

**RAILTEL CORPORATION OF INDIA LIMITED
(A Govt. of India Undertaking)
(Ministry of Railways)**

TENDER DOCUMENT

FOR

Open Tender For

**“Procurement & Installation of Work Station including Electric items
and Supply of other Furniture itmes like Table, Almirah, file Cabinet and
Chairs of Godrej Make at various locations for office use”**

Tender No. RAILTEL/WR/MUM/TENDER/NOC-FURNITURE/2018-19/06

**Tender Copy No.
Sold to:**

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

INDEX SHEET

<u>CHAPTER</u>	<u>SUBJECT</u>	<u>Pg. No</u>
1.	PREAMBLE	05 - 11
2	SCHEDULE OF REQUIREMENTS	12 - 16
3.	INSTRUCTIONS TO TENDERERS AND CONDITIONS OF TENDERING	17 - 27
4	GENERAL CONDITION OF CONTRACT	28 - 60
5.	SPECIAL CONDITIONS OF CONTRACT	61 - 78
6.	FORMS OF TENDERS, ETC	79 -96

TENDER NOTICE

No. RAILTEL/WR/MUM/TENDER/NOC-FURNITURE/2018-19/06 **Date:** 16/07/2018

RailTel Corporation of India Limited, Western Railway Microwave Complex, Senapati Bapat Marg, Mahalaxmi- Mumbai- 400 013, invites sealed open tenders on percentage basis from the established and reliable contractors with proven experience for the following work of:

“Procurement & Installation of Work Station including Electric items and Supply of other Furniture itmes Like Table, Almirah, file Cabinet and Chairs of Godrej Make at various locations for office use”.

Approximate Cost of work :-Rs.18,38,067/-

EMD:-Rs 36,770/-

a)	Sale of Tender Documents	From 16.07.2018
b)	Closing of sale of Tender Documents	up to 12.00 Hrs 16.08.2018
c)	Receipt of tender documents.	up to 15.00 Hrs 16.08.2018
d)	Opening of tender documents.	up to 15.30 Hrs 16.08.2018
e)	Validity of offer	120 days from the date of opening of tender.
f)	Completion period	45 Days from the date of issue of LOA of tender.
g)	Address for availability of tender document	REGIONAL GENERAL MANAGER, RailTel Corporation of India Ltd., Western Railway Microwave Complex, SenapatiBapatMarg, Mahalaxmi, Mumbai - 400 013
h)	Web address for availability of tender document	www.railtelindia.com
i)	Cost of Tender document by hand / Downloaded from Railtel web site.	Rs. 2360
j)	Cost of Tender document if required by post	Rs. 2950
k)	<p>The Tenderer shall note that the offered rate in % Above/Below/At par is all inclusive of taxes. However, It is mandatory for the tenderer to submit the breakup of all taxes charged on Form no. 16 annexed with the Tender Document.</p> <p>The tenderer has to submit PAN No. & GSTIN No. at the time of submission of their “on account bills” with tax invoices. In case the successful tenderer is not liable to be registered under CGST/IGST/UTGST/SGST act, the RailTel shall deduct the applicable GST from his/their bills under reverse charge mechanism (RCM) and deposit the same to the concerned tax authority.</p>	

Note:

1. Small Scale Units, if registered with NSIC , under single point registration scheme or registered as Micro, Small, Medium Enterprises under MSMED act 2006 as per Para No. 3.5.1 are exempted for submission of tender cost, A copy of valid registration certificate is to be submitted. **However, postal charges of Rs. 500/- have to be paid, in case they need tender document by post.**

The Tenderers shall submit their offer in sealed envelopes. The offer completed in all respect will be received up to 15.00 Hrs. on 16.08.2018 and will be opened at 15.30 Hrs. on the same day, in the presence of the Tenderer/s or their representative who may be present.

The offers shall be opened on above said date in the presence of those bidders who choose to be present. In case the date of opening happens to be a holiday, the tender will be received and opened at the same time on the next working day.

Further information including corrigendum to the Tender notice is available from the office of Regional General Manager- RailTel /Mumbai.

The Bid have to be sent at the following address –Office of Regional General Managerr, Railtel Corporation of India Limited, Western Railway Microwave Complex, Opposite Ambika Mills, Senapati Bapat Marg, Mahalaxmi (West), Mumbai-400013 the bids will be opened at the above said address.

**GM / Projects
For Regional General Manager
RailTel Corporation of India Limited/Mumbai**

Chapter – I

PREAMBLE

Preamble

Index

- 1.1 Scope of work**
- 1.2 Tender Bid**
- 1.3 Qualifying Criteria**
- 1.4 Last date of Submission**
 - 1.5 Date of Opening of Tender**
 - 1.6 RailTel's right**
 - 1.7 Work Load**
 - 1.8 Validity of Offer**
 - 1.9 Completion Period of Work**
- 1.10 The List of Address to which correspondence and documents relating to the Contract should be sent**
 - 1.11 Earnest Money**
- 1.12 Security Deposit**
 - 1.13 Performance Bank Guarantee**
- 1.14 Specifications**
- 1.15 Schedule of Requirement**
 - 1.16 Work to be done by RailTel**
 - 1.17 Materials to be supplied by RailTel**
 - 1.18 Materials to be supplied by Contractor**
 - 1.19 Submission**
 - 1.20 Warranty Support**
 - 1.21 Important instructions**

Preamble

Tender No. RAILTEL/WR/MUM/TENDER/NOC-FURNITURE/2018-19/06

1. **Name of work:** Procurement and Installation of Work Station including electric items and supply of other furniture items like Table, Almirah, file Cabinet and Chairs of Godrej Make at various locations for office use.

- 1.1 **Scope of work:**

Procurement and Installation of Work Station including Electric items at NOC, RailTel, Mahalaxmi, Mumbai

and

Supply of Furniture including Chairs, Tables, Almirah and File Cabinet Godrej Make at various locations of Field offices situated at following locations:

- (i) Mahalaxmi, Mumbai
- (ii) Surat
- (iii) Boisar
- (iv) Pune (at 3 locations)
- (v) Kopar
- (vi) Panvel
- (vii) Goregaon
- (viii) Churchgate
- (ix) Kalyan
- (x) Madgaon
- (xi) Daund
- (xii) Solapur
- (xiii) Nandurbar

- 1.1.1 The quantities given in the Schedule of Requirement (SOR) and the drawing attached are only indicative one to give an idea to the tenderer of the total volume of work which is expected to be executed as per the requirement.

- 1.2 The tender bid shall be submitted in **sealed covers** at following address:-

Regional General Manager, RailTel Corporation of India Limited, Western Railway Microwave Complex, Senapati Bapat Marg, Mahalaxmi, Mumbai - 400 013.

- 1.3 **Qualifying Criteria.**

The tenderer should be original manufacturer or authorized dealer of the brand of the modular work station and other associated furniture which tenderer intend to supply. Authorized dealer Certificate shall be attached.

- 1.4 **Last date of Submission :-**

The tender shall be received up to **15.00 hrs on 16.08.2018** at the office of Regional General Manager, RailTel Corporation of India Limited, Western Railway Microwave Complex, Senapati Bapat Marg, Mahalaxmi, Mumbai - 400 013. Phone: 91 (22) 24923907, Fax 91 (22) 24923913.

- 1.5 **Date of Opening of Tender :-**

The tenders will be opened at **15.30 hrs on 16.08.2018** at the same address as mentioned in Para 1.2.

1.7 RailTel reserves the right:-

- a) To verify, if so desired, the correctness of documentary evidence furnished by the tenderer.
- b) To verify the successful operation and performance of qualifying projects and tenderer shall arrange permission for the same.
- c) To carry out capability assessment of the bidder(s) including referral to in-house information.
- d) RailTel shall not be responsible for any delay in the receipt of tenders and reserves the right to accept/reject any or all tenders.
- e) To verify the contractual payments received as per the certificates attached with the tender for fulfilling eligibility criteria from the issuing authority.

1.8 Work Load :-

Not Applicable.

1.9 Validity of Offer :-

The tenderer shall keep the offer open for 120 days from the date of opening of tender. Within that period the tenderer, can not withdraw his offer. This period can be extended further, if required, by mutual agreement from time to time. Any contravention of the above condition will make the tenderer liable for forfeiture of his Earnest Money.

1.10 Completion Period of Work :-

The work is to be executed and completed within 45 days from the date of issue of "Letter of Acceptance "of the tender.

1.11 The List of Address to which correspondence and documents relating to the Contract should be sent:

As mentioned in para 1.2.

1.12 Tender cost / Earnest Money :-

Tenderer shall deposit the Tender cost of Rs. 2360/- and EMD of Rs. 36,770/- through Pay orders / Demand Drafts / Bankers Cheque payable in favour of RailTel Corporation of India Limited payable at Mumbai.

The tenderer shall be required to deposit earnest money of amount mentioned above with the tender for the due performance with the stipulation to keep the offer open till such date as specified in the tender, under the conditions of tender.

The firm registered with National Small Industries Corporation (NSIC) under its Single point registration scheme or registered as Micro, Small and Medium Enterprises under MSME Act 2006 with District Industries Centres or Khadi & Village Industries Commission or Khadi & Village Industries Board or Coir Board or Directorate of Handicrafts & Handloom or any other body specified by Ministry of Micro, Small & Medium Enterprise will be exempted from the

payment of tender cost / Earnest Money Deposit provided they are registered for the same scope of work as NIT. The documents submitted by the firm shall be duly certified/attested.

1.13 Security Deposit :-

Security deposit shall be 5% of the contract value as detailed in Para 4.16 of tender document. The amount of EMD of the successful tenderer shall be adjusted against Security deposit and the balance amount shall be recovered from the running bills (Tax invoices) of the contract (@10% of per bill amount) and no other mode of collecting SD shall be accepted. SD will bear no interest.

1.14 Performance Guarantee:-

The successful bidder is required to give a Performance Guarantee in the form of an irrevocable Bank Guarantee amounting to 5% of the contract value for schedule as per form No.4 for successful completion of the work as detailed in para 4.16.2 and of tender document. No other mode of payment shall be accepted.

1.15 Specifications

Reference of specifications of the important equipments and materials required for execution of the contract is given in the SOR. The work shall be executed in compliance with all the technical requirements given therein. Drawings are indicative. In case of any mismatch or confusion, the decision of EIC shall be final.

1.16 Schedule of Requirement

The various items to be supplied and execution of the work by the tenderer for the section are indicated as Schedule of Requirement in chapter 2 of this tender document. Payment of supplied items shall be done along with the payment of execution after the measurement. The tenderer is advised to quote percentage rate above/below/at Par the RailTel's total estimated cost of schedule. If none of the At Par/Below/Above is ticked by the tenderer, the quoted percent rate will be treated below the RailTel's total estimated cost of schedule. The make and model along with OEM/authorized dealer's certificate of all the equipments proposed to be supplied must be indicated by the tenderers in the Schedule of Requirement.

1.17 Clearances and permissions

Arranging clearances/Permissions from Railway and other Central Govt/State Govt / Municipal authorities, etc in connection with execution of work will be done by the successful Tenderer to whom LOA will be issued and accepted by Tenderer.

1.18 Materials to be supplied by RailTel: NIL

1.19 Materials to be supplied by Contractor:

As per Schedule of Requirement and Technical specification.

1.20 Submission

The tenderer shall submit all the required information in the relevant forms attached to this document along with all required credential documents and suitably numbering each page of the bid documents with a content list indicating availability of various documents with their serial numbers. In the absence of numbering of pages and the content list, there is a likelihood of any important document going unnoticed for which the tenderer shall be solely responsible.

