programme of the work for the purpose of this contract and the contractor shall endeavour to fulfill this programme of work. The progress of work will be watched accordingly and the liquidated damages will be with reference to the overall completion date. Nothing stated herein shall preclude the contractor in achieving earlier completion of item or whole of the works than indicated in the programme.
- 19.(4) Setting Out Of Works:** The Contractor shall be responsible for the correct setting out of all works in relation to original points, lines and levels of reference at his cost. The Contractor shall execute the work true to alignment, grade, levels and dimensions as shown in the drawing and as directed by the Engineer's representative and shall check these at frequent intervals. The Contractor shall provide all facilities like labour and instruments and shall co-operate with the Engineer's representative to check all alignment, grades, levels and dimensions. If, at any time, during the progress of the works any error shall appear or arise in any part of the work, the Contractor, on being required so to do by the Engineer's representative

shall, at his own cost rectify such errors, to the satisfaction of the Engineer's representative. Such checking shall not absolve the Contractor of his own responsibility of maintaining accuracy in the work. The Contractor shall carefully protect and preserve all bench marks, sight rails, pegs and other things used in setting out the work.

- 20.(1) Compliance To Engineers Instructions :** The Engineer shall direct the order in which the several parts of the works shall be executed and the Contractor shall execute without delay all orders given by the Engineer from time to time; but the Contractor shall not be relieved thereby from responsibility for the due performance of the works in all respects.
- 20.(2) Alterations To Be Authorized :** No alterations in or additions to or omissions or abandonment of any part of the works shall be deemed authorised, except under instructions from the Engineer, and the Contractor shall be responsible to obtain such instructions in each and every case in writing from the Engineer.
- 20.(3) Extra Works :** Should works over and above those included in the contract require to be executed at the site, the contractor shall have no right to be entrusted with the execution of such works which may be carried out by another contractor or contractors or by other means at the option of the DFCCIL.
- 20.(4) Separate Contracts In Connection With Works :** The DFCCIL shall have the right to let other contracts in connection with the works. The Contractor shall afford other contractors reasonable opportunity for the storage of their materials and the execution of their works and shall properly connect and coordinate his work with theirs. If any part of the Contractors work depends for proper execution or result upon the work of another contractor(s), the Contractor shall inspect and promptly report to the Engineer any defects in such works that render it unsuitable for such proper execution and results. The Contractor's failure so-to inspect and report shall constitute an acceptance of the other contractor's work as fit and proper for the reception of his work, except as to defects which may develop in the other contractor's work after the execution of his work.
- 21. Instruction Of Engineer's Representative:** Any instructions or approval given by the Engineer's representative to Contractor in connection with the works shall bind the Contractor as though it had been given by the Engineer provided always as follows:
- (a) Failure of the Engineer's representative to disapprove any work or materials shall not prejudice the power of the Engineer thereafter to disapprove such work or material and to order the removal or breaking up thereof.

- (b) If the Contractor shall be dissatisfied by reason of any decision of the Engineer's representative, he shall be entitled to refer the matter to the Engineer who shall there upon confirm or vary such decision.
- 22.(1) Adherence To Specifications And Drawings :** The whole of the works shall be executed in perfect conformity with the specifications and drawings of the contract. If Contractor performs any works in a manner contrary to the specifications or drawings or any of them and without such reference to the Engineer, he shall bear all the costs arising or ensuing therefrom and shall be responsible for all loss to the DFCCIL.
- 22.(2) Drawings And Specifications Of The Works :** The Contractor shall keep one copy of Drawings and Specifications at the site, in good order, and such contract documents as may be necessary, available to the Engineer or the Engineer's Representative.
- 22.(3) Ownership Of Drawings And Specifications :** All Drawings and Specifications and copies thereof furnished by the DFCCIL to the Contractor are deemed to be the property of the DFCCIL. They shall not be used on other works and with the exception of the signed contract set, shall be returned by the Contractor to the DFCCIL on completion of the work or termination of the Contract.
- 22.(4) Compliance With Contractor's Request For Details :** The Engineer shall furnish with reasonable promptness, after receipt by him of the Contractor's request for the same, additional instructions by means of drawings or otherwise, necessary for the proper execution of the works or any part thereof. All such drawings and instructions shall be consistent with the Contract Documents and reasonably inferable therefrom.
- 22.(5) Meaning And Intent Of Specification And Drawings :** If any ambiguity arises as to the meaning and intent of any portion of the Specifications and Drawings or as to execution or quality of any work or material, or as to the measurements of the works the decision of the Engineer thereon shall be final subject to the appeal (within 7 days of such decision being intimated to the Contractor) to the Chief Engineer who shall have the power to correct any errors, omissions, or discrepancies in aforementioned items and whose decision in the matter in dispute or doubt shall be final and conclusive.
- 23. Working During Night:** The Contractor shall not carry out any work between sun-set and sun-rise without the previous permission of the Engineer.
- 24. Damage To DFCCIL Property Or Private Life And Property :** The Contractor shall be responsible for all risk to the work and for trespass and shall make good at his on expense all loss or damage whether to the works themselves or to any

other property of the DFCCIL or the lives, persons or property of others from whatsoever cause in connection with the works until they are taken over by the DFCCIL and this although all reasonable and proper precautions may have been taken by the Contractor, and in case the DFCCIL shall be called upon to make good any costs, loss or damages, or to pay any compensation, including that payable under the provisions of the Workmen's Compensation Act or any statutory amendments thereof to any person or persons sustaining damages as aforesaid by reason of any act, or any negligence or omissions on the part of the Contractor; the amount of any costs or charges including costs and charges in connection with legal proceedings, which the DFCCIL may incur in reference thereto, shall be charged to the Contractor. The DFCCIL shall have the power and right to pay or to defend or compromise any claim of threatened legal proceedings or in anticipation of legal proceedings being instituted consequent on the action or default of the Contractor, to take such steps as may be considered necessary or desirable to ward off or mitigate the effect of such proceedings, charging to Contractor, as aforesaid, any sum or sums of money which may be paid and any expenses whether for reinstatement or otherwise which may be incurred and the propriety of any such payment, defence or compromise, and the incurring of any such expenses shall not be called in question by the Contractor.

- 25. Sheds, Stores Houses And Yards :** The Contractor shall at his own expense provide himself with sheds, storehouses and yards in such situations and in such numbers as in the opinion of the Engineer is requisite for carrying on the works and the Contractor shall keep at each such sheds, store-houses and yards a sufficient quantity of materials and plant in stock as not to delay the carrying out of the works with due expedition and the Engineer and the Engineer's representative shall have free access to the said sheds, store houses and yards at any time for the purpose of inspecting the stock of materials or plant so kept in hand, and any materials or plant which the Engineer may object to shall not be brought upon or used in the works, but shall be forthwith removed from the sheds, store houses or yards by the Contractor. The Contractor shall at his own expenses provide and maintain suitable mortar mills, soaking vats or any other equipments necessary for the execution of the works.
- 26. Provision Of Efficient And Competent Staff At Work Sites By The Contractor:**
- 26.1** The Contractor shall place and keep on the works at all times efficient and competent staff to give the necessary directions to his workmen and to see that they execute their work in sound & proper manner and shall employ only such supervisors, workmen & labourers in or about the execution of any of these works as are careful and skilled in the various trades.

- 26.2** The Contractor shall at once remove from the works any agents, permitted sub-contractor, supervisor, workman or labourer who shall be objected to by the Engineer and if and whenever required by the Engineer, he shall submit a correct return showing the names of all staff and workmen employed by him.
- 26.3** In the event of the Engineer being of the opinion that the Contractor is not employing on the works a sufficient number of staff and workmen as is necessary for proper completion of the works within the time prescribed, the Contractor shall forthwith on receiving intimation to this effect deploy the additional number of staff and labour as specified by the Engineer within seven days of being so required and failure on the part of the Contractor to comply with such instructions will entitle the DFCCIL to rescind the contract under Clause 62 of these conditions.
- 26A. Deployment Of Qualified Engineers At Work Sites By The Contractor:**
- 26A.1** The contractor shall also employ Qualified Graduate Engineer or Qualified Diploma Holder Engineer, based on value of contract, as may be prescribed by the Ministry of DFCCIL through separate instructions from time to time.
- 26A.2** In case the contractor fails to employ the Engineer, as aforesaid in Para 26A.1, he shall be liable to pay penalty at the rates, as may be prescribed by the DFCCIL through separate instructions from time to time for the default period for the provisions, as contained in Para 26A.1.
- 26A.3** No. of qualified engineers required to be deployed by the Contractor for various activities contained in the works contract shall be specified in the tender documents as 'special condition of contract' by the tender inviting authority."
- 27.(1) Workmanship And Testing :** The whole of the works and/or supply of materials specified and provided in the contract or that may be necessary to be done in order to form and complete any part thereof shall be executed in the best and most substantial workman like manner with materials of the best and most approved quality of their respective kinds, agreeable to the particulars contained in or implied by the specifications and as referred to in and represented by the drawings or in such other additional particulars, instructions and drawings may be found requisite to be given during the carrying on of the works and to the entire satisfaction of the Engineer according to the instructions and directions which the Contractors may from time to time receive from the Engineer. The materials may be subjected to tests by means of such machines, instruments and appliances as the Engineer may direct and wholly at the expense of the Contractor.
- 27.(2) Removal Of Improper Work And Materials :** The Engineer or the Engineer's Representative shall be entitled to order from time to time:



- (a) the removal from the site within the time specified in the order of any materials which in his opinion are not in accordance with the specifications or drawings.
  - (b) the substitution of proper and suitable materials, and
  - (c) the removal and proper re-execution, notwithstanding any previous tests thereof or on account payments therefor, of any work which in respect of materials or workmanship is not in his opinion in accordance with the specifications and in case of default on the part of the Contractor in carrying out such order, the DFCCIL shall be entitled to rescind the contract under Clause 62 of these conditions.
- 28. Facilities For Inspection :** The Contractor shall afford the Engineer and the Engineer's Representative every facility for entering in and upon every portion of the work at all hours for the purpose of inspection or otherwise and shall provide all labour, materials, planks, ladders, pumps, appliances and things of every kind required for the purpose and the Engineer and the Engineer's Representative shall at all times have free access to every part of the works and to all places at which materials for the works are stored or being prepared.
- 29. Examination Of Work Before Covering Up :** The Contractor shall give 7 days' notice to the Engineer or the Engineer's Representative whenever any work or materials are intended to be covered up in the earth, in bodies or walls or otherwise to be placed beyond the reach of measurements in order that the work may be inspected or that correct dimensions may be taken before being so covered, placed beyond the reach of measurement in default whereof, the same shall at the option of the Engineer or the Engineer's Representative be uncovered and measured at the Contractor's expense or no allowance shall be made for such work or materials.
- 30. Temporary Works:** All temporary works necessary for the proper execution of the works shall be provided and maintained by the Contractor and subject to the consent of the Engineer shall be removed by him at his expenses when they are no longer required and in such manner as the Engineer shall direct. In the event of failure on the part of the Contractor to remove the temporary works, the Engineer will cause them to be removed and cost as increased by supervision and other incidental charges shall be recovered from the Contractor. If temporary huts are provided by the Contractor on the DFCCIL land for labour engaged by him for the execution of works, the contractor shall arrange for handing over vacant possession of the said land after the work is completed; if the contractor's labour refuse to vacate, and have to be rejected by the DFCCIL, necessary expenses incurred by the DFCCIL in connection therewith shall be borne by the Contractor.

- 31.(1) Contractor To Supply Water For Works :** Unless otherwise provided in the Contract, the Contractor shall be responsible for the arrangements to obtain supply of water necessary for the works.
- 31.(2) Water Supply From DFCCIL System :** The DFCCIL may supply to the Contractor part or whole of the quantity of the water required for the execution of works from the DFCCIL's existing water supply system at or near the site of works on specified terms and conditions and at such charges as shall be determined by the DFCCIL and payable by the Contractor, provided that the Contractor shall arrange, at his own expense, to effect the connections and lay additional pipe lines and accessories on the site and that the Contractor shall not be entitled to any compensation for interruption or failure of the water supply.
- 31.(3) Water Supply By Railway Transport :** In the event of the DFCCIL arranging supply of water to the Contractor at or near the site of works by travelling water tanks or other means, the freight and other charges incurred thereby, including demurrage charges that may be levied, shall be paid by the Contractor in addition to the charges referred to in Sub-Clause (2) of the Clause provided that the contractor shall not be entitled to any compensation for interruption or failure of the water supply.
- 31.(4) (a) Contractor To Arrange Supply Of Electric Power For Works :** Unless otherwise provided in the contract, the Contractor shall be responsible for arrangements to obtain supply of Electric Power for the works.
- (b) Electric Supply From The Railway System :** The DFCCIL may supply to the Contractor part or whole of the electric power wherever available and possible, required for execution of works from the DFCCIL's existing electric supply systems at or near the site of works on specified terms and conditions and such charges as shall be determined by the DFCCIL and payable by the Contractor provided the cost of arranging necessary connections to the DFCCIL's Electric Supply systems and laying of underground/overhead conductor, circuit protection, electric power meters, transmission structure, shall be borne by the Contractor and that the Contractor shall not be entitled to any compensation for interruption or failure of the Electric supply system.
- 32. Property In Materials And Plant :** The materials and plant brought by the Contractor upon the site or on the land occupied by the Contractor in connection with the works and intended to be used for the execution thereof shall immediately, they are brought upon the site of the said land, be deemed to be the property of the DFCCIL. Such of them as during the progress of the works are rejected by the Engineer under Clause 25 of these conditions or are declared by him not to be needed for the execution of the works or such as on the grant of the certificate of completion remain unused shall immediately on such rejection, declaration or

grant cease to be deemed the property of the DFCCIL and the Contractor may then (but not before) remove them from the site or the said land. This clause shall not in any way diminish the liability of the Contractor nor shall the DFCCIL be in any way answerable for any loss or damage which may happen to or in respect of any such materials or plant either by the same being lost, stolen, injured or destroyed by fire, tempest or otherwise.

- 33.(1) Tools, Plant And Materials Supplied By DFCCIL :** The Contractor shall take all reasonable care of all tools, plant and materials or other property whether of a like description or not belonging to the DFCCIL and committed to his charge for the purpose of the works and shall be responsible for all damage or loss caused by him, his agents, permitted subcontractor, or his workmen or others while they are in his charge. The Contractors shall sign accountable receipts for tools, plants and materials made over to him by the Engineer and on completion of the works shall hand over the unused balance of the same to the Engineer in good order and repair, fair wear and tear excepted, and shall be responsible for any failure to account for the same or any damage done thereto.
- 33.(2) Hire Of DFCCIL's Plant :** The DFCCIL may hire to the Contractor such plant as concrete mixers, compressors and portable engines for use during execution of the works on such terms as may be specified in the special conditions or in a separate agreement for Hire of Plant.
- 34.(1) Precaution During Progress Of Works :** During the execution of works, unless otherwise specified, the Contractor shall at his own cost provide the materials for and execute all shoring, timbering and strutting works as is necessary for the stability and safety of all structures, excavations and works and shall ensure that no damage, injury or loss is caused or likely to be caused to any person or property.
- 34.(2) Roads And Water Courses :** Existing roads or water courses shall not be blocked cut through, altered, diverted or obstructed in any way by the Contractor, except with the permission of the Engineer. All compensations claimed for any unauthorized closure, cutting through, alteration, diversion or obstruction to such roads or water courses by the Contractor or his agent or his staff shall be recoverable from the Contractor by deduction from any sums which may become due to him in terms of contract, or otherwise according to law.
- 34.(3) Provision Of Access To Premises :** During progress of work in any street or thoroughfare, the Contractor shall make adequate provision for the passage of traffic, for securing safe access to all premises approached from such street or thoroughfare and for any drainage, water supply or means of lighting which may be interrupted by reasons of the execution of the works and shall react and maintain at his own cost barriers, lights and other safeguards as prescribed by the Engineer, for the regulation of the traffic, and provide watchmen necessary to pre-

vent accidents. The works shall in such cases be executed night and day, if so ordered by the Engineer and with such vigour so that the traffic way be impeded for as short a time as possible.

- 34.(4) Safety Of Public :** The Contractor shall be responsible to take all precautions to ensure the safety of the public whether on public or DFCCIL property and shall post such look out men as may, in the opinion of the Engineer, be required to comply with regulations appertaining to the work.
- 35. Use Of Explosives:** Explosives shall not be used on the works or on the site by the Contractor without the permission of the Engineer and then only in the manner and to the extent to which such permission is given. Where explosives are required for the works, they shall be stored in a special magazine to be provided by and at the cost of the Contractor in accordance with the Explosive Rules. The Contractor shall obtain the necessary license for the storage and the use of explosives and all operations in which or for which explosives are employed shall be at the sole risk and responsibility of the Contractor and the Contractor shall indemnify the DFCCIL in respect thereof.
- 36.(1) Suspension Of Works :** The Contractor shall on the order of the Engineer, suspend the progress of the works or any part thereof for such time or times and in such manner as the Engineer may consider necessary and shall during such suspension properly protect and secure the work so far as is necessary in the opinion of the Engineer. If such suspension is:
- (a) Provided for in the contract, or
  - (b) Necessary for the proper execution of the works or by the reason of weather conditions or by some default on the part of the Contractor, and or
  - (c) Necessary for the safety of the works or any part thereof.
- 36.(2)** The Contractor shall not be entitled to the extra costs, if any, incurred by him during the period of suspension of the works, but in the event of any suspension ordered by the Engineer for reasons other than aforementioned and when each such period of suspension exceeds 14 days, the Contractor shall be entitled to such extension of time for completion of the works as the Engineer may consider proper having regard to the period or periods of such suspensions and to such compensations as the Engineer may consider reasonable in respect of salaries or wages paid by the Contractor to his employees during the periods of such suspension.
- 36.(3) Suspension Lasting More Than 3 Months :** If the progress of the works or any part thereof is suspended on the order of the Engineer for more than three months at a time, the Contractor may serve a written notice on the Engineer re-

quiring permission within 15 days from the receipt thereof to proceed with the works or that part thereof in regard to which progress is suspended and if such permission is not granted within that time the Contractor by further written notice so served may, but is not bound to, elect to treat the suspension where it affects part only of the works as an omission of such part or where it affects the whole of the works, as an abandonment of the contract by the DFCCIL.

- 37. Rates For Items Of Works :** The rates, entered in the accepted Schedule of Rates of the Contract are intended to provide for works duly and properly completed in accordance with the General and Special (if any) Conditions of the Contract and the Specifications and drawings together with such enlargements, extensions, diminutions, reductions, alterations or additions as may be ordered in terms of Clause 42 of these conditions and without prejudice to the generality thereof and shall be deemed to include and cover superintendence and labour, supply, including full freight of materials, stores, patterns, profiles, moulds, fittings, centrings, scaffolding, shoring props, timber, machinery, barracks, tackle, roads, pegs, posts, tools and all apparatus and plant required on the works, except such tools, plant or materials as may be specified in the contract to be supplied to the Contractor by the DFCCIL, the erection, maintenance and removal of all temporary works and buildings, all watching, lighting, bailing, pumping and draining, all prevention of or compensation for trespass, all barriers and arrangements for the safety of the public or of employees during the execution of works, all sanitary and medical arrangements for labour camps as may be prescribed by the DFCCIL, the setting of all work and of the construction, repair and upkeep of all centre lines, bench marks and level pegs thereon, site clearance, all fees duties, royalties, rent and compensation to owners for surface damage or taxes and impositions payable to local authorities in respect of land, structures and all material supplied for the work or other duties of expenses for which the Contractor may become liable or may be put to under any provision of law for the purpose of or in connection with the execution of the contract and all such other incidental charges or contingencies as may have been specially provided for in the Specifications.
- 38. Demurrage And Wharfage Dues :** Demurrage charges calculated in accordance with the scale in force for the time being on the DFCCIL and incurred by the Contractor failing to load or unload any goods of materials within the time allowed by the DFCCIL for loading as also wharfage charges, of materials not removed in time as also charges due on consignments booked by or to him shall be paid by the Contractor, failing which such charges shall be debited to the Contractor's account in the hands of the DFCCIL and shall be deducted from any sums which may become due to him in terms of the contracts.
- 39. (1) Rates For Extra Items Of Works :** Any item of work carried out by the Contractor on the instructions of the Engineer which is not included in the accepted Sche-

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

- 39.(2)** Provided that if the Contractor commences work or incurs any expenditure in regard thereto before the rates as determined and agreed upon as lastly hereunto-fore-mentioned, then and in such a case the Contractor shall only be entitled to be paid in respect of the work carried out or expenditure incurred by him prior to the date of determination of the rates as aforesaid according to the rates as shall be fixed by the Engineer. However, if the Contractor is not satisfied with the decision of the Engineer in this respect, he may appeal to the Chief Engineer within 30 days of getting the decision of the Engineer, supported by analysis of the rates claimed. The Chief Engineer's decision after hearing both the parties in the matter would be final and binding on the Contractor and the DFCCIL.
- 40.(1) Handing Over Of Works :** The Contractor shall be bound to hand over the works executed under the contract to the DFCCIL complete in all respects to the satisfaction of the Engineer. The Engineer shall determine the date on which the work is considered to have been completed, in support of which his certificate shall be regarded as sufficient evidence for all purposes. The Engineer shall determine from time to time, the date on which any particular section of the work shall have been completed, and the contractor shall be bound to observe any such determination of the Engineer.
- 40.(2) Clearance Of Site On Completion :** On completion of the works, the Contractor shall clear away and remove from the site all constructional plant, surplus materials, rubbish and temporary works of every kind and leave the whole of the site and works clean and in a workman like condition to the satisfaction of the Engineer. No final payment in settlement of the accounts for the works shall be paid, held to be due or shall be made to the, Contractor till, in addition to any other condition necessary for final payment, site clearance shall have been affected by him, and such clearance may be made by the Engineer at the expense of the Contractor in the event of his failure to comply with this provision within 7 days af-

ter receiving notice to that effect. Should it become necessary for the Engineer to have the site cleared at the expenses of the Contractor, the DFCCIL shall not be held liable for any loss or damage to such of the Contractor's property as may be on the site and due to such removal there from which removal may be affected by means of public sales of such materials and property or in such a way as deemed fit and convenient to the Engineer.