1.21 Warranty Support :-

All material supplied & works executed should be covered under warranty as per Para 5.29 and 5.15 of tender document.

1.22 Important instructions :-

Tenderers are required to read the following instructions carefully.

- a) Tenderer should quote his single and common percentage rate only as At Par/Below/Above the RailTel's total estimated cost of schedule.
- b) Percentage rate to be quoted both in figures and words, if any discrepancy found between rates in word and rates in figure, the rate in words will be considered as quoted rates.
- (c) If none of the At Par/Below/Above is ticked (✓) by the tenderer, the quoted percent rate will be treated below the RailTel's total estimated cost of schedule.

1.23 Rate, Taxes & Duties

- i. **The price quoted in the offer should be firm, fixed indicating the breakup and inclusive of all taxes & duties like import, custom, Anti Dumping, CGST,SGST, IGST, UTGST etc. The offer should be inclusive of packing, forwarding, freight up to destination, insurance charges.**
- ii. Bidder shall issue a valid tax invoice to RailTel for availing proper credit of CGST,SGST, IGST, UTGST in case of award of contract. GST will not be reimbursed in the absence of valid tax invoice.
- iii. For all the taxable supplies made by the vendor, the vendor shall furnish all the details of such taxable supplies in the relevant returns to be filed under GST Act.
- iv. If the vendor fails to comply with any of the above, the vendor shall pay to purchaser any expense, interest, penalty as applicable under the GST Act.
- v. In case of incorrect reporting of the supply made by the vendor in the relevant return, leading to disallowance of input credit to purchaser, the vendor shall be liable to pay applicable interest under the GST Act to the credit of purchaser. The same provisions shall be applicable in case of debit/credit notes.
- vi. Tenderer shall quote all inclusive rates, but there shall be break up of basic price and all type of applicable taxes such as SGST,CGST, IGST, UT GST along with respective HSN/SAC code under GST Law.
- vii. Wherever the law makes it Statutory for the purchaser to deduct any amount towards GST at sources, the same will be deducted and remitted to the concerned authority. Any statutory variation in taxes / duties shall be to the RailTel account and shall be admissible on production of valid documentary evidence.
- viii. In regards to works contract, the tenderer should have registration No. for GST in respective state where work is to be executed and shall furnish GST registration certificate along with Tender.
- ix. The imposition of any new tax and /or increase in the aforesaid taxes, duties levies after the last stipulated date for the receipt of tender including extensions if any and the bidder thereupon necessarily and properly pays such taxes/ levies / cess, the bidder shall be reimbursed the amount so paid, provided such payments, if any, is not, in the opinion of RailTel attributable to delay in execution of work within the control of bidder. The bidder shall, within a period of 30 days of the imposition of any such tax or levy or cess, give a written notice thereof to RailTel that the same is given pursuant to this condition, together with all necessary information including details of input credit relating thereto. In the event of non-payment/ default in payment of any of the above taxes, RailTel reserves the right to with-hold the dues / payments of bidder and make payment to State / Central Government authorities as may be applicable. However, if the rates are reduced after the last stipulated date of tender, bidder has to pass on the benefits to RailTel.

- x. In case of imported equipment: Anti dumping duty if applicable on the equipment proposed to be supplied by OEM/Tenderer as per extant instructions of Ministry of Commerce/Finance Government of India has to be borne by the tenderer and shall be deducted from the amount payable to the bidder at the time of making payment to the firm, if this duty amount is paid to Custom Authority by RailTel.
- xi. Evaluation Criteria: inter se position of the offers will be determined on total unit rate on CIP destination basis which will include basic rate, custom duty GSST, SGST, IGST, GST, freight, insurance and any other charge or cost quoted by the tenderer, including GST payable.

On reverse charge by RailTel, wherever applicable.

Note: “In case the successful tenderer is not liable to be registered under CGST/IGST/UTGST/SGST Act, the RailTel shall deduct the applicable GST from his/their bills under reverse charge mechanism (RCM) and deposit the same to the concerned tax authority.”

Chapter II

SCHEDULE

OF

REQUIREMENTS

RAILTEL/WR/MUM/TENDER/NOC-FURNITURE/2018-19/06
Schedule of Requirement

Sr No.	Description	Unit	Quantity	Rate	Amount
	<u>Schedule A</u>				
1	<u>Godrej Make</u>				
	Supply and commissioning Rectangular Workstation size -1200 x 600 with Partition - Thickness as 50mm thick & height 11190mm including powder coated aluminum trips Tiles: Combination on top tiles are fabric magnetic/ fabric tack-able /white board. Bottom tiles-Plain metal. Wire Management: Skirting level raceway maintained in all panels and intermediate raceway below worktop only on main spine. Side panel: Out of 25mm thick prelim particle board with flat PVC lipping edge banding considered only on the open end conditions. Work surface: Out of 25mm thick prelam particle board with flat PVC lipping edge banding.of size 1200Wx600mm	Nos.	27	27672.18	747148.86
2	Godrej Make				
	Nova pedstal flat metal front full height top supporting standing cental backng of size 390mmWx435mmDx646mmH 3 drawers (2 box+1 file)	Nos.	27	8408.68	227034.36
3	Key board tray	Nos.	27	1564.68	42246.36
4	CPU trolley	Nos.	27	610.06	16471.62
5	Godrej Make				
	Nova Pedestal flat metal front full height top supporting standing central locking of size 390mmWx435mmDx646mmH 3 drawers (2 box + 1 file)		9	8408.00	75678.12
6	Godrej Make				
	Table T104		7	24900.00	174302.52
7	Godrej Make				
	Executive Revolving Chair Model No:-PCH 9U01/R		2	9265.00	18528.36

Sr No.	Description	Unit	Quantity	Rate	Amount
8	Godrej Make				
	Visitor Chair Model No:-PCH 9U12/R		24	6270.00	150492.43
9	Godrej Make				
	Godrej Make store well model with prime steel, shall resstant to corrosion and pests, with 4 easily adjustable shelves (both door and body in Royal vory colour).		10	13751.55	137523.49
	Total of Schedule –A				1589426.37
	<u>Schedule B</u>				
1	Supplying & erecting mains with 2x2.5 sq.mm &1x1 sq.mm. F.R.L.S copper PVC insulated wire laid in provided conduit / trunking or any other places for power wiring.	Mtr	275	105.02	28880.50
2	Supplying and fixing Cat-6A LSZH cable suitable for LAN / WAN in approved manner	Mtr	800	148.68	118944.00
3	Supplying and fixing 1 meter length, UTP Patch cord of Cat 6 type in position.	Nos.	35	402.38	14083.30
4	Supplying & erecting telephone cable 4 pair with 0.5 mm dia. laid in provided PVC casing / conduit	Mtr	550	51.92	28556.00
5	Supplying and erecting modular type switch 6A / 10A ISI mark approved make duly erected on provided plate and box with wiring connections complete.	Nos.	27	129.80	3504.60
6	Supplying and erecting modular type 3 pin 6A multi socket with safety shutter ISI mark approved make duly erected on provided plate and box with wiring connections complete.	Nos.	81	154.58	12520.98
7	Supplying and erecting PVC Surface modular switch double mounting plate for 6 module duly erected in an approved manner.	Nos.	54	352.82	19052.28
8	Supplying and erecting modular type computer Jack RJ 45 with safety shutter ISI mark approved make duly erected on provided plate and box with wiring connections complete.	Nos.	81	204.14	16535.34

Sr No.	Description	Unit	Quantity	Rate	Amount
9	Supplying and erecting modular type telephone socket one gang with safety shutter ISI mark approved make duly erected on provided plate and box with wiring connections complete.	Nos.	54	121.54	6563.16
	Total of Schedule –B				248640.16
	Grand Total (Schedule A + Schedule B) (Rounded)				1838067

(Total Words : Rs. Eighteen Lacs Thirty Eight Thousand Sixty Seven only)

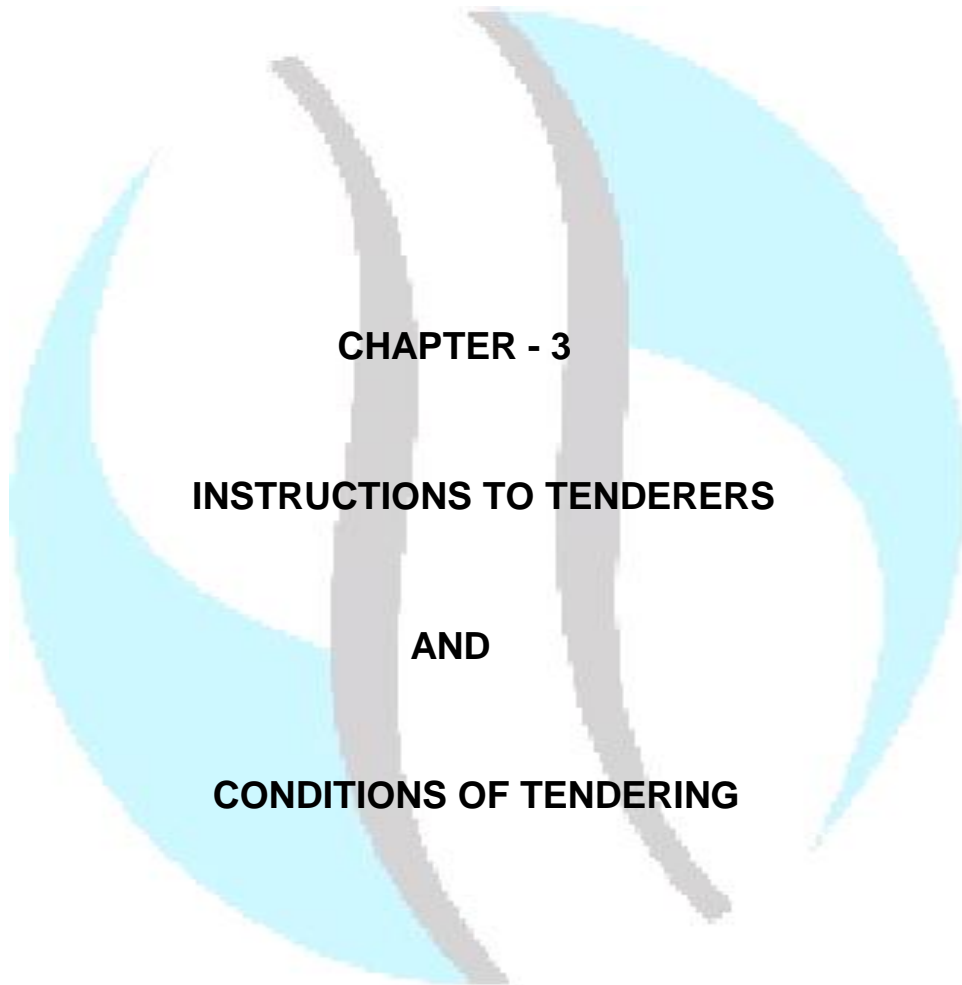
	Tenderers Offer in percentage At par/Below/Above of the Railtels total NIT cost
	I /We undertake to execute the work of schedule at -----% at Par/ Below/Above (In words -----percent) At par/Below/Above) of the Railtel's total NIT cost of schedule as mentioned above.
	It is certified that I/We have inspected the site of work and special conditions etc. attached with the tender document.
	I/We undertake to keep this offer valid for period indicated Tender from the date of opening of Tender and futher not to revoke the same before the expiry of such period.
	I/We have carefully gone through the specifications. Additional special conditions etc. attached with the tender document.
	Tenderer should quote all inclusive price. Since it is percentage basis tender, each SOR item applicable the same percentage quoted by the contractor for concluding base rates. Rate of GST (including tax under reverse charges payable by the receipient) shall be charged and against this.
	[i]Tenderer should quote his single and common percentage rate in row (i) above only as At Par/Below/Above the RailTel's total estimated cost of schedule.
	[ii] Percentage rate to be quoted both in figures and words., if any discrepancy found between rates in word and rates in figure, the rate in words will be considered as quoted rates.
	[iii] If none of the At Par/Below/Above is ticked (√) by the tenderer, the quoted percent rate will be treated below the RailTel's total estimated cost of schedule.
	(iv)In case if the offer received without any figure and words in row (i) above,the same will be considered as ' At Par '.(Para No.3.6.4)