## **VARIATIONS IN EXTENT OF CONTRACT**

- 41. Modification To Contract To Be In Writing:** In the event of any of the provisions of the contract requiring to be modified after the contract documents have been signed, the modifications shall be made in writing and signed by the DFCCIL and the Contractor and no work shall proceed under such modifications until this has been done. Any verbal or written arrangement abandoning, modifying, extending, reducing or supplementing the contract or any of the terms thereof shall be deemed conditional and shall not be binding on the DFCCIL unless and until the same is incorporated in a formal instrument and signed by the DFCCIL and the Contractor, and till then the DFCCIL shall have the right to repudiate such arrangements.
- 42.(1) Powers of Modification To Contract :** The Engineer on behalf of the DFCCIL shall be entitled by order in writing to enlarge or extend, diminish or reduce the works or make any alterations in their design, character position, site, quantities, dimensions or in the method of their execution or in the combination and use of materials for the execution thereof or to order any additional work to be done or any works not to be done and the contractor will not be entitled, to any compensation for any increase/reduction in the quantities of work but will be paid only for the actual amount of work done and for approved materials supplied against a specific order.
- 42.(2)** (i) Unless otherwise specified in the special conditions of the contract, the accepted variation in quantity of each individual item of the contract would be upto 25% of the quantity originally contracted, except in case of foundation work. The contractor shall be bound to carry out the work at the agreed rates and shall not be entitled to any claim or any compensation whatsoever upto the limit of 25% variation in quantity of individual item of works.
- (ii) In case of earthwork, the variation limit of 25% shall apply to the gross quantity of earth work and variation in the quantities of individual classifications of soil shall not be subject to this limit.
- (iii) In case of foundation work, no variation limit shall apply and the work shall be carried out by the contractor on agreed rates irrespective of any variation.

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

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

1. Individual NS items in contracts shall be operated with variation of plus or minus 25% and payment would be made as per the agreement rate. For this, no finance concurrence would be required.
2. In case an increase in quantity of an individual item by more than 25% of the agreement quantity is considered unavoidable, the same shall be got executed by floating a fresh tender. If floating a fresh tender for operating that item is considered not practicable, quantity of that item may be operated in excess of 125% of the agreement quantity subject to the following conditions:
  - (a) Operation of an item by more than 125% of the agreement quantity needs the approval of an officer of the rank not less than S.A. Grade;
  - (i) Quantities operated in excess of 125% but upto 140% of the agreement quantity of the concerned item, shall be paid at 98% of the rate awarded for that item in that particular tender;
  - (ii) Quantities operated in excess of 140% but upto 150% of the agreement quantity of the concerned item shall be paid at 96% of the rate awarded for that item in that particular tender;
  - (iii) Variation in quantities of individual items beyond 150% will be prohibited and would be permitted only in exceptional unavoidable circumstances with the concurrence of associate finance and shall be paid at 96% of the rate awarded for that item in that particular tender.
- (b) The variation in quantities as per the above formula will apply only to the Individual items of the contract and not on the overall contract value.
- (c) Execution of quantities beyond 150% of the overall agreemental value should not be permitted and, if found necessary, should be only through fresh tenders or by negotiating with existing contractor, with prior personal concurrence of FA&CAO / FA&CAO(C) and approval of General Manager.
3. In cases where decrease is involved during execution of contract:
  - (a) The contract signing authority can decrease the items upto 25% of individual item without finance concurrence.



- (b) For decrease beyond 25% for individual items or 25% of contract agreement value, the approval of an officer not less than rank of S.A. Grade may be taken, after obtaining 'No Claim Certificate' from the contractor and with finance concurrence, giving detailed reasons for each such decrease in the quantities.
  - (c) It should be certified that the work proposed to be reduced will not be required in the same work.
4. The limit for varying quantities for minor value items shall be 100% (as against 25% prescribed for other items). A minor value item for this purpose is defined as an item whose original agreement value is less than 1 % of the total original agreement value.
  5. No such quantity variation limit shall apply for foundation items.
  6. As far as SOR items are concerned, the limit of 25% would apply to the value of SOR schedule as a whole and not on individual SOR items. However, in case of NS items, the limit of 25% would apply on the individual items irrespective of the manner of quoting the rate (single percentage rate or individual item rate).
  7. For the tenders accepted at Zonal DFCCIL level, variations in the quantities will be approved by the authority in whose powers revised value of the agreement lies.
  8. For tenders accepted by General Manager, variations upto 125% of the original agreement value may be accepted by General Manager.
  9. For tenders accepted by Board Members and DFCCIL Ministers, variations upto 110% of the original agreement value may be accepted by General Manager.
  10. The aspect of vitiation of tender with respect to variation in quantities should be checked and avoided. In case of vitiation of the tender (both for increase as well as decrease of value of contract agreement), sanction of the competent authority as per single tender should be obtained.

### **CLAIMS**

- 43.(1) Monthly Statement Of Claims :** The Contractor shall prepare and furnish to the Engineer once in every month an account giving full and detailed particulars of all claims for any additional expenses to which the Contractor may consider himself entitled to and of all extra or additional works ordered by the Engineer which he has executed during the preceding month and no claim for payment for and such work will be considered which has not been included in such particulars.
- 43.(2) Signing Of "No Claim" Certificate :** The Contractor shall not be entitled to make any claim whatsoever against the DFCCIL under or by virtue of or arising out of this contract, nor shall the DFCCIL entertain or consider any such claim, if made by the Contractor, after he shall have signed a "No Claim" Certificate in favour of the DFCCIL in such form as shall be required by the DFCCIL after the works are finally measured up. The Contractor shall be debarred from disputing the correctness of the items covered by "No Claim" Certificate or demanding a clearance to arbitration in respect thereof.

## MEASUREMENTS, CERTIFICATES AND PAYMENTS

- 44. Quantities In Schedule Annexed To Contract:** The quantities set out in the accepted Schedule of Rates with items of works quantified are the estimated quantities of the works and they shall not be taken as the actual and correct quantities of the work to be executed by the Contractor in fulfillment of his obligations under the contract.
- 45. Measurement Of Works:** The Contractor shall be paid for the works at the rates in the accepted Schedule of Rates and for extra works at rates determined under Clause 39 of these Conditions on the measurements taken by the Engineer or the Engineer's representative in accordance with the rules prescribed for the purpose by the DFCCIL. The quantities for items the unit of which in the accepted Schedule of Rates is 100 or 1000 shall be calculated to the nearest whole number, any fraction below half being dropped and half and above being taken as one; for items the unit of which in the accepted Schedule of Rates is single, the quantities shall be calculated to two places of decimals. Such measurements will be taken of the work in progress from time to time and at such intervals as in the opinion of the Engineer shall be proper having regard to the progress of works. The date and time on which 'on account' or 'final' measurements are to be made shall be communicated to the Contractor who shall be present at the site and shall sign the results of the measurements (which shall also be signed by the Engineer or the Engineer's representative) recorded in the official measurements book as an acknowledgement of his acceptance of the accuracy of the measurements. Failing the Contractor's attendance, the work may be measured up in his absence and such measurements shall, notwithstanding such absence, be binding upon the Contractor whether or not he shall have signed the measurement books provided always that any objection made by him to measurement shall be duly investigated and considered in the manner set out below:
- (a) It shall be open to the Contractor to take specific objection to any recorded measurements or Classification on any ground within seven days of the date of such measurements. Any re-measurement taken by the Engineer or the Engineer's representative in the presence of the Contractor or in his absence after due notice has been given to him in consequence of objection made by the Contractor shall be final and binding on the Contractor and no claim whatsoever shall thereafter be entertained regarding the accuracy and classification of the measurements.
  - (b) If an objection raised by the Contractor is found by the Engineer to be incorrect the Contractor shall be liable to pay the actual expenses incurred in measurements.
- 46.(1) "On-Account " Payments :** The Contractor shall be entitled to be paid from time to time by way of "On-Account" payment only for such works as in the opinion of the Engineer he has executed in terms of the contract. All payments due on the

Engineer's or the Engineer's Representative's certificates of measurements shall be subject to any deductions which may be made under these presents and shall further be subject to, unless otherwise required by Clause 16 of these Conditions, a retention of ten percent by way of Security Deposits, until the amount of Security Deposit by way of retained earnest money and such retentions shall amount to 10% of the total value of the contract provided always that the Engineer may by any certificate make any correction or modification in any previous certificate which shall have been issued by him and that the Engineer may withhold any certificate, if the works or any part thereof are not being carried out to his satisfaction.

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

**46.(3) On Account Payments Not Prejudicial To Final Settlement :** "On-Account" payments made to the Contractor shall be without prejudice to the final making up of the accounts (except where measurements are specifically noted in the Measurement Book as "Final Measurements" and as such have been signed by the Contractor) and shall in no respect be considered or used as evidence of any facts stated in or to be inferred from such accounts nor of any particular quantity of work having been executed nor of the manner of its execution being satisfactory.

**46.(4) Manner Of Payment :** Unless otherwise specified payments to the Contractor will be made by cheque; but no cheque will be issued for an amount less than Rs.100.

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

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

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

**46A.3** Rates accepted by DFCCIL Administration shall hold good till completion of work and no additional individual claim shall be admissible on account of fluctuations in market rates, increase in taxes/any other levies/tolls etc. except that pay-

ment/recovery for overall market situation shall be made as per Price Variation Clause given hereunder.

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

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

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

Component	Percentage	Component	Percentage
<b>(A) Earthwork Contracts :</b>			
Labour Component	50%	Other Material Components	15%
Fuel Component	20%	Fixed Component *	15%
<b>(B) Ballast and Quarry Products Contracts :</b>			
Labour Component	55%	Other Material Components	15%
Fuel Component	15%	Fixed Component *	15%
<b>(C) Tunnelling Contracts :</b>			
Labour Component	45%	Detonators Component	5%
Fuel Component	15%	Other Material Components	5%
Explosive Component	15%	Fixed Component *	15%
<b>(D) Other Works Contracts :</b>			
Labour Component	30%	Fuel Component	15%
Material Component	40%	Fixed Component *	15%

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

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

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

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

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

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

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

$$(vi) \quad Ms = O \times (Bs - Bs_0)$$

$$(vii) \quad Mc = A \times (Wc - Wc_0) / Wc_0$$

**For Railway Electrification Works :**

- (viii)  $M_{cc} = [(C-C_o)/C_o \times 0.4136] \times G$   
(ix)  $M_f = [(S_f-S_{fo})/S_{fo} + (Z-Z_o)/Z_o \times 0.06] \times H$   
(x)  $M_{nf} = [(Cu-C_{uo})/C_{uo}] \times J$   
(xi)  $M_z = [(Z-Z_o)/Z_o] \times W$   
(xii)  $M_{IN} = [(I_n - I_{n_o})/I_n] \times 85$

Where,

- 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  
M<sub>s</sub> Amount of price variation in Steel  
M<sub>c</sub> Amount of price variation in Cement  
M<sub>cc</sub> Amount of price variation in Concreting  
M<sub>f</sub> Amount of price variation in Ferrous  
M<sub>nf</sub> Amount of price variation in Non-Ferrous  
M<sub>z</sub> Amount of price variation in Zinc  
M<sub>IN</sub> Amount of price variation in Insulator  
O Weight of steel in tonnes supplied by the contractor as per the 'on-account' bill for the month under consideration  
R Gross value of work done by contractor as per on-account bill(s) excluding cost of materials supplied by DFCCIL at fixed price minus the price values of cement & steel. This will also exclude specific payment, if any, to be made to the consultants engaged by contractors (such payment shall be indicated in the contractor's offer)  
A Value of Cement supplied by Contractor as per on account bill in the quarter under consideration  
I<sub>o</sub> Consumer Price Index Number for Industrial Workers - All India - Published in R.B.I. Bulletin for the base period  
I Consumer Price Index Number for Industrial Workers - All India - Published in R.B.I. Bulletin for the average price index of the 3 months of the quarter under consideration  
W<sub>o</sub> Index Number of Wholesale Prices – By Groups and Sub-Groups – All commodities – as published in the R.B.I. Bulletin for the base period  
W Index Number of Wholesale Prices – By Groups and Sub- Groups – All commodities – as published in the R.B.I. Bulletin for the average price index of the 3 months of the quarter under consideration

- Fo Index Number of Wholesale Prices – By Groups and Sub-Groups for Fuel, Power, Light and Lubricants as published in the R.B.I. Bulletin for the base period
- F Index Number of Wholesale Prices – By Groups and Sub-Groups for Fuel, Power, Light and Lubricants as published in the R.B.I. Bulletin for the average price index of the 3 months of the quarter under consideration
- 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 explosives as fixed by DGS&D in the relevant rate contract of the firm from whom purchases of explosives are made by the contractor for the average price index of the 3 months of the quarter under consideration
- 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 average price index of the 3 months of the quarter under consideration
- Bs SAIL's (Steel Authority of India Limited) ex-works price plus Excise Duty thereof (in rupees per tonne) for the relevant category of steel supplied by the contractor as prevailing on the first day of the month in which the steel was purchased by the contractor (or) as prevailing on the first day of the month in which steel was brought to the site by the contractor whichever is lower
- Bso SAIL's ex-works price plus Excise Duty thereof (in Rs. per tonne) for the relevant category of steel supplied by the contractor as prevailing on the first day of the month in which the tender was opened
- Wco Index No. of Wholesale Price of sub-group (of Cement) as published in RBI Bulletin for the base period
- Wc Index No. of Wholesale Price of sub-group (of Cement) as published in RBI Bulletin for the average price index of the 3 months of the quarter under consideration
- C RBI wholesale price index for cement for the month which is six months prior to date of casting of foundation
- Co RBI wholesale price index for cement for the month which is one month prior to date of opening of tender
- Z IEEMA price for Zinc for the month which is two months prior to date of inspection of material
- Zo IEEMA price for Zinc for the month which is one month prior to date of opening of tender
- Cu IEEMA price for Copper wire bar for the month which is two months prior to date of inspection of material.

- Cuo IEEMA price for Copper wire bar for the month which is one month prior to date of opening of tender.
- Sf IEEMA price index for Iron & Steel for the month which is two months prior to date of inspection of material.
- Sfo IEEMA price index for Iron & Steel for the month which is one month prior to date of opening of tender.
- In RBI wholesale price index for Structural Clay Products for the month which is two months prior to date of inspection of material
- Ino RBI wholesale price index for Structural Clay Products for the month which is one month prior to date of opening of tender
- P % of Labour component
- Q % of Material component
- Z % of Fuel component
- S % of Explosive component
- T % of Detonators component
- G % of Concreting Component
- H % of Ferrous Component
- J % of Non-Ferrous Component
- W % of Zinc Component

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

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

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

	ries and excluding HTS	
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**46A.10 Price Variation During Extended Period Of Contract**

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

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

**47. Maintenance Of Works :** The Contractor shall at all times during the progress and continuance of the works and also for the period of maintenance specified in the Tender Form after the date of passing of the certificate of completion by the Engineer or any other earlier date subsequent to the completion of the works that may be fixed by the Engineer be responsible for and effectively maintain and uphold in good substantial, sound and perfect condition all and every part of the works and shall make good from time to time and at all times as often as the Engineer shall require, any damage or defect that may during the above period arise in or be discovered or be in any way connected with the works, provided that such damage or defect is not directly caused by errors in the contract documents, act of providence or insurrection or civil riot, and the Contractor shall be liable for and shall pay and make good to the DFCCIL or other persons legally entitled thereto whenever required by the Engineer so to do, all losses, damages, costs and expenses they or any of them may incur or be put or be liable to by reasons or in consequence of the operations of the Contractor or of his failure in any respect.

**48.(1) Certificate Of Completion Of Works :** As soon as in the opinion of the Engineer, the work has been completed and has satisfactorily passed any final test or tests that may be prescribed, the Engineer shall issue a certificate of completion duly indicating the date of completion in respect of the work and the period of maintenance of the work shall commence from the date of completion mentioned in such certificate. The Engineer may also issue such a certificate indicating date of completion with respect to any part of the work (before the completion of the whole of



work), which has been both completed to the satisfaction of the Engineer and occupied or used by the DFCCIL. When any such certificate is given in respect of part of a work, such part shall be considered as completed and the period of maintenance of such part shall commence from the date of completion mentioned in the completion certificate issued for that part of the work.

- 48.(2) Contractor Not Absolved By Completion Certificate :** The Certificate of Completion in respect of the works referred to in Sub-Clause (1) of this Clause shall not absolve the Contractor from his liability to make good any defects imperfections, shrinkages or faults which may appear during the period of maintenance specified in the tender arising in the opinion of the Engineer from materials or workmanship not in accordance with the drawings or specifications or instruction of the Engineer, which defects, imperfections, shrinkages or faults shall upon the direction in writing of the Engineer be amended and made good by the Contractor at his own cost; and in case of default on the part of Contractor, the Engineer may employ labour and materials or appoint another Contractor to amend and make good such defects, imperfections, shrinkages and faults and all expenses consequent thereon and incidental thereto shall be borne by the Contractor and shall be recoverable from any moneys due to him under the contract.
- 49. Approval Only By Maintenance Certificate :** No certificate other than maintenance certificate referred to in Clause 50 of the Conditions shall be deemed to constitute approval of any work or other matter in respect of which it is issued or shall be taken as an admission of the due performance of the contract or any part thereof or of the accuracy of any claim or demand made by the Contractor or of additional varied work having been ordered by the Engineer nor shall any other certificate conclude or prejudice any of the powers of the Engineer.
- 50.(1) Maintenance Certificate :** The Contract shall not be considered as completed until a Maintenance Certificate shall have been signed by the Engineer stating that the works have been completed and maintained to his satisfaction. The maintenance Certificate shall be given by the Engineer upon the expiration of the period of maintenance or as soon thereafter as any works ordered during such period pursuant to Sub Clause (2) to Clause 48 of these Conditions shall have been completed to the satisfaction of the Engineer and full effect shall be given to this Clause notwithstanding the taking possession of or using the works or any part thereof by the DFCCIL.
- 50.(2) Cessation Of DFCCIL's Liability :** The DFCCIL shall not be liable to the Contractor for any matter arising out of or in connection with the contract of the execution of the works unless the Contractor shall have made a claim in writing in respect thereof before the issue of the Maintenance Certificate under this clause.
- 50.(3) Unfulfilled Obligations :** Notwithstanding the issue of the Maintenance Certificate the Contractor and (subject to Sub-Clause (2) of this Clause) the DFCCIL 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 remains unperformed at the time such certificate is issued and for the purposes of determining the nature and extent of any such obligations, the contract shall be deemed to remain in force between the parties thereto.

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

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

**51-A. Production Of Vouchers Etc. By The Contractor:**

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

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

**52. Withholding And Lien In Respect Of Sums Claimed :** Whenever any claim or claims for payment of a sum of money arises out of or under the contract against the contractor, the DFCCIL shall be entitled to withhold and also have a lien to retain such sum or sums in whole or in part from the security, if any, deposited by the contractor and for the purpose aforesaid, the DFCCIL shall be entitled to withhold the said cash Security Deposit or the Security if any, furnished as the case may be and also have a lien over the same pending finalization or adjudication of any such claim. In the event of the security being insufficient to cover the claimed amount or amounts or if no security has been taken from the contractor, the DFCCIL shall be entitled to withhold and have a lien to the extent of the such claimed amount or amounts referred to supra, from any sum or sums found payable or which at any time thereafter may become payable to the contractor under the same contract or any other contract with this or any other DFCCIL or any Department of the Central Government pending finalization or adjudication of any such claim.

It is an agreed term of the contract that the sum of money or moneys so withheld or retained under the lien referred to above, by the DFCCIL will be kept withheld or retained as such by the DFCCIL till the claim arising out of or under the contract is determined by the arbitrator (if the contract governed by the Arbitration Clause) or by the competent court as the case may be and that the contractor will have no claim for interest or damages whatsoever on any account in respect of such withholding or retention under the lien referred to supra and duly notified as such to the contractor. For the purpose of this clause, where the contractor is a partnership firm or a limited company, the DFCCIL shall be entitled to withhold and also have a lien to retain towards such claimed amount or amounts in whole or in part from any sum found payable to any partner / limited company, as the case may be whether in his individual capacity or otherwise.

**52-A Lien In Respect Of Claims In Other Contracts :**

- (i) Any sum of money due and payable to the contractor (including the Security Deposit returnable to him) under the contract may be withheld or retained by way of lien by the DFCCIL, against any claim of this or any other DFCCIL or any other Department of the Central Government in respect of payment of a sum of money

arising out of or under any other contract made by the contractor with this or any other Department of the Central Government.

- (ii) However, recovery of claims of DFCCIL in regard to terminated contracts may be made from the Final Bills, Security Deposits and Performance Guarantees of other contract or contracts, executed by the contractor. The Performance Guarantees submitted by the Contractor against other contracts, if required, may be withheld and encashed. In addition, 10% of each subsequent 'on-account bill' may be withheld, if required, for recovery of DFCCIL's dues against the terminated contract.
  - (iii) It is an agreed term of the contract that the sum of money so withheld or retained under this Clause by the DFCCIL will be kept withheld or retained as such by the DFCCIL till the claim arising out of or under any other contract is either mutually settled or determined by arbitration, if the other contract is governed by Arbitration Clause or by the competent court as the case may be and contractor shall have no claim for interest or damages whatsoever on this account or on any other ground in respect of any sum of money withheld or retained under this Clause and duly notified as such to the contractor.
- 53. Signature On Receipts For Amounts :** Every receipt for money which may become payable or for any security which may become transferable to the Contractors under these presents, shall, if signed in the partnership name by anyone of the partners of a Contractor's firm be a good and sufficient discharge to the DFCCIL in respect of the moneys or security purported to be acknowledged thereby and in the event of death of any of the Contractor, partners during the pendency of the contract, it is hereby expressly agreed that every receipt by anyone of the surviving Contractor partners shall if so signed as aforesaid be good and sufficient discharge as aforesaid provided that nothing in this Clause contained shall be deemed to prejudice or effect any claim which the DFCCIL may hereafter have against the legal representative of any contractor partner so dying for or in respect to any breach of any of the conditions of the contract, provided also that nothing in this clause contained shall be deemed to prejudice or effect the respective rights or obligations of the Contractor partners and of the legal representatives of any deceased Contractor partners interse.

## **LABOUR**

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

If, in compliance with the terms of the contract, the Contractor supplied any labour to be used wholly or partly under the direct orders and control of the DFCCIL

whether in connection with any work being executed by the Contractor or otherwise for the purpose of the DFCCIL such labour shall, for the purpose of this Clause, still be deemed to be persons employed by the Contractor.

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

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

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

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

**55. Provisions Of Payments Of Wages Act:** The Contractor shall comply with the provisions of the Payment of Wages Act, 1936 and the rules made thereunder in respect of all employees directly or through petty contractors or sub-contractors employed by him in the works. If in compliance with the terms of the contract, the Contractor directly or through petty contractors or sub-contractors shall supply any labour to be used wholly or partly under the direct orders and control of the Engineer whether in connection with the works to be executed hereunder or otherwise for the purpose of the Engineer, such labour shall never the less be deemed to comprise persons employed by the contractor and any moneys which may be ordered to be paid by the Engineer shall be deemed to be moneys payable by the Engineer on behalf of the Contractor and the Engineer may on failure of the Contractor to repay such money to the DFCCIL deduct the same from any moneys due to the Contractor in terms of the contract. The DFCCIL shall be entitled to deduct from any moneys due to the contractor (whether under this contract or any other contract) all moneys paid or payable by the DFCCIL by way of compensation of aforesaid or for costs of expenses in connection with any claim thereto and the decision of the Engineer upon any question arising out of the effect or force of this Clause shall be final and binding upon the Contractor.