Signature and seal of the Tenderer

Stationwise distribution of Furniture

Sr. No.	Location	Chair		Table	Almirah	File Cabinet
		Visitor Chair	Executive Revolving Chair			
1	Surat	3	1	~	~	1
2	Boisar	~	~	~	1	~
3	Pune	3	1	1	2	3
4	Kopar	3	~	1	1	~
5	Panvel	2	~	1	1	1
6	Goregaon	2	~	1	1	~
7	Churchgate	~	~	~	~	~
8	Kalyan	3	~	1	1	1
9	Madgaon	3	~	~	~	~
10	Daund	2	~	1	1	1
11	Solapur	~	~	~	~	~
12	Nandurbar	~	~	0	1	1
13	Pune (Railwire)	~	~	~	1	~
14	Pune (Smart city)	3	~	1	~	1
	Total Quantity	24	2	7	10	9

Note : Delivery for the item No. 1 to item No.4 of Schedule 'A' and all Items of Schedule B is required to be given at Railtel Mahalaxmi regional office. As well as item No. 5 to item No. 9 of Schedule 'A' shall be done as per above list.



CHAPTER - 3
INSTRUCTIONS TO TENDERERS
AND
CONDITIONS OF TENDERING

रेलटेल
RAILTEL

A Government of India
Undertaking

Chapter -3

INSTRUCTIONS TO TENDERERS AND CONDITIONS OF TENDERING

INDEX

- 3.1. General Instructions**
- 3.2. Interpretations**
- 3.3. Local Conditions**
- 3.4. Compliance to Tender Conditions, Specifications and Drawings**
- 3.5. Earnest Money**
- 3.6. Submission of Offers**
- 3.7. Constitution of Firm and Power of Attorney**
- 3.8. Validity of Offer**
- 3.9. Rates during Negotiations**
- 3.10. Period of Completion and Time Progress Graph**
- 3.11. Opening of Tender**
- 3.12. Non-transferability and Non-refundability**
- 3.13. Errors, Omissions and Discrepancies**
- 3.14. Wrong Information by Tenderers**
- 3.15. Amendment of Bid Documents**
- 3.16. Qualifying Criteria**
- 3.17. Evaluation of offer**
- 3.18. Agreement**
- 3.19. Tenderer's Address**

RAILTEL
A Government of India
Undertaking

CHAPTER-3

INSTRUCTIONS TO TENDERERS AND CONDITIONS OF TENDERING

3.1 GENERAL INSTRUCTIONS

- 3.1.1 Tender is invited by RailTel, Western Region Mumbai, from established and reliable contractors for the work detailed in chapter 1.
- 3.1.2 The Special Conditions of Contract, Instructions to Tenderers and Conditions of Tendering, Technical Specifications & Supplement, Preamble including Schedule of Requirements and all Annexure & Forms etc. shall, hereafter, be collectively referred to as the "**Tender documents**". These regulations for Tender and Contracts shall be read in conjunction with the General Conditions of contract and shall be subject to modifications, additions or suppression, overwrite by Special conditions of contract and/or special specifications, if any, annexed to the tender document.

3.2 INTERPRETATIONS

The following terms wherever occurring in the tender document and wherever used throughout the execution of the work, shall, unless excluded by or repugnant to the context, have the meaning attributed thereto as follows:

- a) "**CONTRACT**" Means the Contract resulting from the acceptance by the Purchaser of this Tender whether in whole or in part.
- b) "**CONTRACTOR**" Means the successful Tenderer, i.e., the Tenderer whose Tender has been accepted either in whole or in part.
- c) "**CONTRACTOR's REPRESENTATIVE**" Shall mean a person in supervisory capacity who shall be so declared by the Contractor and who shall be authorized under a duly executed power of attorney to receive materials issued by the Purchaser to the Contractor for the works. He shall be responsible for proper execution of works at each or all places and shall take orders from Purchaser's Engineers and carry out the same.
- d) "**ENGINEER / ENGINEER-IN-CHARGE**" Shall mean an executive of RailTel in charge of works and shall include the superior executives of RailTel He is responsible for ensuring that all field works covered by the contract are carried out in accordance with approved designs, drawings & specifications and conditions of contract as agreed to.
- e) "**ENGINEER'S REPRESENTATIVE** " Shall mean the supervisor of RailTel in direct charge of the works.

The delivery of the stores shall be deemed to take place on delivery of the stores in accordance with the terms of the contract, after approval by the Inspecting Officer if so provided in the contract to

- (1) the consignee at his premises ; or
- (2) where so provided the interim consignee at his premises , or
- (3) a carrier or other person named in the contract for the purpose of transmission to the consignee, or

The consignee at the

- f) **"EQUIPMENT"** Means all or any equipment considered necessary by the Purchaser's Engineers for satisfactory operation, as a whole, of the installations.
- g) **"MONTH"** Means any consecutive period (no. of days of month) mentioned in calendar year.
- h) **"MATERIALS"** Means all equipments, components, fittings and other materials including raw materials required to complete the work..
- i) **"PURCHASER"** Means RailTel Corporation of India Limited, Western Railway Microwave Compound, Senapati Bapat Marg, Mahalaxmi Mumbai- 400 013
- j) **"PURCHASER'S ENGINEER"** Means the Executive Director of RailTel or successor who will decide all matters relating to design, manufacture, and installation and commissioning of the plant and equipment at site.
- k) **"SUB-CONTRACTOR"** Means an individual or a firm of Contractor or a Company registered under Indian Company Act or an approved supplier of materials to whom the Contractor sublets portions of the contract.
- l) **"CONSIGNEE"** Means the person specified in the Acceptance of Tender to whom Stores are to be delivered at the destination.
- m) **"INSPECTING OFFICER"** Means the person, or organization specified in the contract for the purpose of inspection of stores of work under the contract and includes his/their authorized representative.
- n) **"RailTel"** Means RailTel Corporation of India Limited, Western Region, Western Railway Microwave Complex, Senapati Bapat Marg, Mahalaxmi-Mumbai- 400 013.
- o) **"SITE"** Means the areas to be taken up by the permanent works, together with any other area or areas as shall be determined by the Purchaser's Engineer, which may be placed at the disposal of the Contractor for the purpose of the contract and also such area or areas used for store yards, works yards or workshop in proximity of the works as the Purchaser's Engineer may have authorized as an extension of the site, irrespective of the terms and conditions under which they are occupied by the Contractor.

- p) **"TENDERER"** Means and includes any firm of engineers or Contractors or any company or body, corporate or otherwise, who submit the Tender which has been invited.
- q) **"WORK OR WORKS"** Means all or any of the items of the work for which the Tenderer /Contractor has Tendered/contracted according to the specifications, drawings and Annexure hereto annexed or to be implied there from, or incidental thereto or to be hereafter specified or required in such explanatory instructions and drawings, being in conformity with the original specifications, drawings, Annexure and schedules and also such instructions and drawings additional to the aforementioned as may from time to time be issued by the Purchaser's Engineer during the progress of the contracted work.
- r) **"Near Relative":**
The near relatives of all RailTel Employees either directly recruited or on deputation are prohibited from participation in tenders and execution of works in the different units of RailTel. The detailed guidelines in this regard are given in the following paragraphs: -
- i) The near relatives for this purpose are defined as:
 - * Members of a Hindu Undivided family,
 - * They are husband and wife,
 - * The one is related to the other in the manner as father, mother, son (s) & son's wife (daughter-in-law), Daughter(s), & daughter's husband (son-in-law), brother(s) & brother's wife, sister(s) & sister's husband (brother-in-law).
 - ii) As per Government of India's CCS Conduct rule 4, no Government servant shall in the discharge of his official duties deal with any matter or sanction any contract to any company or for any other person if any member of his family is employed in that company or firm or under that person or if he or any member of his family is interested in such matter or contract in any other manner and the Govt. Servant shall refer every such matter or contract to his official superior. This clause is applicable to all RailTel employees in view of this as soon as any RailTel employee becomes aware of the above aspect, he must intimate this to the prescribed authority.
 - iii) The Company or firm or any other person is not permitted to tender for works in RailTel Unit in which his near relative(s) is (are) posted. The tender/work will be cancelled and earnest money/security deposit will be forfeited at any stage whenever it is so noticed. The department will not pay any damages to the company or firm or the concerned person. The company or firm or the person will also be debarred for further participation in the concerned unit.

* The format of the certificate to be given is

"I

.....S/o.....r/o.....

... hereby certify that none of my relative(s) as defined in the tender document is/ are employed in RailTel unit. In case at any stage, it is found that the information given by me is false/ incorrect, Rail Tel shall

have the absolute right to take any action as deemed fit/without any prior intimation to me”.

- s) **"WRITING"** Includes all matters written, typewritten or printed either in whole or in part.
- t) **"Constructional Plant"** shall mean all appliances or things of whatsoever nature required for the execution, completion or maintenance of the works or the temporary works (as hereinafter defined) but do not include materials or other things intended to form or forming part of the permanent work. (i) "Temporary Works" shall mean all temporary works of every kind required for the execution, completion and/or maintenance of the works. (ii) "Period of maintenance" shall mean the specified period of the maintenance from the date of completion of the work as certified by the Engineer.
- u) **Singular and Plural:** Works importing the singular number shall also include the plural and vice versa where the context requires.
- v) **Headings & marginal headings:** The headings and marginal headings in these general conditions are solely for the purpose of facilitating reference and shall not be deemed to be part thereof or be taken into consideration in the interpretation or construction thereof or the contract.
- w) **Sub section:** Distance in between two long haul Railway stations or any section along Railway Track or in city area as per EIC.

3.3 LOCAL CONDITIONS

- 3.3.1 It will be imperative on each tenderer to fully acquaint him with all the local conditions and factors which would have any effect on the performance of the contract and cost of the stores. The purchaser shall not entertain any request for clarifications from the tenderer regarding such local conditions. No request for the change of price or time schedule of delivery of stores shall be entertained after the offer is accepted on account of any local condition or factor.
- 3.3.2 The intending tenderer is advised to study the tender document carefully. Any submission of a quotation by the tenderer shall be deemed to have been done after a careful study and examination of these documents with full understanding of the implication thereof. These conditions and specifications shall be deemed to have been accepted unless otherwise, specifically commented upon by the Tenderer in his quotation. Failure to adhere to anyone or all these instructions may render his offer liable to be ignored without any reference.
- 3.3.3 Should a tenderer find discrepancies in, or omission from, the drawings or any of the Tender documents or he has any doubt to their meaning, he should at once notify the RailTel who may send a written clarification to all Tenderers.

3.4 COMPLIANCE TO TENDER CONDITIONS, SPECIFICATIONS & DRAWINGS

- 3.4.1 The tenderer shall indicate Paragraph by Paragraph for each section of the tender document that either his tender complies in every respect with the requirements of each clause and sub clause or if not, precisely how they differ from the requirements of the tender. In later case, the tenderer shall enclose a separate statement as per proforma given, indicating only the deviations for any clause or sub clause of Special Conditions of Contract, Instructions to Tenderers and Conditions of Tendering, Technical Specifications, Preamble etc. which he proposes with justifications for deviations proposed. The purchaser reserves the right to accept or reject these deviations and his decision thereon shall be final (see Form 5).
- 3.4.2 The equipment offered and execution of work shall be in accordance with the drawings and specifications. Details of variation from the drawings and specifications, if any, should be clearly indicated separately for each annexure with justification for deviations proposed. The Purchaser reserves the right to accept or reject these deviations and his decision thereon shall be final.
- 3.4.3 Deleted.
- 3.4.4 The tenderer should serially number all the pages of tender submitted.
- 3.5 EARNEST MONEY**
- 3.5.1 The tenderer shall furnish an amount given in "Para-1.12 of tender document" as earnest money in favour of RailTel Corporation of India Limited payable at Mumbai.
- The firm registered with National Small Industries Corporation (NSIC) under its Single point registration scheme or registered as Micro, Small and Medium Enterprises under MSMED Act 2006 with District Industries Centres or Khadi & Village Industries Commission or Khadi & Village Industries Board or Coir Board or Directorate of Handicrafts & Handloom or any other body specified by Ministry of Micro, Small & Medium Enterprise will be exempted from the payment of Earnest Money Deposit provided they are registered for the same scope of work as NIT. The documents submitted by the firm shall be duly certified/attested.
- 3.5.2 **The Earnest Money should be in any of the following forms**
Pay orders, Demand Drafts, Bankers Cheque. These forms of earnest money should be issued from any of the nationalized banks / Schedule banks.
- 3.5.3 The tenderers shall hold the offer open till such date as specified in Para 1.8 of the tender document. It being understood that the tender documents have been sold/issued to the tenderer and the tenderer has been permitted to tender in consideration of the stipulation on his part that after submitting his tender he will not resile from his offer or modify the terms and conditions thereof in a manner not acceptable to RailTel. If the tenderer fails to observe or comply with the foregoing stipulation, the aforesaid amount deposited as Earnest Money shall be liable to be forfeited by RailTel.
- 3.5.4 **The Earnest Money may be forfeited**
a) If tenderer withdraws its tender during the period of tender validity specified in Para 1.8 of tender document.

- b) In the case of successful tenderer, If the tenderer fails to sign the contract in accordance with Para 5.2 of Special Conditions of Contract and to furnish Performance Bank Guarantee in accordance with Para 1.13 of tender document.

3.5.5 The Earnest money of unsuccessful tenderer will save as herein beforeprovided, be returned within reasonable time to the unsuccessful tenderer but RailTel shall not be responsible for any loss or depreciation that may happen to the security for the due performance of the above stipulation to keep offer open for the period specified in the tender documents or to the Earnest Money while in their possession nor be liable to pay interest thereon.

3.5.6 If the tender is accepted, the amount of Earnest Money will be held as security deposit for due and faithful fulfillment of contract.

3.5.7 The tender not accompanied by Earnest Money as mentioned inPara 3.5.1 of the tender document will be **summarily rejected**.

3.6 SUBMISSION OF OFFERS

3.6.1 All offers in the prescribed forms should be submitted before the time and date fixed for the receipt of the offers. Offers received after the stipulated time and date will be summarily rejected.

3.6.2 In case the date of opening happens to be a holiday, the tender will be received and opened at the same time on the next working day.

3.6.3 All offers shall be either type written or written neatly in indelible ink in English. Each page of the offer must be numbered consecutively. A reference to total number of pages comprising the offer must be made at the top right hand corner of the top page. The supporting documents should be submitted either in original or duly signed by the authorized signatory of the tenderer. The original documents shall be produced for verification when called for.

3.6.4 Quote in Figures and Words

The tenderer is advised to quote percentage rate above/below/at Par of the RailTel's total estimated cost for schedule. If none of the above/below/At Par is ticked (✓) by the tenderer, the quoted percent rate will be treated '**below**' the RailTel's total estimated cost of schedule. In case of difference in words and figures the amount written in words will be taken into consideration. In the event of any discrepancy between percentage rate and total cost, the value shown in percentage rate will be taken for evaluation purpose. If the offer received without quoting any % and without Ticking (✓) Above/Below/At Par then his offer will be treated as "At Par" subject to submission of proper EMD and Tender document cost of respective work. In case the schedule of requirement quoted by tenderer is incomplete with reference to tender document, the offer is liable to be rejected.

3.6.5 Attestation of alterations

No scribbling is permissible in the tender documents. Tender containing erasures and alterations in the tender documents are liable to be rejected. Any

correction made by the tenderer/ tenderers in his/their entries must be signed (not initialed) by him/them.

- 3.6.6 The tenderer shall submit his tender in sealed cover with the tender number & its description and date of closing/ opening on envelope. The original tender paper purchased from this office shall be returned duly signed along with the original offer. The offer shall consist of the following:-

The original tender documents purchased from this office/ down loaded from web site shall be submitted with each page duly signed and stamped along with the original offer

- i) Offer letter complete. (Form No.1)(i.e., Schedule of Requirements without rate quote)
- ii) Earnest Money in prescribed form. (Para 3.5 of tender document)
- iii) Clause wise compliance to tender conditions by signing of each page of tender document & statement of deviations (Form No.5).
- iv) Any other information desired to be submitted by the tenderer.
- v) Registration with labour commissioner.
- vi) GST registration.
- vii) Tenderer has to submit the breakup of all taxes charged as per Form no. 16.
- viii) Tender document cost as mentioned in tender notice above,

Note: The offer letter and duly filled quote on schedule of requirement (Chapter-II) (percentage above/below/at par) should be submitted. The rate quoted in the offer by the contractor shall be inclusive of all the relevant factors taken into consideration and these should be firm and without any variation clauses. The envelope shall be clearly superscribed the tender number and its description in bold letters & sealed.

3.7 CONSTITUTION OF FIRM AND POWER OF ATTORNEY

- 3.7.1 Any individual(s) signing the tender or other documents connected therewith should specify whether he is signing:-

- (a) As sole proprietor of the concern or as attorney of the sole proprietor;
- (b) As a partner or partners of the firm;
- (c) As a Director, Manager or Secretary in the case of Limited Company duly authorized by a resolution passed by the Board of Directors or in pursuance of the authority conferred by Memorandum of Association.

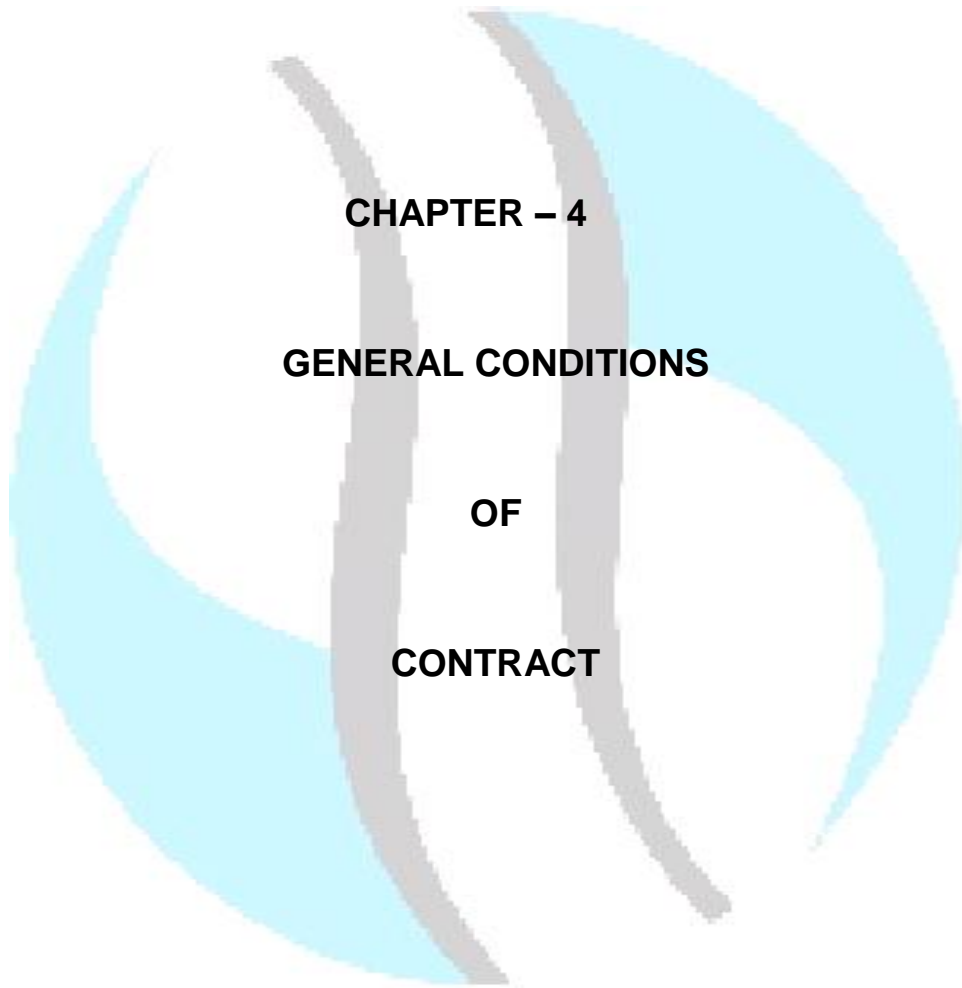
- 3.7.2 In the case of a firm not registered under the Indian Partnership Act, all the partners or the attorney duly authorized by all of them should sign the tender and all other connected documents. The original Power of Attorney or other documents empowering the individual or individuals to sign should be furnished to the Purchaser for verification, if required.

- 3.7.3 The RailTel will not be bound by Power of Attorney granted by the tenderer or by the changes in the composition of the firm made subsequent to the execution of the contract agreement.

- 3.7.4 In case where the Power of Attorney partnership deed has not been executed in English, the true and authenticated copies of the translation of the same by Advocate, authorized translators of Courts and Licensed Petition Writers should be supplied by the Contractor(s) while tendering for the work.
- 3.7.5 The duly notarized Power of Attorney, Partnership Deed, Memorandum of Joint Venture as the case may be in original or duly signed.
- 3.8 VALIDITY OF OFFER**
The tenderer should keep the offers valid for the period as mentioned in Para 1.9 of tender document.
- 3.9 RATES DURING NEGOTIATION**
The tenderer/s shall not increase his/their quoted rates in case the RailTel Administration negotiates for reduction of rates. Such negotiations shall not amount to cancellation or withdrawal of the original offer and the rates originally quoted will be binding on the tenderer/s.
- 3.10 PERIOD OF COMPLETION AND TIME PROGRESS GRAPH**
The works/work are/is to be completed within a period as mentioned in Para 1.10 of the tender document from the date of issue of Letter of Acceptance of the tender.
- 3.11 OPENING OF TENDER:**
The tender will be opened at the time & date of the tender given in the Para 1.5, in the presence of such Tenderers/Authorized Representatives who choose to be present
- 3.12 NON-TRANSFERABILITY AND NON-REFUNDABILITY**
The tender documents are not transferable. The cost of tender documents is not refundable.
- 3.13 ERRORS, OMISSIONS & DISCREPANCIES**
The Contractor(s) shall not take any advantage of any mis-interpretation of the conditions due to typing or any other error and if in doubt, shall bring it to the notice of the Engineer without delay. In case of any contradiction only the printed rules, and books should be followed and no claim for the mis-interpretation shall be entertained.
- 3.14 WRONG INFORMATION BY TENDERER**
If the tenderer/s deliberately gives/give wrong information in his/their tender which creates/create circumstances for the acceptance of his/their tender the RailTel reserves the right to reject such tender at any stage.
- 3.15 AMENDMENT OF BID DOCUMENTS:**
- 3.15.1 At any time, prior to the date for submission of bids, the RAILTEL may, for any reason whether suo motto or in response to clarification requested by a prospective Bidder, modify the bid documents by amendments.