**55-A. Provisions Of Contract Labour (Regulation And Abolition) Act, 1970 :**

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

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

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

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

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

The decision of the DFCCIL regarding the amount actually recoverable from the contractor as stated above shall be final and binding on the Contractor.

- 55-B. Provisions of Employees Provident Fund and Miscellaneous Provisions Act, 1952:** The Contractor shall comply with the provisions of Para 30 & 36-B of the Employees Provident Fund Scheme, 1952; Para 3 & 4 of Employees' Pension Scheme, 1995; and Para 7 & 8 of Employees Deposit Linked Insurance Scheme, 1976; as modified from time to time through enactment of "Employees Provident Fund & Miscellaneous Provisions Act, 1952", wherever applicable and shall also indemnify the DFCCIL from and against any claims under the aforesaid Act and the Rules.
- 56. Reporting Of Accidents To Labour :** The Contractor shall be responsible for the safety of all employees directly or through petty contractors or sub-contractor employed by him on the works and shall report serious accidents to any of them however and wherever occurring on the works to the Engineer or the Engineers Representative and shall make every arrangements to render all possible assistance.
- 57. Provision Of Workmen's Compensation Act :** In every case in which by virtue of the provisions of Section 12 Sub-Section (1) of the Workmen's Compensation Act 1923, DFCCIL is obliged to pay compensation to a workman directly or through petty contractor or subcontractor employed by the Contractor in executing the work, DFCCIL will recover from the Contractor the amount of the compensation so paid, and, without prejudice to the rights of DFCCIL under Section 12 Sub-section (2) of the said Act, DFCCIL shall be at liberty to recover such amount or any part thereof by deducting it from the Security Deposit or from any sum due by DFCCIL to the Contractor whether under these conditions or otherwise, DFCCIL shall not be bound to contest any claim made against it under Section 12 Sub-Section (1) of the said Act except on the written request of the Contractor and upon his giving to DFCCIL full security for all costs for which DFCCIL might become liable in consequence of contesting such claim.
- 57-A. Provision Of Mines Act :** The Contractor shall observe and perform all the provisions of the Mines Act, 1952 or any statutory modifications or re-enactment thereof for the time being in force and any rules and regulations made thereunder in respect of all the persons directly or through the petty contractors or sub-contractors employed by him under this contract and shall indemnify the DFCCIL from and against any claims under the Mines Act, or the rules and regulations framed thereunder, by or on behalf of any persons employed by him or otherwise.
- 58. DFCCIL Not To Provide Quarters For Contractors:** No quarters shall normally be provided by the DFCCIL for the accommodation of the Contractor or any of his staff employed on the work. In exceptional cases where accommodation is pro-

vided to the Contractor at the DFCCIL's discretion, recoveries shall be made at such rates as may be fixed by the DFCCIL for the full rent of the buildings and equipments therein as well as charges for electric current, water supply and conservancy.

- 59.(1) Labour Camps :** The Contractor shall at his own expense make adequate arrangements for the housing, supply of drinking water and provision of latrines and urinals for his staff and workmen, directly or through the petty contractors or sub-contractors and for temporary creche (Bal-mandir) where 50 or more women are employed at a time. Suitable sites on DFCCIL land, if available, may be allotted to the Contractor for the erection of labour camps, either free of charge or on such terms and conditions that may be prescribed by the DFCCIL. All camp sites shall be maintained in clean and sanitary conditions by the Contractor at his own cost.
- 59.(2) Compliance To Rules For Employment Of Labour :** The Contractor(s) shall conform to all laws, bye-laws rules and regulations for the time being in force pertaining to the employment of local or imported labour and shall take all necessary precautions to ensure and preserve the health and safety of all staff employed directly or through petty Contractors or Sub-Contractors on the works.
- 59.(3) Preservation Of Peace :** The Contractor shall take requisite precautions and use his best endeavours to prevent any riotous or unlawful behaviour by or amongst his workmen and other employed directly or through the petty contractors or sub-contractors on the works and for the preservation of peace and protection of the inhabitants and security of property in the neighbourhood of the works. In the event of the DFCCIL requiring the maintenance of a special Police Force at or in the vicinity of the site during the tenure of works, the expenses thereof shall be borne by the Contractor and if paid by the DFCCIL shall be recoverable from the Contractor.
- 59.(4) Sanitary Arrangements :** The Contractor shall obey all sanitary rules and carry out all sanitary measures that may from time to time be prescribed by the DFCCIL Medical Authority and permit inspection of all sanitary arrangements at all times by the Engineer, the Engineer's Representative or the Medical Staff of the DFCCIL. Should the Contractor fail to make the adequate sanitary arrangements, these will be provided by the DFCCIL and the cost therefore recovered from the Contractor.
- 59.(5) Outbreak Of Infectious Disease:** The Contractor shall remove from his camp such labour and their families as refuse protective inoculation and vaccination when called upon to do so by the Engineer or the Engineer's Representative on the advice of the DFCCIL, Medical Authority. Should Cholera, plague, or other infectious disease break out, the Contractor shall burn the huts, beddings, clothes and other belongings of or used by the infected parties and promptly erect new huts on healthy sites as required by the Engineer, failing which within the time



specified in the Engineer's requisition, the work may be done by the DFCCIL and the cost therefore recovered from the Contractor.

- 59.(6) Treatment Of Contractor's Staff In Railway Hospitals :** The Contractor and his staff, other than labourers and their families requiring medical aid from the Railway Hospital and dispensaries will be treated as private patients and charged accordingly. The Contractors' labourers and their Families will be granted free treatment in DFCCIL Hospitals and dispensaries where no other Hospitals or dispensaries are available provided the Contractor pays the cost of medicines, dressing and diet money according to the normal scale and additional charges for special examinations such as pathological and bacteriological examination, X-Ray, etc. and for surgical operation.
- 59.(7) Medical Facilities At Site:** The Contractor shall provide medical facilities at the site as may be prescribed by the Engineer on the advice of the DFCCIL Medical Authority in relation to the strength of the Contractor's resident staff and workmen.
- 59.(8) Use Of Intoxicants :** The sale of ardent spirits or other intoxicating beverages upon the work or in any of the buildings, encampments or tenements owned, occupied by or within the control of the Contractor or any of his employees shall be forbidden and the Contractor shall exercise his influence and authority to the utmost extent to secure strict compliance with this condition.
- 59.(9) Non-Employment Of Female Labour :** The Contractor shall see that the employment of female labour on/in Cantonment areas, particularly in the neighbourhood of soldiers barracks, should be avoided as far as possible.
- 59.(10) Restrictions On The Employment Of Retired Engineers Of DFCCIL Services Within Two Years Of Their Retirement :** The Contractor shall not, if he is a retired Government Engineer of Gazetted rank, himself engage in or employ or associate a retired Government Engineer of Gazetted rank, who has not completed two years from the date of retirement, in connection with this contract in any manner whatsoever without obtaining prior permission of the President and if the Contractor is found to have contravened this provision it will constitute a breach of contract and administration will be entitled to terminate the contract at the risk and cost of the contractor and forfeit his Security Deposit.
- 60.(1) Non-Employment Of Labourers Below The Age Of 15 :** The Contractor shall not employ children below the age of 15 as labourers directly or through petty contractors or sub-contractors for the execution of work.
- 60.(2) Medical Certificate Of Fitness For Labour :** It is agreed that the contractor shall not employ a person above 15 and below 19 years of age for the purpose of execution of work under the contract unless a medical certificate of fitness in the

prescribed form (Proforma at Annexure-VIII) granted to him by a certifying surgeon certifying that he is fit to work as an adult, is obtained and kept in the custody of the contractor or a person nominated by him in this behalf and the person carries with him, while at work; a token giving a reference to such certificate. It is further agreed that the responsibility for having the adolescent examined medically at the time of appointment or periodically till he attains the age of 19 years shall devolve entirely on the contractor and all the expenses to be incurred on this account shall be borne by him and no fee shall be charged from the adolescent or his parent for such medical examination.

**60.(3) Period Of Validity Of Medical Fitness Certificate:** A certificate of fitness granted or renewed for the above said purposes shall be valid only for a period of one year at a time. The certifying surgeon shall revoke a certificate granted or renewed if in his opinion the holder of it is, no longer fit for work in the capacity stated therein. Where a certifying surgeon refuses to grant or renew a certificate or revoke a certificate, he shall, if so required by the person concerned, state his reasons in writing for doing so.

**60.(4) Medical Re-Examination Of Labourer :** Where any official appointed in this behalf by the Ministry of Labour is of the opinion that any person employed in connection with the execution of any work under this contract in the age group 15 to 19 years is without a certificate of fitness or is having a certificate of fitness but no longer fit to work in the capacity stated in the certificate, he may serve on the Contractor, or on the person nominated by him in this regard, a notice requiring that such persons shall be examined by a certifying surgeon and such person shall not if the concerned official so directs, be employed or permitted to do any work under this contract unless he has been medically examined and certified that he has been granted a certificate of fitness or a fresh certificate of fitness, as the case may be.

#### **EXPLANATIONS :**

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

#### **DETERMINATION OF CONTRACT**

**61.(1) Right Of DFCCIL To Determine The Contract :** The DFCCIL shall be entitled to determine and terminate the contract at any time should, in the DFCCIL's opinion, the cessation of work becomes necessary owing to paucity of funds or from any other cause whatever, in which case the value of approved materials at site and

of work done to date by the Contractor will be paid for in full at the rate specified in the contract. Notice in writing from the DFCCIL of such determination and the reasons therefor shall be conclusive evidence thereof.

- 61.(2) Payment On Determination Of Contract :** Should the contract be determined under sub clause (1) of this clause and the Contractor claims payment for expenditure incurred by him in the expectation of completing the whole of the work, the DFCCIL shall admit and consider such claims as are deemed reasonable and are supported by vouchers to the satisfaction of the Engineer. The DFCCIL's decision on the necessity and propriety of such expenditure shall be final and conclusive.
- 61.(3)** The Contractor shall have no claim to any payment of compensation or otherwise, howsoever on account of any profit or advantage which he might have derived from the execution of the work in full but which he did not derive in consequence of determination of contract.
- 62.(1) Determination Of Contract Owing To Default Of Contractor :** If the Contractor should:
- (i) Becomes bankrupt or insolvent, or
  - (ii) Make an arrangement with of assignment in favour of his creditors, or agree to carry out the contract under a Committee of Inspection of his creditors, or
  - (iii) Being a Company or Corporation, go into liquidation (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), or
  - (iv) Have an execution levied on his goods or property on the works, or
  - (v) Assign the contract or any part thereof otherwise than as provided in Clause 7 of these Conditions, or
  - (vi) Abandon the contract, or
  - (vii) Persistently disregard the instructions of the Engineer, or contravene any provision of the contract, or
  - (viii) Fail to adhere to the agreed programme of work by a margin of 10% of the stipulated period, or
  - (ix) Fail to remove materials from the site or to pull down and replace work after receiving from the Engineer notice to the effect that the said materials or works have been condemned or rejected under Clause 25 and 27 of these Conditions, or
  - (x) Fail to take steps to employ competent or additional staff and labour as required under Clause 26 of the Conditions, or

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

Then and in any of the said Clause, the Engineer on behalf of the DFCCIL may serve the Contractor with a notice (Proforma at Annexure-IX) in writing to that effect and if the Contractor does not within seven days after the delivery to him of such notice proceed to make good his default in so far as the same is capable of being made good and carry on the work or comply with such directions as aforesaid of the entire satisfaction of the Engineer, the DFCCIL shall be entitled after giving 48 hours' notice (Proforma at Annexure-X) in writing under the hand of the Engineer to rescind the contract as a whole or in part or parts (as may be specified in such notice) and after expiry of 48 hours' notice, a final termination notice (Proforma at Annexure-XI) should be issued and adopt either or both of the following courses :

- (x) To carry out the whole or part of the work from which the contractor has been removed by the employment of the required labour and materials, the costs of which shall include lead, lift, freight, supervision and all incidental charges.
- (y) To measure up the whole or part of the work from which the contractor has been removed and get it completed by another contractor, the manner and method in which such work is completed shall be in the entire discretion of the Engineer whose decision shall be final :

And in both cases (x) and (y) mentioned above, the DFCCIL shall be entitled (i) to forfeit the whole or such portion of the Security Deposit as it may consider fit, and (ii) to recover from the Contractor the cost of carrying out the work in excess of the sum which would have been payable according to the certificate of the Engineer to the Contractor, if the works had been carried out by the Contractor under the terms of the contract, such certificate being final and binding upon the contractor, provided, however, that such recovery shall be made only when the cost incurred in excess is more than the Security Deposit proposed to be forfeited and shall be limited to the amount by which the cost incurred in excess exceeds the Security Deposit proposed to be forfeited. The amount, thus, to be forfeited or recovered may be deducted from any moneys then due or which at any time thereafter may become due to the Contractor by the DFCCIL under this or any other Contract or otherwise.