- 3.15.2 The amendments shall be posted on website of RailTel and all bidders should download from website. These amendments will be binding on all bidders. RailTel shall make efforts to inform in writing or Fax to all prospective bidders on the address intimated at the time of purchase of bid documents from the RailTel. Those who are downloading tender document from website should download the clarification also and submit with the tender document.
- 3.15.3 In order to afford prospective bidders reasonable time to take the amendments into account in preparing their bids, the RAILTEL may, at its discretion, extend the deadline for the submission/opening of bids suitably.
- 3.16 QUALIFYING CRITERIA:-**
The tenderer should be original manufacturer Or authorised dealer of the Godrej brand of the modular work station and other associated furniture which tenderer intend to supply.
- 3.16.1 Engineering Organization:**
 Not Applicable
- 3.16.2 Construction and Maintenance Machinery**
 The tenderer should furnish the details of the machinery and plants to be deployed, in case the tenderer plans to use mechanized trenching.
- 3.17 EVALUATION OF OFFER.**
- 3.17.1 The authority for the acceptance of the tender rests with the Purchaser. The tenders received will be evaluated by the Purchaser to ascertain the best acceptable tender in the interest of the Purchaser.
- 3.17.2 However, the purchaser shall not be bound to accept the lowest or any tender. The purchaser reserves the right to accept any tender in respect of the whole or any portion of the work specified in the tender paper or to sub-divide the work among different Tenderers or to reduce the work or to accept any tender for less than the tendered quantities.
- 3.18 AGREEMENT**
 The successful tenderer/s shall be required to execute an agreement with RailTel for carrying out the work as per the tender document.
- 3.19 TENDERER'S ADDRESS**
 Tenderer shall state in the tender his postal address with PIN, telephone No., Fax No., email id if any, fully and clearly. Any communication sent to the tenderers by post at his said address shall be deemed to have reached the tenderer duly & timely, notwithstanding the fact that the communication could not reach the tenderer at all or in time for whatever reason. Important documents shall be sent by Registered Post/Courier.

A Government of India
 Undertaking



CHAPTER – 4

GENERAL CONDITIONS

OF

CONTRACT

रेलटेल
RAILTEL

A Government of India
Undertaking

CHAPTER - 4**GENERAL CONDITIONS OF CONTRACT****INDEX**

Para	Subject
4.1.	Definitions
4.2.	General Obligations
4.3.	Law governing the Contract
4.4.	Communications to be in writing
4.5.	Service of Notice on Contractors
4.6.	Occupation and use of land
4.7.	Assignment or subletting of contract
4.8.	Assistance by the RailTel for the stores to be obtained by the Contractor.
4.9.	Railway Passes
4.10.	Carriage of materials
4.11.	Force Majeure Clause
4.12.	Representation of works
4.13.	Relics and Treasures
4.14.	Excavated material
4.15.	Indemnity by Contractors
4.16.	Security Deposit
4.17.	Completion Period
4.18.	Illegal Gratification
4.19.	Execution of Works
4.20.	Compliance to Engineer's Instructions
4.21.	Instructions of Engineer's Representative
4.22.	Adherence to specifications and drawings
4.23.	Working during night
4.24.	Damage to Railway/RailTel property or private life and property.
4.25.	Sheds, Store houses and Yards
4.26.	Provision of efficient and competent staff at Work Sites By Contractor
4.27.	Workmanship and Testing
4.28.	Facilities for Inspection
4.29.	Examination of work before covering up
4.30.	Temporary Works
4.31.	Contractor to supply water for works
4.32.	Property in material and Plants
4.33.	Tools, Plant and Materials supplied by RailTel
4.34.	Precaution during progress of work
4.35.	Use of Explosives
4.36.	Suspension of Works
4.37.	Rates for items of works
4.38.	Demurrage and wharfage dues
4.39.	Rates for extra items of works
4.40.	Handing over of works
4.41.	Variations in extent of contract
4.42.	Powers of modification to contract
4.43.	Claims
4.44.	Measurements, certificates and payments
4.45.	Measurement of Works

- 4.46. "On-Account" Payments
- 4.47. Maintenance of Works
- 4.48. Certificate of Completion of works
- 4.49. Approval only by Maintenance Certificate, Final Acceptance Certificate (FAC)
- 4.50. Maintenance Certificate.
- 4.51. Final Payment
- 4.52. Withholding and lien in respect of sums claimed
- 4.53. Signature on receipts for amounts
- 4.54. Labour
- 4.55. Provisions of Payment of Wages Act
- 4.56. Reporting of Accidents to Labour
- 4.57. Provisions of Workmen's Compensation Act
- 4.58. RailTel not to provide quarters for Contractor
- 4.59. Labour Camps
- 4.60. Non-employment of Labourers below the age of 15
- 4.61. Determination of Contract
- 4.62. Termination of Contract owing to default of Contractor
- 4.63. Matters finally determined by RailTel
- 4.64. Settlement of dispute and arbitration



Chapter-4**GENERAL CONDITIONS OF CONTRACT****DEFINITIONS AND INTERPRETATION****4.1. Definitions:**

- 4.1.1 The meaning of terms/interpretations shall be taken as defined in Chapter- 3, (INSTRUCTIONS TO TENDERERS AND CONDITIONS OF TENDERING).

4.2. General Obligations

- 4.2.1 Execution Co-relation and intent of contract documents: The contract documents shall be signed in triplicate by the RailTel and the Contractor. The contract documents are complementary, and what is called for by any one shall be as binding as if called of try all; the intention of the documents is to include all labour and materials, equipments and transportation necessary for the proper execution of work. Materials or work not covered by or properly inferable from any heading or class of the specifications shall not be supplied by the RailTel to the contractors unless distinctly specified in the contract documents. Materials or works described in words, which so applied, have a well-known technical or trade meaning shall be held to refer to such recognized standards.

- 4.2.2 If a work is transferred from the jurisdiction of one region of RailTel to another region or to a Project authority or vice versa while the contract is in subsistence, the contract shall be binding on the Contractor and the other region in the same manner & take effect in all respects as if the Contractor and the other region were parties thereto from the inception and the corresponding officer or the competent authority in the other region will exercise the same powers and enjoy the same authority as conferred to the Predecessor RailTel/Project under the original contract/agreement entered into.

- 4.2.3 If for administrative or other reasons the contract is transferred to the other region of RailTel the contract shall notwithstanding anything contained herein contrary thereto, be binding on the Contractor and the other region in the same manner and take effect in all respects as if the contractor and the other region had been parties thereto from the date of this contract.

4.3. Law governing the contract

- 4.3.1 The Contract shall be governed by the law for the time being in force in the Republic of India.

- 4.3.2 Compliance to regulations and by-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 by-laws as aforesaid and to pay all fees and taxes payable to any authority in respect thereof.

- 4.4. Communications to be in writing** – All notices, communications, references and complaints made by the RailTel or the Engineer or the Engineer's representative or the Contractor interest concerning the works shall be in writing and no notice, communication, references or complaint not in writing shall be recognized.
- 4.5. Service of Notices on Contractors** – The Contractor shall furnish to the Regional General Manager/RailTel 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 contract if delivered to the Contractor or his authorized 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 contractor to the Regional General Manager /RailTel.
- 4.6. Occupation and use of land** – No land belonging to or in the possession of the Railway/RailTel shall be occupied by the contractor without the permission of the RailTel. The Contractor shall not use, or allow to be used; the site for any purposes other than that of executing the works.
- 4.7. Assignment or subletting of contract:** - The Contractor shall not assign or sublet the contract or any part thereof or allow any person to become interested therein in any manner whatsoever without the special permission in writing of the RailTel. Any breach of this condition shall entitle the RailTel to rescind the contract under Para 4.62 of these conditions and also render the contractor liable for payment to the RailTel in respect of any loss or damage arising or ensuring from such cancellation. Provided always that execution of the details of the work by petty contractor under the direct and personal supervision of the contractor or his agent shall not be deemed to be sub-letting under this clause. The permitted subletting of work by the contractor shall not establish any contractual relationship between the sub-contractor and the RailTel and shall not relieve the Contractor of any responsibility under the Contract.
- 4.8. Assistance by the RailTel for the stores to be obtained by the Contractor** - Owing to difficulty in obtaining certain materials (including Tools & Plants) in the market, the RailTel may have agreed without any liability therefore, to endeavor to obtain or assist the Contractor in obtaining the required quantities of such materials as may be specified in the Tender. In the event of delay or failure in obtaining the required quantities of the aforesaid materials, 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 RailTel shall not in any way be liable for the supply of materials or for the non supply thereof for any reasons whatsoever not for any loss or damage arising in consequence of such delay or non supply.
- 4.9. Railway Passes** – No free Railway passes shall be issued by the RailTel to the Contractor or any of his employee/worker.

- 4.10. Carriage of materials** – No forwarding orders shall be issued by the RailTel 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 at public tariff rates therefore.
- 4.11. Force Majeure Clause** -If at any time, during the continuance of this Contract, the performance, in whole or part, by either party, of any obligation under this contract shall be prevented or delayed by reason of any war, hostility, act of the public enemy, Civil Commotion, Sabotage, Fires, Floods, Earth quakes, explosions, strikes, epidemics, quarantine restrictions, lockouts, any statute, statutory rules/ regulations, order of requisitions issued by any Government Department or Competent Authority of acts of God (here-in-after referred to as event) then provided notice of the happening of any such event is given by either party to the other within twenty one 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 damage against the other in respect of such non- performance or delay in performance, and the obligations under the Contract shall be resumed as soon as practicable after such event has come to an end or ceased to exist, provided further that if the performance in whole or part of any obligation under this Contract is prevented or delayed by reason of any such event beyond a period as mutually agreed to by the RailTel and the Contractor after any event or 60 days in the absence of such an agreement whichever is more, either party may at its option terminate the Contract provided also that if the contract is so terminated under this clause the RailTel may at the time of such termination take over from the Contractor at prices as provided for in the contract, all works executed or works under execution.
- 4.12. Representation on Works** – The Contractor shall, when he is not personally present on the site of the works place, keep a responsible agent at the works during working hours who shall, on receiving reasonable notice, present himself to the Regional General Manager/RailTel 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 RailTel to rescind the contract under Para 4.62 of these conditions.
- 4.13. 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 property of the RailTel and the Contractor shall duly preserve the same to the satisfaction of the RailTel and shall from time to time deliver the same to such person or persons as the RailTel may appoint to receive the same.
- 4.14. 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

RailTel provided that the Contractor may, with the permission of the Regional General Manager/RailTel, 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.

- 4.15. Indemnity by Contractors** – The Contract shall indemnify and save harmless the RailTel from and against all actions, suit proceedings, losses, costs, damages, charges, claims, and demands of every nature and description brought or recovered against the RailTel 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.

4.16 Security Deposit

- 4.16.1** The Earnest Money deposited by the Contractor with his tender will be retained by the RailTel 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, shall be recovered by percentage deduction from the Contractor's "on account" bills.

- (a) Unless otherwise specified in the special conditions, if any, the Security Deposit/rate of recovery/mode of recovery shall be as under:-
 - (i) Security Deposit for each work should be 5% of the contract value.
 - (ii) The rate of recovery should be at the rate of 10% of the bill amount till the full security deposit is recovered.
 - (iii) 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, FD etc. shall be accepted towards Security Deposit.
- (b) Refund of SD –The Security Deposit for execution of work shall be released after a period of 12 months commencing immediately after commissioning of the project and issue of last Provisional Acceptance Certificate, which will be enforceable by RailTel, and issue of the certificate of final acceptance of entire system specified in the tender, provided that all the stipulations of the clause have been fulfilled by the Contractor and all claim and demands made against the RailTel for and in respect of damage or loss by, from or in consequence of the works have been finally satisfied, provided further that in the event of different maintenance periods having become applicable to different parts of the works pursuant to Para 4.48.1 of these condition, the expression "expiration of the period of warranty" shall for the purpose of this clause, be deemed to mean the expiry of the latest of such periods. The security deposit shall be released only after the expiry of the maintenance period and after passing the final bill based on "No Claim Certificate".

It has now been decided that:

- 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 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.

- (c) No interest will be payable upon the Earnest Money and Security Deposit or amount payable to the Contractor under the Contract.
- (d) Should the tenderer fail to observe or comply with the foregoing stipulation the amount deposited as security for the due performance of the above stipulation shall be forfeited by the RailTel.

4.16.2 INTRODUCTION OF PERFORMANCE GUARANTEES (P.G.):

The procedure for obtaining Performance Guarantee is outlined below:-

- (a) The successful bidder shall have to submit a Performance Bank Guarantee (PBG) within 15 (Fifteen) days from the date of issue of Letter Of Acceptance (LOA). Extension of time for submission of PBG beyond 15 (Fifteen) days and up to 30 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 PBG 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 form of Irrevocable Bank Guarantee amounting to 5% of the contract value..
- (c) The Performance Guarantee should be submitted by the successful bidder after the Letter of Acceptance (LOA) has been issued, but before signing of the contract agreement. The PBG shall be initially valid upto the stipulated date of completion plus 60 days beyond that. In case, the time for completion of work gets extended, the contractor shall get the validity of Performance Guarantee extended to cover such extended time, for completion of work plus 60 days.
- (d) The value of PBG 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 excess value over the original contract value shall be deposited by the contractor.
- (e) The Performance Bank Guarantee (PBG) shall be released after the physical completion of the work based on the Last Provisional Acceptance 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 issue of the certificate of final acceptance of entire system specified in the contract 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 Bank Guarantee shall be en-cashed the balance work shall be got done independently without risk and 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 partnership firm, then every member or partner of such a firm shall be debarred from participating in the tender for the balance work either in his/her individual capacity or as a partner of any other JV/Partnership firm.
- (g) The Engineer shall not make a claim under the Performance Bank Guarantee except for amounts to which the RailTel is entitled under the contract (Notwithstanding, 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 Bank Guarantee as described herein above, in which event the Engineer may claim the full amount of the Performance Bank Guarantee.

(ii) Failure by the contractor to pay RailTel any amount due either as agreed by the contractor or determined under any of the clauses/conditions of the agreement, within thirty days of the service of the notice to this effect by Engineer.

(iii) The contract being determined or rescinded, the Performance Bank Guarantee shall be forfeited in full and shall be absolutely at the disposal of the RailTel Corporation of India Ltd.

4.17. Completion Period

4.17.1 Subject to any requirement in the contract as to completion of any portion 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:

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

4.17.1.3 If in the opinion of the Engineer the progress of work has any time been delayed by any act or neglect of RailTel's employees or by other contractor employed by the RailTel under Para 4.20.4 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 threat-tended by or dispute with adjoining or neighboring 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 RailTel 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 endeavors 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 in the original contract itself.

4.17.1.4 In the event of any failure or delay by the RailTel 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 RailTel 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 therefore but in any such case, the RailTel may grant such extension or extensions of the completion date as may be considered reasonable.

4.17.2 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. 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 4.11 and 4.17.1 above, the RailTel may, if satisfied that the works can be completed by the contractor within reasonable short time thereafter, allow the contractor further extension of time as the Engineer may decide. On such extension the RailTel 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 as mentioned in para 5.35.1 of special conditions of contract.

4.17.2.1 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 be as per para 5.35.1 of special conditions of contract. Provided further, that if the RailTel 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 RailTel 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 4.62 of these conditions, whether or not actual damage is caused by such default..

4.18. Illegal Gratification

4.18.1 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 employees of the RailTel, or to any person on his behalf in relation to obtaining or the execution of this or any other contract with the RailTel shall, in addition to any criminal liability which he may incur, subject the contractor to the rescission of the contract and all other contracts with the RailTel and to the payment of any loss or damage resulting from such decision and the RailTel 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 RailTel.

4.18.2 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 RailTel and if he shall do so, the RailTel shall be entitled forthwith to rescind the contract and all other contracts with the RailTel. Any question or dispute as to the commission or any offence or compensation payable to the RailTel under this clause shall be settled by the Regional General Manager of RailTel, in such a manner as shall consider fit and sufficient and his decision shall be final and 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-date of rescission.

4.19. Execution of Works

4.19.1 Contractor's understanding – It is understood and agreed that the Contract 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.

4.19.2 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 RailTel and shall proceed with the same with due expedition and without delay. The work should be started with due intimation to RailTel.

4.19.3 Accepted programme of work

The Contractor who has been awarded the work shall as soon as possible but not later than 7 days from the date of receipt of the acceptance letter in respect of contracts with initial completion period of one year or less or not later than 15 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 organization (in terms of labour and supervisors) plant and machinery that he intends to utilize (from time to time) for execution of the work within stipulated date of completion. The 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 endeavor 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.

4.19.4 Setting out of works

The Contractor shall be responsible for the correct setting out of all works in relation to original reference at his cost. The Contractor shall execute the work true to specifications, drawings, plans and dimensions as mentioned in the contract document 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 cooperate with the Engineer's representative at all 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 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.

A Government of India
Undertaking

4.20. Compliance to Engineer's Instructions

4.20.1 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.

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

4.20.3 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 sole discretion of the RailTel.

4.20.4 Separate Contracts in connection with works

The RailTel shall reserve 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 Contractor's 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 as 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.

4.21. Instructions 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: -

4.21.1 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.

4.21.2 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.

4.22. Adherence to specifications and drawings

4.22.1 The whole of the works shall be executed in perfect conformity with the specifications and drawings of the contract. If the Contractor performs any works in a manner contrary to the specifications or drawings or any of them and without such reference to the Engineer, he shall bear all the costs arising or ensuring there- from and shall be responsible for all loss to the RailTel.

4.22.2 **Drawings and specifications on the works:**

4.22.2.1 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.

4.22.2.2 The supply of equipment and materials shall include supply of one set of printed documents from original equipment manufacturers with each equipment as given in technical supplement.

4.22.3 Ownership of Drawings and Specifications – All drawings and Specifications and copies thereof furnished by the RailTel to the Contractor are deemed to be the property of the RailTel. They shall not be used in another works and with the exception of the signed contract set, shall be returned by the Contractor to the RailTel on completion of the work or termination of the Contract.

4.22.4 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 there from.

4.22.5 **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 competent authority in RailTel who shall have the power correct any errors, omissions, or discrepancies in aforementioned items and whose decision in the matter in dispute or doubt shall be final and conclusive.

4.23. **Working during night**

The Contractor shall not carry out any work between sunset and sunrise without the previous permission of the Engineer. Hence, no "night duty" shall be payable to the contractor for the portion/part of the works to be undertaken during the night.

4.24. **Damage to Govt. /RailTel property or private life and property**

The Contractor shall be responsible for all risk to the works and for trespass and shall make good at his own expense all loss or damage whether to the works themselves or any other property of the Railways/RailTel or the lives, persons or property of others from whatsoever cause in connection with the works until they are taken over by the RailTel and this although all reasonable and proper precautions may have been taken by the Contractor, and in case the RailTel 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 RailTel may incur in reference thereto, shall be charged to the Contractor. The RailTel 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, defense or compromise, and the incurring of any such expenses shall not be called in question by the Contractor.

4.25. 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 so 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.

4.26. Provision of efficient and competent staff

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 and proper manner and shall employ only such supervisors, workmen and labourers in or about the execution of any of these works as are careful and skilled in various trades and callings. The Contractor shall at once remove from the works any agents, permitted petty/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. 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 the proper completion of the works within the time prescribed, the Contractor shall forthwith on receiving intimation to this effect take on the additional number of staff and labour 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 RailTel to rescind the contract under Para 4.62 of these conditions.

4.27. Workmanship and Testing

4.27.1

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 Mean of such machines, instruments and appliances as the Engineer may direct and wholly at the expense of the Contractor.

4.27.2 Removal of Improper work and materials – The Engineer or the Engineer's representative shall be entitled to order from time to time:

4.27.2.1 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.

4.27.2.2 The substitution of proper and suitable materials, and

4.27.2.3 the removal and proper re-execution, notwithstanding any previous tests thereof or "on account" payments therefore, of any work which in respect of materials or workmanship is not in his opinion in accordance with the specifications and in case of default on the part of the Contractor in carrying out such order the RailTel shall be entitled to rescind the contract under Para 4.62 of tender document of these conditions.

4.28. 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, instruments, appliances and things of every kinds required for the purpose and the Engineer and the Engineer's representative shall at all time have free access to every part of the works and to all places at which materials for the work are stored or being prepared.

4.29. Examination of work before covering up

The Contractor shall give two 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 dimension 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.

4.30. 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 charge shall be recovered from the Contractor. If temporary huts are provided by the Contractor on the RailTel/Railway land for labour engaged by him and the work is completed but the contractor's labour refused to vacate and have to be removed by the RailTel, necessary expenses incurred by the RailTel in connection therewith shall be borne by the Contractor.

4.31. Contractor to supply water for works

4.31.1 Unless otherwise provided in the contract, the contractor shall be responsible for arrangements to obtain supply of water for the works.

4.31.2 Contractor to arrange supply of Electric power for works.

4.31.3 Electric supply from the Railway system

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

4.32. Property in material and Plants: Deleted**4.33. Tools, Plant and Materials Supplied by the RailTel**

4.33.1 The Contractor shall take all responsible care of all tools, plants and materials or other property whether of a like description or not belonging to the RailTel 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 petty/sub-contractor or his workmen or others while they are in his charge. The Contractor shall sign accountable receipts for tools, plants and materials made over to him by the Engineer and on completion of the works shall handover 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.

4.34. Precaution during progress of work

4.34.1 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, loss is caused or likely to be caused to any person or property.

4.34.2 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 authorized closure, 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.

4.34.3 Provision of access to premises: During progress of work in any street or thoroughfare, the Contractor shall make adequate provision of the passage of traffic, for securing safe access to all premises approached from such street or thoroughfare and for any drainage, water supply or meant for lightning which may be interrupted by reason 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 prevent 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.

- 4.34.4 Safety of Public: The Contractor shall be responsible to take all precautions to ensure the safety of the public or Railway/RailTel's property and shall post such look out men as may in the opinion of the Engineer be required to comply with regulations pertaining to the work.

4.35 Use of Explosives

Explosive 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, the same shall be stored in a special magazine to be provided by and at the cost of the Contractor in accordance with the Explosive Rules. The Contractor shall obtain the necessary license for the storage and the use of explosives and all operations in which or for which explosives are employed shall be at the sole risk and responsibility of the Contractor and the Contractor shall indemnify the Railway/RailTel in respect thereof.