Provided always that in any case in which any of power conferred upon the DFCCIL by Sub Clause (1) of Clause 62 hereof shall have become exercisable and the same shall not be exercised, the non-exercise thereof shall not constitute a waiver of any of the conditions thereof and such powers shall notwithstanding be exercisable in the event of any future case of default by the contractor for which his liability for past and future shall remain unaffected.

**62.(2) Right Of DFCCIL After Rescission Of Contract Owing To Default Of Contractor :** In the event of any or several of the courses, referred to in Sub-Clause (1) of this Clause, being adopted :

- (a) The Contractor shall have no claim to compensation for any loss sustained by him by reason of his having purchased or procured any materials or entered into any commitments or made any advances on account of or with a view to the execution of the works or the performance of the contract and Contractor shall not be entitled to recover or be paid any sum for any work thereto for actually performed under the contract unless and until the Engineer shall have certified the

performance of such work and the value payable in respect thereof and the Contractor shall only be entitled to be paid the value so certified.

- (b) The Engineer or the Engineer's Representative shall be entitled to take possession of any materials, tools, implements, machinery and buildings on the works or on the property on which these are being or ought to have been executed, and to retain and employ the same in the further execution of the works or any part thereof until the completion of the works without the Contractor being entitled to any compensation for the use and employment thereof or for wear and tear or destruction thereof.
- (c) The Engineer shall as soon as may be practicable after removal of the Contractor fix and determine ex-parte or by or after reference to the parties or after such investigation or enquiries as he may consider fit to make or institute and shall certify what amount (if any) had at the time of rescission of the contract been reasonably earned by or would reasonably accrue to the Contractor in respect of the work then actually done by him under the contract and what was the value of any unused, or partially used materials, any constructional plant and any temporary works upon the site. The legitimate amount due to the contractor after making necessary deductions and certified by the Engineer should be released expeditiously.

#### **SETTLEMENT OF DISPUTES – ARBITRATION RULES**

- 63. Matters Finally Determined By The DFCCIL :** All disputes and differences of any kind whatsoever arising out of or in connection with the contract, whether during the progress of the work or after its completion and whether before or after the determination of the contract, shall be referred by the contractor to the GM and the GM shall, within 120 days after receipt of the contractor's representation, make and notify decisions on all matters referred to by the contractor in writing provided that matters for which provision has been made in Clauses 8, 18, 22(5), 39, 43(2), 45(a), 55, 55-A(5), 57, 57A, 61(1), 61(2) and 62(1) to (xiii)(B) of General Conditions of Contract or in any Clause of the Special Conditions of the Contract shall be deemed as 'excepted matters' (matters not arbitrable) and decisions of the DFCCIL authority, thereon shall be final and binding on the contractor; provided further that 'excepted matters' shall stand specifically excluded from the purview of the Arbitration Clause.
- 64.(1) Demand For Arbitration :**
- 64.(1) (i) -** In the event of any dispute or difference between the parties hereto as to the construction or operation of this contract, or the respective rights and liabilities of the parties on any matter in question, dispute or difference on any account or as to the withholding by the DFCCIL of any certificate to which the contractor may claim to be entitled to, or if the DFCCIL fails to make a decision within 120 days, then and in any such case, but except in any of the "excepted matters" referred to in Clause 63 of these Conditions, the contractor, after 120 days but within 180 days of his presenting his final claim on disputed matters shall demand in writing that the dispute or difference be referred to arbitration.

- 64.(1) (ii)** - The demand for arbitration shall specify the matters which are in question, or subject of the dispute or difference as also the amount of claim item-wise. Only such dispute(s) or difference(s) in respect of which the demand has been made, together with counter claims or set off, given by the DFCCIL, shall be referred to arbitration and other matters shall not be included in the reference.
- 64.(1) (iii)**- (a) The Arbitration proceedings shall be assumed to have commenced from the day, a written and valid demand for arbitration is received by the DFCCIL.
- (b) The claimant shall submit his claim stating the facts supporting the claims alongwith all the relevant documents and the relief or remedy sought against each claim within a period of 30 days from the date of appointment of the Arbitral Tribunal.
- (c) The DFCCIL shall submit its defence statement and counter claim(s), if any, within a period of 60 days of receipt of copy of claims from Tribunal thereafter, unless otherwise extension has been granted by Tribunal.
- (d) Place of Arbitration: The place of arbitration would be within the geographical limits of the Division of the DFCCIL where the cause of action arose or the Headquarters of the concerned DFCCIL or any other place with the written consent of both the parties.
- 64.(1) (iv)** - No new claim shall be added during proceedings by either party. However, a party may amend or supplement the original claim or defence thereof during the course of arbitration proceedings subject to acceptance by Tribunal having due regard to the delay in making it.
- 64.(1) (v)** - If the contractor(s) does/do not prefer his/their specific and final claims in writing, within a period of 90 days of receiving the intimation from the DFCCIL that the final bill is ready for payment, he/they will be deemed to have waived his/their claim(s) and the DFCCIL shall be discharged and released of all liabilities under the contract in respect of these claims.
- 64.(2) Obligation During Pendency Of Arbitration** : Work under the contract shall, unless otherwise directed by the Engineer, continue during the arbitration proceedings, and no payment due or payable by the DFCCIL shall be withheld on account of such proceedings, provided, however, it shall be open for Arbitral Tribunal to consider and decide whether or not such work should continue during arbitration proceedings.
- 64.(3) Appointment of Arbitrator** :
- 64.(3) (a)(i)** - In cases where the total value of all claims in question added together does not exceed Rs. 10,00,000 (Rupees ten lakh only), the Arbitral Tribunal shall consist of a Sole Arbitrator who shall be a Gazetted Officer of DFCCIL not below JA Grade, nominated by the General Manager. The sole arbitrator shall be ap-

pointed within 60 days from the day when a written and valid demand for arbitration is received by GM.

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

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

- 64.(3) (a)(iii)** - If one or more of the arbitrators appointed as above refuses to act as arbitrator, withdraws from his office as arbitrator, or vacates his/their office/offices or is/are unable or unwilling to perform his functions as arbitrator for any reason whatsoever or dies or in the opinion of the General Manager fails to act without undue delay, the General Manager shall appoint new arbitrator/arbitrators to act in his/their place in the same manner in which the earlier arbitrator/arbitrators had been appointed. Such re-constituted Tribunal may, at its discretion, proceed with the reference from the stage at which it was left by the previous arbitrator (s).
- 64.(3) (a)(iv)** - The Arbitral Tribunal shall have power to call for such evidence by way of affidavits or otherwise as the Arbitral Tribunal shall think proper, and it shall be the duty of the parties hereto to do or cause to be done all such things as may be necessary to enable the Arbitral Tribunal to make the award without any delay. The Arbitral Tribunal should record day to-day proceedings. The proceedings shall normally be conducted on the basis of documents and written statements.
- 64.(3) (a)(v)** - While appointing arbitrator(s) under Sub-Clause (i), (ii) & (iii) above, due care shall be taken that he/they is/are not the one/those who had an opportunity to deal with the matters to which the contract relates or who in the course of his/their duties as DFCCIL servant(s) expressed views on all or any of the matters



under dispute or differences. The proceedings of the Arbitral Tribunal or the award made by such Tribunal will, however, not be invalid merely for the reason that one or more arbitrator had, in the course of his service, opportunity to deal with the matters to which the contract relates or who in the course of his/their duties expressed views on all or any of the matters under dispute.

- 64.(3) (b)(i)** - The arbitral award shall state item wise, the sum and reasons upon which it is based. The analysis and reasons shall be detailed enough so that the award could be inferred therefrom.
- 64.(3) (b)(ii)** - A party may apply for corrections of any computational errors, any typographical or clerical errors or any other error of similar nature occurring in the award of a Tribunal and interpretation of a specific point of award to Tribunal within 60 days of receipt of the award.
- 64.(3) (b)(iii)** - A party may apply to Tribunal within 60 days of receipt of award to make an additional award as to claims presented in the arbitral proceedings but omitted from the arbitral award.
- 64.(4)** In case of the Tribunal, comprising of three Members, any ruling on award shall be made by a majority of Members of Tribunal. In the absence of such a majority, the views of the Presiding Arbitrator shall prevail.
- 64.(5)** Where the arbitral award is for the payment of money, no interest shall be payable on whole or any part of the money for any period till the date on which the award is made.
- 64.(6)** The cost of arbitration shall be borne by the respective parties. The cost shall inter-alia include fee of the arbitrator(s), as per the rates fixed by DFCCIL Board from time to time and the fee shall be borne equally by both the parties. Further, the fee payable to the arbitrator(s) would be governed by the instructions issued on the subject by DFCCIL Board from time to time irrespective of the fact whether the arbitrator(s) is/are appointed by the DFCCIL Administration or by the court of law unless specifically directed by Hon'ble court otherwise on the matter.
- 64.(7)** Subject to the provisions of the aforesaid Arbitration and Conciliation Act 1996 and the rules thereunder and any statutory modifications thereof shall apply to the arbitration proceedings under this Clause.

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

- 65. Participation Of Joint Venture (JV) Firms In Works Tender :** This Clause shall be applicable for works tenders of value as approved and communicated by DFCCIL Board from time to time.
- 65.1** Separate identity/name shall be given to the Joint Venture Firm.