4.36 Suspension of works

- 4.36.1 The Contractor shall on the order of 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 act of God or by some default on the part of the Contractor, and or
- (c) Necessary for the safety of the works or any part thereof.

- 4.36.2 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 suspensions.

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

4.37 Rates for items of works

The rates entered in the accepted Schedule Of Requirements of the Contract are intended to provided for works duly and properly completed in accordance with the general and special 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 Para 4.42 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, 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 RailTel, the erection, maintenance and removal of all temporary works and buildings, all 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 RailTel, the setting of all work and of the construction, repair and upkeep of all center 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 or 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.

4.38

Demurrage and wharfage dues

4.38.1

Demurrage charges calculated in accordance with the scale in force for the time being on the RailTel and incurred by the Contractor failing to load or unload any goods of materials within the time allowed by RailTel for loadings 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 RailTel and shall be deducted from any sums which may become due to him in terms of the contracts.

4.39

Rates for extra items of works

4.39.1

Any item of work carried out by the Contractor on the instructions of the Engineer which is not included in the accepted schedule of rates shall be executed at the rates set forth in the "Schedule Of Requirements" 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 Requirements 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 RailTel 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.

4.39.2

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 competent authority of RailTel within 30 days of getting the decision of the Engineer, supported by analysis of the rates claimed. The competent authority of RailTel's decision after hearing both the parties in the matter would be final and binding on the Contractor.

4.40

Handing over of works

4.40.1

The Contractor shall be bound to hand over the works executed under the contract to the RailTel complete in all respect 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.

4.40.2

Clearance of Site on Completion: On completion of the works the contractor shall clear away and remove from the site all constructional plant, surplus material, rubbish and temporary works of every kind and leave 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 work shall be paid, held to be due or shall be made to the contractor till, in addition to any other condition necessary for such 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 after receiving notice to that effect. It Should become necessary for the Engineer to have the site cleared at the expense of the Contractor, the RailTel 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 for and convenient to the Engineer.

4.41

Variations in Extent of Contract

4.41.1

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 RailTel 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 RailTel unless and until the same is incorporated in a formal instrument and signed by the RailTel and the Contractor and till then the RailTel shall have the right to repudiate such arrangement.

4.42

Powers of Modification to Contract

4.42.1

The Engineer on behalf of the RailTel 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.

4.42.2 Unless otherwise specified in the special conditions of the contract, the accepted variation in quantity for each individual item of the contract would be up to $\pm 25\%$ of the quantity originally contracted. 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 $\pm 25\%$ variation in quantity of individual items of works.

4.42.3 **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 therefore 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 4.39 of these conditions.

4.43. **Claims**

4.43.1 **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.

4.43.2 **Signing of “No Claim” Certificate** – The Contractor shall not be entitled to make any claim whatsoever against the RailTel under or by virtue of or arising out of this contract, nor shall the RailTel entertain or consider any such claim, if made by the Contractor, after he shall have signed a ‘No Claim’ certificate in favour of the RailTel, in such form as shall be required by the RailTel, 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 preference to arbitration in respect thereof.

4.44. **MEASUREMENTS, CERTIFICATES AND PAYMENTS**

Qualities in schedule annexed to Contract- The quantities set out in the accepted Schedule of Requirements 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 works to be executed by the Contractor in fulfillments of his obligations under the contract.

4.45. **Measurements of Works:** The Contractor shall be paid for the works at the rates in the accepted Schedule of Requirements and for extra works at rates determined under Para 4.39 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 RailTel. The quantities for items the unit of which in the accepted Schedule Of Requirements 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 item the unit of which in the accepted Schedule Of Requirements is single, the quantities shall be

calculated to 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 represent 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 book 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 consequences 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 measurement. (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.

4.46 "On-Account" Payments

- 4.46.1 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 Para 4.16 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 5% 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.
- 4.46.2 Rounding off amounts: The total amount due shall be rounded off to the nearest rupee i.e. sums less than 50 paise shall be omitted and sums of 50 paise and more upto Re. 1/- will be reckoned as Re. 1/-.
- 4.46.3 On-Account Payments not prejudicial to final settlements: "On Account" payments made to the Contractor shall be without prejudice to the final making up of the accounts (except where measurement 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 account not of any particular quantity of work having been executed not of the manner of its execution being satisfactory.

4.46.4 Manner of payment: Unless otherwise specified payments to the Contractor will be made through RTGS.

4.47. Maintenance of works:

The contractor shall at all times during the progress and continuance of the works and also for the period of warranty specified in the tender form after the date of passing of the certificate of completion by the Engineer or any 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 conditions all and every part of the work 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 make good to the RailTel or other persons legally entitled thereto whenever required by the Engineer so to do, all losses, damage, costs and expenses they or any of them may incur or be put or be liable, by reason or in consequence of the operations of the contractor or of his failure in any respect. For this purpose the tenderer will submit their strategy for providing maintenance support including the staff that will be available along with the set of spares for attending to various faults/problems during maintenance period.

4.48 Certificate of Completion of works

4.48.1 As soon as in the opinion of the Engineer the works shall have been substantially completed of a Block and has satisfactorily passed any final test or tests that may be prescribed, the Engineer shall issue a Provisional Acceptance Certificate in respect of the works and period of warranty shall commence from the date of issue of Last Provisional Acceptance Certificate for last completed link/location and completion of the Whole work. Minor defects pointed out while issuing PACs shall be attended by the contractor within reasonable period of time to the satisfaction of Engineer.

4.48.2 Contractor not absolved by Provisional completion Certificate (PAC): The Certificate of completion in respect of the works referred to in Para 4.48.1 of this clause shall not absolve the Contractor from his liability to make good any defect, imperfection, 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 drawing or specifications or instructions of the Engineer, which defect, 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 material or appoint another Contractor to amend and make good such defect, 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.

4.49. Approval only by Final Acceptance Certificate (FAC)

No certificate other than Final Acceptance Certificate referred to in Para 4.50 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

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 Engineers.

4.50. Final Acceptance Certificate:

4.50.1 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 this satisfaction. The maintenance certificate shall be given by the Engineer upon the expiration of the period of or as soon thereafter as any work ordered during such period pursuant to Para 4.48.2 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 RailTel.

4.50.2 **Cessation of RailTel's Liability:** The RailTel shall not be liable to the Contractor for any matter arising 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 (FAC) under this clause.

4.50.3 **Unfulfilled obligations** - Notwithstanding the issue of the Maintenance Certificate the Contractor and (subject to Para 4.50.2) RailTel 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.

4.51. Final payment

4.51.1 On the Engineer's certificate of completion in respect of the works an adjustment shall be made and the balance of account based on the Engineer or the Engineer's representative's on the accepted schedule or rates and for extra works on rates determined under Para 4.39 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 RailTel 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 claim 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 RailTel for or in the respect of damage or good and all expenses and demands incurred by or made upon the RailTel for or in the respect of damage or good and all expenses and demands incurred by or made upon the RailTel for or in the respect of damage or loss by from kin consequence of the works, have been satisfied agreeably and in conformity with the contract.

4.51.2 **Post payment Audit** – It is an agreed term of contract that the RailTel 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 work done or alleged to have been done by him under the contract.

4.51.3

Production of vouchers etc. by the Contractor

- (i) For a contract of more than one crore of rupees, the contractor shall, whenever required, produce for examination by the Engineer any quotation, invoice, cost or other account, book of accounts, voucher, receipt letter, memorandum, paper of writing or any copy of or extract from any such document and also furnish information and returns verified in such manner as may be required in any way relating to the execution of this contract or relevant for verifying or ascertaining cost of execution of this contract (the decision of the Engineer on the question of relevancy of any documents, information or return being final and binding on 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 the a sub -contractor or any subsidiary or allied firm or company (as per Para 4.7 of the General Conditions of Contract), the Engineer shall have power to secure the book of such sub-contract or any subsidiary or allied firm or company, through the contractor, and such book shall be open to his inspection.
- (iii) The obligations imposed by Para 4.51.3 (i) and (ii) above is without prejudice to the obligations of the contractor under any statute rules or orders binding on the contractor.

4.52.

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 RailTel 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 RailTel shall be entitled to withhold the said 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 RailTel 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 RailTel 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 RailTel's will be kept withheld or retained as such by the RailTel till the claim arising out of or under the contract is determined by the arbitrator (if the Contract is covered 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 RailTel 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.

4.52.1

Lien in respect of claims in Other Contracts – Any sum of money due and payable to the contractor (Including the security deposit returnable to him) under the contract may be withheld or retained by way of lien by the RailTel, against any claim of this or any other RailTel 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 Central Government. It is an agreed term of the contract that the sum of money so withheld or retained under this clause by the RailTel will be kept withheld or retained as such by the RailTel 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 of money withheld or retained under this clause and duly notified as such to the contractor.

4.53.

Signature on Receipts for Amounts

Every receipt which may become payable or for any security which may become transferable to the Contractors under these presents, shall, if signed in the partnership name by any one of the partners of a Contractors firm be a good and sufficient discharge to the RailTel 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 any one of the surviving Contractor partners shall if so signed as aforesaid be good and sufficient discharge as aforesaid provided that nothing in this clause contained shall be deemed to prejudice or effect any claim which the RailTel may hereafter have against the legal representative of any contractor partner so dying, for or in respect of 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 representative of any deceased Contractor partners interest.

4.54.

LABOUR

4.54.1

Wages to Labour – The Contractor shall be responsible to ensure compliance with the provisions of the Minimum Wages Act, 1948 (hereinafter referred to as the “said Act”) and the Rules made there-under in respect of any employees directly or through petty contractors or sub-contractors employed by him on road construction or in building operations or in stone breaking or stone crushing for the purpose of carrying out this contract. If in compliance with the terms of the contract, the contractor supplied any labour to be used wholly or partly under the direct orders and control of the RailTel whether in connection with any work being executed by the contractor or otherwise for the purpose of the RailTel 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 any claim or application made under the said Act be directed to be paid by the RailTel's, such moneys shall be deemed to be moneys payable to the RailTel by the Contractor and on failure by the Contractor to repay any moneys paid by it as aforesaid within seven days after the same shall have been demanded, the RailTel's shall be entitled to recover the same from any

moneys due or accruing to the contractor under this or any other Contractor with the RailTel's.

4.54.2 **Apprentices Act** – The Contractor shall be responsible to ensure compliance with the provisions of the Apprentices Act 1961 and the Rules and Orders issued there- under from time to time in respect of apprentices directly through petty contractors or sub-contractors employed by him for purpose of carrying out the contract. If the Contractor directly or through petty contractor or sub-contractors fails to do so, his failure will be a breach of the contract and the RailTel 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.

4.55. **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 nevertheless 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 moneys due to the contractor in terms of the contract. The RailTel 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 RailTel 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.

4.55.1 Provision of Contract Labour (Regulation and Abolition) Act, 1970

- (1) The Contractor shall comply with the provision of the Contract Labour (Regulation and Abolition) Act, 1970 and the Contract Labour (Regulation and Abolition) Act, Central Rules, 1971 as modified from time to time, whenever applicable and shall also indemnify the RailTel from and against any claims under the aforesaid Act and the Rules
- (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 this requirement shall attract the penal provision of the Contract arising out of the resultant non- execution of the work.
- (3) The Contractor shall pay to the labour employed by him directly or through sub- contractors the wages as per provisions of the aforesaid Act and the Rules wherever applicable. The Contractor shall notwithstanding the provisions of the contract to the contrary, because to be paid the wages to labour indirectly engaged on the work including any engaged by his sub-contractors in connection with the said work, as if the labour had been immediately employed by him.