- 65.2** Number of members in a JV Firm shall not be more than three, if the work involves only one department (say Civil or S&T or Electrical or Mechanical) and shall not be more than five, if the work involves more than one department.
- 65.3** A member of JV Firm shall not be permitted to participate either in individual capacity or as a member of another JV Firm in the same tender.
- 65.4** The tender form shall be purchased and submitted only in the name of the JV Firm and not in the name of any constituent member.
- 65.5** Normally Earnest Money Deposit (EMD) shall be submitted only in the name of the JV Firm and not in the name of constituent member. However, in exceptional cases EMD in the name of Lead Member can be accepted subject to submission of specific request letter from Lead Member stating the reasons for not submitting EMD in the name of JV Firm and giving written confirmation from JV members to the effect that EMD submitted by the Lead Member may be deemed as EMD submitted by JV Firm.
- 65.6** One of the members of the JV Firm shall be its Lead Member who shall have a majority (at least 51%) share of interest in the JV Firm and also, must have satisfactorily completed in the last three previous financial years and the current financial year upto the date of opening of the tender, one similar single work for a minimum value of 35% of advertised tender value. The other members shall have a share of not less than 20% each in case of JV Firms with upto three members and not less than 10% each in case of JV Firms with more than three members. In case of JV Firm with foreign member(s), the Lead Member has to be an Indian Firm with a minimum share of 51%.
- 65.7** A copy of Memorandum of Understanding (MoU) executed by the JV members shall be submitted by the JV Firm alongwith the tender. The complete details of the members of the JV Firm, their share and responsibility in the JV Firm etc. particularly with reference to financial, technical and other obligations shall be furnished in the MoU. (The MoU format for this purpose shall be finalized by the DFCCIL in consultation with their Law Branch and shall be enclosed alongwith the tender).
- 65.8** Once the tender is submitted, the MoU shall not be modified / altered / terminated during the validity of the tender. In case the tenderer fails to observe/comply with this stipulation, the full Earnest Money Deposit (EMD) shall be liable to be forfeited.
- 65.9** Approval for change of constitution of JV Firm shall be at the sole discretion of the Employer (DFCCIL). The constitution of the JV Firm shall not be allowed to be modified after submission of the tender bid by the JV Firm, except when modification becomes inevitable due to succession laws etc. and in any case the minimum eligibility criteria should not get vitiated. However, the Lead Member shall contin-

ue to be the Lead Member of the JV Firm. Failure to observe this requirement would render the offer invalid.

- 65.10** Similarly, after the contract is awarded, the constitution of JV Firm shall not be allowed to be altered during the currency of contract except when modification become inevitable due to succession laws etc. and in any case the minimum eligibility criteria should not get vitiated. Failure to observe this stipulation shall be deemed to be breach of contract with all consequential penal action as per contract conditions.
- 65.11** On award of contract to a JV Firm, a single Performance Guarantee shall be submitted by the JV Firm as per tender conditions. All the Guarantees like Performance Guarantee, Bank Guarantee for Mobilization Advance, Machinery Advance etc. shall be accepted only in the name of the JV Firm and no splitting of guarantees amongst the members of the JV Firm shall be permitted.
- 65.12** On issue of LOA (Letter Of Acceptance), an agreement among the members of the JV Firm (to whom the work has been awarded) shall be executed and got registered before the Registrar of the Companies under Companies Act or before the Registrar/Sub-Registrar under the Registration Act, 1908. This JV Agreement shall be submitted by the JV Firm to the DFCCIL before signing the contract agreement for the work. In case the tenderer fails to observe/comply with this stipulation, the full Earnest Money Deposit (EMD) shall be forfeited and other penal actions due shall be taken against partners of the JV and the JV. This Joint Venture Agreement shall have, inter-alia, following Clauses :
- 65.12.1** Joint And Several Liability - Members of the JV Firm to which the contract is awarded, shall be jointly and severally liable to the Employer (DFCCIL) for execution of the project in accordance with General and Special Conditions of Contract. The JV members shall also be liable jointly and severally for the loss, damages caused to the DFCCIL during the course of execution of the contract or due to non-execution of the contract or part thereof.
- 65.12.2** Duration of the Joint Venture Agreement - It shall be valid during the entire currency of the contract including the period of extension, if any and the maintenance period after the work is completed.
- 65.12.3** Governing Laws - The Joint Venture Agreement shall in all respect be governed by and interpreted in accordance with Indian Laws.
- 65.13** Authorized Member - Joint Venture members shall authorize one of the members on behalf of the Joint Venture Firm to deal with the tender, sign the agreement or enter into contract in respect of the said tender, to receive payment, to witness joint measurement of work done, to sign measurement books and similar such action in respect of the said tender/contract. All notices/correspondences with respect to the contract would be sent only to this authorised member of the JV Firm.

**65.14** No member of the Joint Venture Firm shall have the right to assign or transfer the interest right or liability in the contract without the written consent of the other members and that of the employer (DFCCIL) in respect of the said tender/contract.

**65.15** Documents to be enclosed by the JV Firm alongwith the tender :

**65.15.1** In case one or more of the members of the JV Firm is/are partnership firm(s), following documents shall be submitted :

- (a) Notary certified copy of the Partnership Deed,
- (b) Consent of all the partners to enter into the Joint Venture Agreement on a stamp paper of appropriate value (in original).
- (c) Power of Attorney (duly registered as per prevailing law) in favour of one of the partners of the partnership firm to sign the JV Agreement on behalf of the partnership firm and create liability against the firm.

**65.15.2** In case one or more members is/are Proprietary Firm or HUF, the following documents shall be enclosed :

Affidavit on Stamp Paper of appropriate value declaring that his/her Concern is a Proprietary Concern and he/she is sole proprietor of the Concern OR he/she is in position of "KARTA" of Hindu Undivided Family (HUF) and he/she has the authority, power and consent given by other partners to act on behalf of HUF.

**65.15.3** In case one or more members is/are limited companies, the following documents shall be submitted :

- (a) Notary certified copy of resolutions of the Directors of the Company, permitting the company to enter into a JV agreement, authorizing MD or one of the Directors or Managers of the Company to sign JV Agreement, such other documents required to be signed on behalf of the Company and enter into liability against the company and/or do any other act on behalf of the company.
- (b) Copy of Memorandum and Articles of Association of the Company.
- (c) Power of Attorney (duly registered as per prevailing law) by the Company authorizing the person to do/act mentioned in the para (a) above.

**65.15.4** All the Members of JV shall certify that they are not black listed or debarred by DFCCIL or any other Ministry/Department of the Govt. of India/State Govt. from participation in tenders/contract on the date of opening of bids either in their individual capacity as members of the JV or the JV Firm in which they were/are members.

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

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

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

**OR**

- (b) (i) In case of composite works (e.g. works involving more than one distinct component, such as Civil Engineering works, S&T works, Electrical works, OHE works etc. and in the case of major bridges – substructure, superstructure etc.), for each component, at least 35% of the value of any of such components individually for single similar nature of work should have been satisfactorily completed by the JV Firm or by any member of the JV Firm in the previous three financial years and the current financial year upto the date of opening of tender. The member satisfying technical eligibility criteria for the largest component of the work shall be the Lead Member and that Member shall have a majority (at least 51%) share of interest in the JV Firm.
- (ii) In such cases, what constitutes a component in a composite work shall be clearly pre-defined with estimated tender cost of it, as part of the tender documents without any ambiguity. Any work or set of works shall be considered to be a separate component, only when cost of the component is more than Rs. 2 crore each.
- (iii) However, as long as the JV Firm or any member of the JV Firm meets with the requirements, in one or more components of the work, and has completed a minimum of 35% of the advertised value of the tender for the same value of the component, and resultantly, all the members of the JV collectively, then meet the prescribed technical eligibility criteria, the JV shall stand technically qualified.

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

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

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

**ANNEXURE -VII**

Registered Acknowledgement Due

**PERFORMA FOR TIME EXTENSION**

No. \_\_\_\_\_ Dated : \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Sub : (i) \_\_\_\_\_ (*name of work*).

(ii) Acceptance letter no. \_\_\_\_\_

(iii) Understanding/Agreement no. \_\_\_\_\_

Ref: \_\_\_\_\_ (*Quote specific application of Contractor for extension to the date received*) \_\_\_\_\_

Dear Sir,

The stipulated date for completion of the work mentioned above is \_\_\_\_\_. From the progress made so far and the present rate of progress, it is unlikely that the work will be completed by the above date (or 'However, the work was not completed on this date').

2. Expecting that you may be able to complete the work, if some more time is given, the competent authority, although not bound to do so, hereby extends the time for completion from \_\_\_\_\_ to \_\_\_\_\_.

3. Please note that an amount equal to the liquidated damages for delay in the completion of the work after the expiry of \_\_\_\_\_ (*give here the stipulated date for completion with/without any penalty fixed earlier*) will be recovered from you as mentioned in Clause, 17-B of the General Conditions of Contract for the extended period, notwithstanding the grant of this extension. You may proceed with the work accordingly.

4. The above extension of the completion date will also be subject to the further condition that no increase in rates on any account will be payable to you.

5. Please intimate within a week of the receipt of this letter your acceptance of the extension of the conditions stated above.

6. Please note that in the event of your declining to accept the extension on the above said conditions or in the event of your failure after accepting or acting upto this extension to complete the work by \_\_\_\_\_ (*here mention the extended date*), further action will be taken in terms of Clause 62 of the General Conditions of Contract.

Yours faithfully

For and on behalf of the President of India

## CERTIFICATE OF FITNESS

1. (a) Serial Number \_\_\_\_\_

(b) Date \_\_\_\_\_

2. Name of person examined \_\_\_\_\_

I certify that I have personally examined (*name*) \_\_\_\_\_3. Father's Name : son/daughter of \_\_\_\_\_ ,  
residing at \_\_\_\_\_

4. Sex \_\_\_\_\_

5. Residence : \_\_\_\_\_

6. Date of birth, if available, and/or certified age  
\_\_\_\_\_

7. Physical fitness \_\_\_\_\_

8. Identification marks \_\_\_\_\_  
\_\_\_\_\_

Who is desirous of being employed in a factory or on a work requiring manual labour and that his / her age as nearly as can be ascertained from my examination, is \_\_\_\_\_ years and that he/she is fit for employment in a factory or on a work requiring manual labour as an adult/child.

9. Reasons for :

(a) refusal to grant certificate, or \_\_\_\_\_

(b) revoking the Certificate \_\_\_\_\_

\_\_\_\_\_  
Signature or Left Hand  
Thumb Impression of the  
person Examined

\_\_\_\_\_  
Signature of Certifying Surgeon

**Note :** In case of physical disability, the exact details of the cause of the physical disability should be clearly stated

**PERFORMA OF 7 DAYS NOTICE**

\_\_\_\_\_ **DFCCIL**

(Without Prejudice)

To

M/s \_\_\_\_\_  
\_\_\_\_\_

Dear Sir,

Contract Agreement No. \_\_\_\_\_

In connection with \_\_\_\_\_

In spite of repeated instructions to you by the subordinate offices as well as by this office in various letters of even no. \_\_\_\_\_, dated \_\_\_\_\_; you have failed to start work/show adequate progress and/or submit detailed programme for completing the work.

2. Your attention is invited to this office/Chief Engineer's office letter no. \_\_\_\_\_, dated \_\_\_\_\_ in reference to your representation, dated \_\_\_\_\_.

3. As you have failed to abide by the instructions issued to commence the work/to show adequate progress of work you are hereby given 7 days' notice in accordance with Clause 62 of General Conditions of Contract to commence works / to make good the progress, failing which further action as provided in Clause 62 of the General Conditions of Contract viz. to terminate your Contract and complete the balance work without your participation will be taken.

Kindly acknowledge receipt.

Yours faithfully

For and on behalf of the President of India



**PERFORMA OF 48 HRS. NOTICE**

\_\_\_\_\_ **DFCCIL**

(Without Prejudice)

To

M/s \_\_\_\_\_  
\_\_\_\_\_

Dear Sir,

Contract Agreement No. \_\_\_\_\_

In connection with \_\_\_\_\_

Seven days' notice under Clause 62 of General Conditions of Contract was given to you under this office letter of even no., dated \_\_\_\_\_; but you have taken no action to commence the work/show adequate progress of the work.

2. You are hereby given 48 hours' notice in terms of Clause 62 of General Conditions of Contract and on expiry of this period your above contract will stand rescinded and the work under this contract will be carried out independently without your participation and your Security Deposit shall be forfeited and Performance Guarantee shall also be encashed and consequences which may please be noted.

Kindly acknowledge receipt.

Yours faithfully

For and on behalf of the President of India

**PERFORMA OF TERMINATION NOTICE**

\_\_\_\_\_ **DFCCIL**

(Without Prejudice)

No. \_\_\_\_\_

Dated \_\_\_\_\_

To

M/s \_\_\_\_\_

\_\_\_\_\_

Dear Sir,

Contract Agreement No. \_\_\_\_\_

In connection with \_\_\_\_\_

Forty eight hours (48 hrs.) notice was given to you under this office letter of even no., dated \_\_\_\_\_; but you have taken no action to commence the work/show adequate progress of the work.

Since the period of 48 hours' notice has already expired, the above contract stands rescinded in terms of Clause 62 of General Conditions of Contract and the balance work under this contract will be carried out independently without your participation. Your participation as well as participation of every member/partner in any manner as an individual or a partnership firm/JV is hereby debarred from participation in the tender for executing the balance work and your Security Deposit shall be forfeited and Performance Guarantee shall also be encashed.

Kindly acknowledge receipt.

Yours faithfully

For and on behalf of the President of India

# 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 there from 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:**

- 1.1** 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.
- 1.2** 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.
- 1.3** 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 DFCCIL.
- 1.4** 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.
- 1.5** 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 DFCCIL provide evidence of such payments. It is clarified the DFCCIL is not responsible to the third party suppliers and/or sub contractor for the payment of any dues.
- 1.6** **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.
- 1.7** **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.
- 1.8** **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. 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.

**1.9 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.

**1.10 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.

**1.11 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:**

1.1 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.

1.2 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.

1.3 The supervisors deployed can be demobilized on instructions of DFCCIL, if not found fit for the job.

1.4 Any material rejected by DFCCIL 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 DFCCIL 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 DFCCIL 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 DFCCIL 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 DFCCIL 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 DFCCIL 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 DFCCIL, 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 DFCCIL or as directed by Engineer in charge.
- 9.3 If, at any time it appears to DFCCIL, 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 DFCCIL 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 DFCCIL, 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 DFCCIL 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:**

- 1.1 The DFCCIL 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.
- 1.2 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 DFCCIL 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:** DFCCIL 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 DFCCIL 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 DFCCIL 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 DFCCIL.
- 15.** DFCCIL 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 GGM/Co/EC/DFCCIL.
  - iii. The decision of GGM/Co/EC/DFCCIL 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. MAINTAINING RECORD OF CONSTRUCTION WORK:**
- 17.1** The contractor is required to take and supply to the Engineer-in-charge coloured 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. 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 photographs 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 register, shifts-wise and date-wise.
  - v. UNUSUAL OCCURENCES REGISTER: All unusual occurrences are required to be chronologically logged in this register.
- 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:** 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. Arbitration Clause:** In the event of any dispute or difference between the parties in connection with this work, arbitration clause 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. 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/ALLAHABAD (EAST) 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 personnel moving about or working on the DFCCIL premises & shall have to conform to the rules and regulations as per instructions of Project In charge. 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.
- 22. 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 livable 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.

- 23. 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.
- 24. SALES TAX/COMMERCIAL TAX/TURNOVER TAX IN WORKS CONTRACT:** The element of sales tax / commercial tax/turnover tax in works contract, if any, shall be considered to be included in the rates quoted by the tenderer/s in the tender schedule. Sales tax / commercial tax / turnover tax on works contract will be recovered from the contractor's bill at the rate as applicable as per rules framed by State Govt. from time to time and remitted to the State Govt. by the DFCCIL.
- 24.1 WORKS CONTRACT TAX:** The contractors are liable to pay "WORKS CONTRACT TAX" at the rate prescribed by the respective State Government in whose jurisdiction/territory the works site falls, for which the contractor will be required to have registration with the sale tax authority of the respective state. The Contractors will have to produce the registration certificate issued by the sale tax authorities of the respective state within a period of two months after award of the contract failing which the payment of contractors 1<sup>st</sup> on account bill not be made. The DFCCIL, however, reserve the right at the sole discretion of the Engineer-in-charge on the merits of each individual case in the interest of the work to pass the first on account bill pending for producing the registration certificate, but an amount equivalent to 4% overall value of the contract will be deducted from contractors on account bills towards "Work Contract Tax" for which no claims, whatsoever, on this account will either be entertained or considered by the DFCCIL.
- 24.2 The Building and other construction workers (RECS) Act, 1996 and the Building and other construction workers welfare cess Act, 1996:** "The tenderer for carrying out any construction work in U.P. state must get themselves registered from the Registering officer under Section-7 of the Building and other Construction Workers Act, 1996 and rules made there to by U.P. Govt and submit certificate of Registration issued from the Registering Officer of U.P. Govt. (Labour Deptt.) For enactment of this act, the tenderer shall be required to pay cess @ 1% of cost of construction work to be deducted from each bill. Cost of material shall be outside the purview of cess, when supplied under a separate schedule item."
- 25. Special condition of NS Items:**
- 25.1** Before start of dismantling work, the contractor will provide sufficient time to vacate the building. Owner of the building may take any material from the building. The contractor has no right on the released material.
- 25.2** Before start of dismantling work, the contractor will make sketch of the structure to be dismantled showing all dimensions to calculate the area of the structure. The contractor shall get this sketch countersigned before start of the dismantling work.
- 25.3** Owner of the building may take any of the dismantled material. The contractor will not object the owner from taking any of the released material.

- 25.4 The material which is not taken by owner will be disposed off by the contractor at suitable place outside the Railway (DFCCIL) boundary or at suitable low land area as directed by Engineer in charge. Nothing extra will be paid on this account.
- 25.5 Measurement shall be done at plinth level. Nothing extra shall be paid for projections. No deduction shall be made for openings. For buildings having more than one floor measurements shall be recorded separately for each floor. It shall be measured at floor level.
- 25.6 If any structure is to be dismantled partially, extra payment @ 20% will be paid to safeguard remaining structure. It will be responsibility of the contractor to safeguard the remaining structure. All necessary arrangements such as shuttering, scaffolding etc will be made by the contractor and nothing extra payment will be made on this account.
- 25.7 For any structure other than RCC/stone Patti roof under item no. NS/1, payment will be made @ 20% reduced rates i. e. 80% payment shall be made.
- 25.8 For structure to be dismantled at 1<sup>st</sup> floor, 20% extra payment will be paid.
- 25.9 Contractor will be liable for any damage to remaining/other structure. The contractor will be responsible for any kind of injury/loss of human life/animal life of occupant of the structure at the time of dismantling.
- 25.10 Contractor will take suitable precautions for safeguard against electric wiring etc for his workers & occupants during dismantling.
- 25.11 Item no. NS/3 i.e. dismantling of boundary wall includes dismantling of all type of boundary wall/wall up to any height if not covered with the roof. Single storey building without roof shall also be paid under this item.
- 25.12 Contractor will make his own arrangements for disconnecting electric connections/water supply connections, if any. He will also take necessary action for co-ordination with electrical department/ Water supply department if required. Nothing extra will be paid on this account.
- 25.13 If any structure, other than the acquired structure under RAA-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 & nothing extra payment will be made for transportation. Contractor has to take material outside Railway premises.

Date:

**SIGNATURE OF THE TENDERER  
WITH STAMP**

# **Dedicated Freight Corridor Corporation of India Ltd.**

## **Section-VI**

### **SCHEDULE OF ITEMS, RATES & QUANTITIES**

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## SCHEDULE OF ITEMS, RATES & QUANTITIES

**Name of Work:** Dismantling of structures between Karchana to Mughalsarai coming in DFC alignment in the state of U.P. on Eastern Freight Corridor under CPM/ ALD (EAST).

SN	Item No	Description	Unit	Rate	Quantity	Amount
1	NS/1	<p>Dismantling of all type of Masonry structure up to ground level consisting of Brick/stone masonry (plastered /pointed) CC/ Terrazzo flooring, RCC/RB/Stone patti roof, including water supply/sanitary/ electric fittings, level of ground 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 &amp; P, lead, lift crossing of nallah/canal/track etc. The rates also include taxes, royalties etc and all incidental charges as a complete job as per direction of Engineer in charge.</p> <p><b>Note:</b></p> <ol style="list-style-type: none"> <li>1. Measurement shall be done at plinth level. Nothing extra shall be paid for projections. No deduction shall be made for openings.</li> <li>2. If any structure is to be dismantled partially, extra payment @ 20% will be paid to safeguard remaining structure.</li> <li>3. For any structure other than RCC/stone Patti roof, payment will be made @20% reduced rates i. e. 80% payment shall be mad.</li> <li>4. For structure to be dismantled at 1<sup>st</sup> floor, 20% extra payment will be paid.</li> </ol>	M <sup>2</sup>	218/-	27956 M <sup>2</sup>	60,94,408/-

2	NS/2	Dismantling of structure up to ground level consisting of Thatch roof with ballies or wooden posts/by any other temporary material 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.	M <sup>2</sup>	21/-	13159 M <sup>2</sup>	2,76,339/-
3	NS/3	Dismantling of boundary wall/ Wall in any type of masonry/cement concrete (Not covered with roof )	RM	39/-	4170M	1,62,630/-
4	NS/4	Dismantling of any other structure such as underground tank, platform(Chabutara) etc.	M <sup>2</sup>	110/-	100 M <sup>2</sup>	11,000/-
<b>TOTAL Estimated Cost</b>					<b>Rs. 65,44,377/-</b>	
<b>(Rs. Sixty Five Lacs Forty four Thousand three hundred Seventy Seven Only)</b>						

**Rate quoted by the tenderer:**

**In figure .....%(percentage) above/ below /at par of the estimated cost.**

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

**NOTE:**

1. Bidders should quote the rate in %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. Multiple rates or rates not quoted in the desired format shall not be considered for evaluation.
4. All cuttings should be signed by the bidders. There should not be overwriting.
5. Detail of villages etc in which buildings are situated can be seen by the bidder in the office of CPM/DFCCIL/ALD (E).

Date:.....

Signature of tenderer



**ANNEXURE- I**

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

SN	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	S No. at which relevant certificate/documents are attached
5	6	7	8

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

**ANNEXURE- II**

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

SN	Financial Year	Total Turnover
1	2010-11	
2	2011-12	
3	2012-13	
4	2013-14	
<b>TOTAL</b>		

1. For 2010-11, 2011-12 & 2012-13 copies of the audited balance sheets may please be attached.
2. For 2013-14, unaudited results of turnover of company up to date may be submitted under the certification of CA.

**CONSTITUTION OF THE FIRM/ COMPANY**

1. Full name of contractors 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.

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

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

From: ..... Name and address of bank .....

To:

The Managing Director  
Dedicated Freight Corridor Corporation of India Ltd.  
5<sup>th</sup> 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 Employer’s 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 its 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 DFCCIL, the Bank undertakes to immediately pay to Dedicated Freight Corridor Corporation of India Ltd., any amount up to and inclusive of aforementioned full amount upon written order from DFCCIL without any demur, reservation or recourse;

The Bank shall pay the amount so demanded without any reference to the Contractor and without the DFCCIL 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 DFCCIL 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 DFCCIL 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 Bank's Seal  
Name & Address & 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 DFCCIL 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 Employer  
Name of the official  
Stamp/Seal of the  
Employer

For and on behalf of the  
Name of the official  
Stamp/Seal of the  
contractor

In the presence of  
Witness  
Name  
Address

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,  
(Signature) With date  
Name of the Contractor

Witness:-

1. Name Full  
address with date
2. Name Full  
address 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.
  - 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 the 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 to 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 the 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 vitiating. 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 what so ever. 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 and 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 Machinery 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 DOCUMENT)**