- (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 the Rules wherever applicable.
- (5) In every case in which, by virtue of the provisions of the aforesaid Act or the Rules, the RailTel is obliged to pay any amount of wages to a workmen employed by the contractor or his sub-contractor in execution of the work or to incur any expenditure in providing welfare and health amenities required to be provided under the aforesaid Act and the Rules or to incur any expenditure in providing welfare and health amenities required to be provided under the aforesaid Act the Rules or to incur any expenditure on account of the contingent liability of the RailTel due to contractor's failure to fulfill his statutory obligations under the aforesaid Act or the Rules the RailTel 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 RailTel under section 20, sub-section (2) and section 2 sub - section (4) of the aforesaid Act, the RailTel 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 RailTel to the contractor whether under the contract or otherwise. The RailTel 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 RailTel full security for all costs for which the RailTel might become liable in contesting such claim. The decision of the RailTel regarding the amount actually recoverable from the contractor as stated above shall be final and binding on the contractor.

4.56. Reporting of Accidents to Labour

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

4.57. Provisions of Workmen's Compensation Act

In every case in which by virtue of the provision of Section 12 sub-section (1) of the Workmen's Compensation Act, 1923, RailTel is obliged to pay compensation to a workman directly or through the petty Contractor employed by the Contractor or sub- contractor in executing the work, RailTel will recover from the contractor the amount of the compensation so paid, and, without prejudice to the right of RailTel under Section 12 sub-section (2) of the said Act. RailTel 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 RailTel to the Contractor whether under these conditions or otherwise, RailTel 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 RailTel full security for all costs for which RailTel might become liable in consequence of contesting such claim.

4.58. RailTel not to provide quarters for Contractor

No quarters shall be provided by the RailTel for the accommodation of the contractor or any of his staff employed on the work.

4.59. Labour camps

- (1) 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 workman directly or through the petty contractors or sub-contractors and for temporary crèche (Bal-Mandir) where 50 or more women are employed at a time. Suitable sites on Railway/RailTel 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 RailTel. All camp sites shall be maintained in clean and sanitary conditions by the Contractor at his own cost.
- (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.
- (3) **Preservation of Peace** – The Contractor shall take requisite precautions and use his best endeavors to prevent any riotous or unlawful behavior by or amongst his workmen and others employed directly or through petty contractor or sub- contractors on the works and preserve the health and safety of all staff employed directly or through petty Contractors or sub -contractors on the works.
- (4) **Sanitary Arrangement** – The contractor shall obey all sanitary rules and carry out all sanitary measures that may time to time be prescribed by the RailTel 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 RailTel. Should the Contractor fail to make adequate sanitary arrangements, these will be provided by the RailTel and the cost therefore recovered from the contractor.
- (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 Railway/RailTel 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 RailTel and the cost therefore recovered from the Contractor.
- (6) Treatment of Contractor's staff in Railway Hospitals – Deleted
- (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 medical authority in relation to the strength of the contractor's resident staff, and workmen.

- (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.
- (9) **Non-employment of Female Labour** – The contractor shall see that the employment of female labour in cantonment areas, particularly in the neighborhood of soldier's barracks, should be avoided as far as possible.
- (10) Restrictions on the employment of retired Engineers of Railway/Govt. services within two years of their Retirement– The contractor shall not, if he is a retired government engineer of Gazetted rank, who has not completed two years from the date of retirement, in connection with his 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 Administration will be entitled to terminate the contract at the risk and cost of the contractor and forfeit his security deposit.

4.60.**Non-Employment of Labourers below the age of 15**

- (1) 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.
- (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 this contract unless a medical certificate of fitness in the prescribed form 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 expense 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.
- (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, stated his reasons in writing for doing so.
- (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- 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 person 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 illness or a fresh certificate or a fresh certificate of illness, as the case may be.

4.61. Determination of Contract

4.61.1 Right of RailTel to determine the contract: The RailTel shall be entitled to determine and terminate the contract at any time, should in the RailTel'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 RailTel of such determination and the reasons therefore shall be conclusive evidence thereof.

4.61.2 Payment on determination of contract: Should the contract be determined under Para 4.61.1 and the Contractor claims payment for expenditure incurred by him in the expectation of completing the whole of the work, the RailTel shall admit and consider such claims as are deemed reasonable and are supported by vouchers to the satisfactions of the Engineer. The RailTel's decision on the necessity and propriety of such expenditure shall be final and conclusive.

4.61.3 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.

4.62. TERMINATION OF CONTRACT OWING TO DEFAULT OF CONTRACTOR:

4.62.1 (A) If the Contractor:

- (i) becomes bankrupt or insolvent, or
- (ii) make an arrangement with or assignment in favour of his creditors, or
- (iii) being a Company or Corporation, go into liquidation (other than voluntary), liquidation for the purpose of amalgamation or reconstruction, or
- (iv) have an execution levied on his goods or property on the works, or assign the contract or any part thereof otherwise than as provided in Para 5.21 of SCC, or
- (v) have an execution levied on his goods or property on the works, or assign the contract or any part thereof otherwise than as provided in Para 5.21 of SCC, or
- (vi) persistently disregard the instructions of the RailTel's Engineer with regard to work quality or progress during execution of work or contravene any provision of the contract, or
- (vii) fail to adhere to the agreed programme of work by a margin of 10% of the Stipulated period, or fail to remove materials from the site or to pull down and replace the work after receiving from the Engineer's notice to the effect that the said materials or works have been condemned or rejected, or

- (viii) fail to take steps to employ competent or additional staff and labour as required under Para 4.26 of tender document.
 - (ix) fail to afford the Engineer or Engineer's representative proper facilities for inspecting the works or any part thereof as required under Para 4.28 of tender document, or
 - (x) 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 RailTel or any person on his or on their behalf in relation to the execution of this or any other contract with the RailTel,
 - (xi) At any time after the tender relating to the contract has been signed and submitted by the contractor, being a partnership firm admit as one of its partners or employ under it or being an incorporated company elect or nominate or allow to act as one of its directors or employ under it in any capacity whatsoever any retired engineer of the gazetted rank or any other retired gazetted officer working before his retirement, whether in the executive or administrative capacity, or whether holding any pensionable post or not, in the Railways/RailTel 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 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 retired officer, or
 - (d) being an incorporated company, the correct information as to, whether any of its directors was such a retired engineer or 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 these said clauses, the Engineer on behalf of the RailTel may serve the Contractor with a notice in writing to that effect and if the Contractor does not, within 7 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 to the entire satisfaction of the Engineer, the RailTel shall be entitled after giving 48 hours notice 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 adopt either

or both the following courses: A final termination notice will be issued by RailTel after expiry of 48 hrs notice.

4.62.2

RIGHT OF RAILTEL AFTER TERMINATION OF CONTRACT OWING TO DEFAULT OF CONTRACTOR:

In the event of any or several of the courses, referred in Para 4.62.1 of tender document above, 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 works thereto not actually performed under the contract, unless or 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 Engineer's Representative shall be entitled to take possession of any materials, tools, implements, machinery or buildings on the works or on the property on which these are being or ought to have been executed, and to retain the (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 expert 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) has at the time of termination 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 what was the value of any unused or partially used materials, any constructional plants 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.

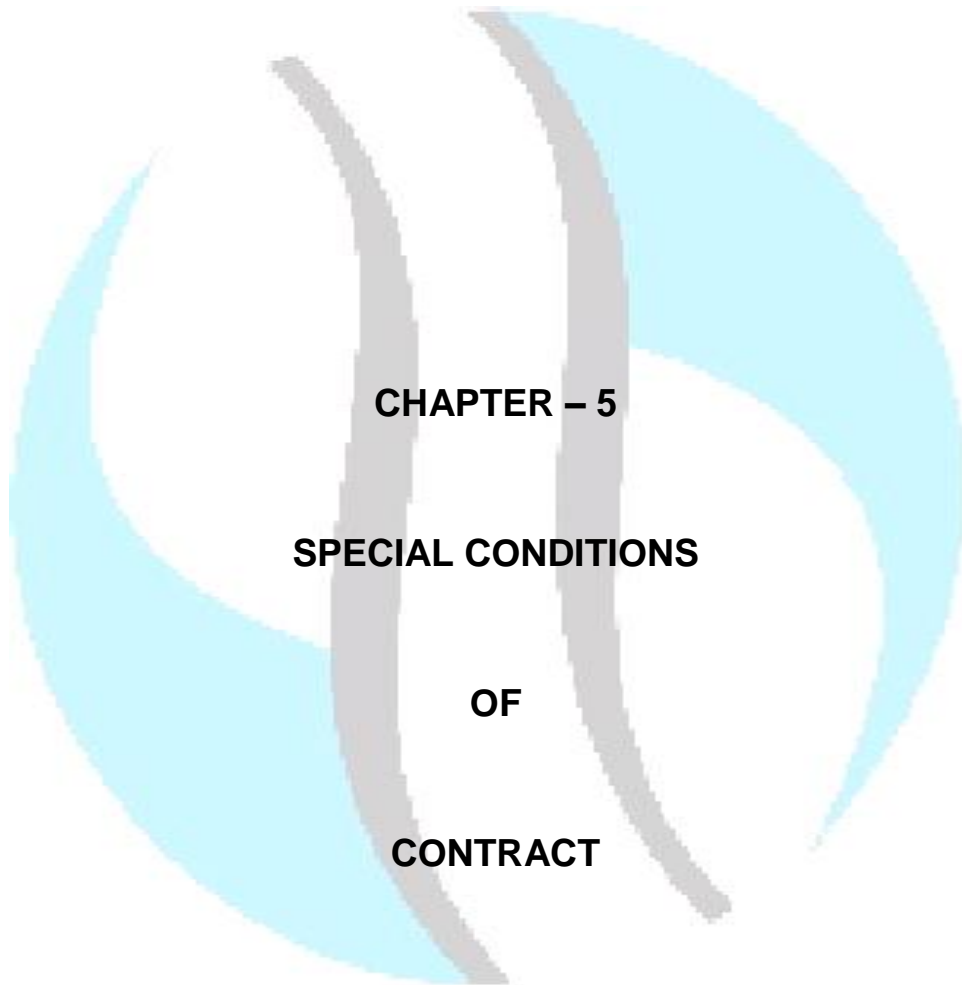
4.63.

Matters finally determined by the RailTel: 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 RailTel and the RailTel shall within 120 days 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 Para 4.8, 4.18, 4.22.5, 4.29, 4.43.2, 4.45(a), 4.55, 4.55.1(5), 4.57, 4.61.1, 4.61.2 and 4.62.1(A) of General Condition of Contract or in any clause of the Special Conditions of the Contract shall be deemed as 'excepted matters' and decisions of the RailTel's 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 and not be referred to arbitration.

4.64. SETTLEMENT OF DISPUTE AND ARBITRATION

- 4.64.1 Any dispute or difference whatsoever arising between the parties out of or relating to the construction, meaning, scope, operation or effect of this contract or the validity or the breach thereof shall be settled by a sole arbitrator in accordance with provisions contained in Arbitration and Conciliation Act, 1996 as amended and the award made in pursuance thereof shall be binding on the parties. The venue of such arbitration or proceedings thereof shall be New Delhi.
- 4.64.2 All arbitration proceedings shall be conducted in English. Resources against any Arbitral award so rendered may be entered into court having jurisdiction or application may be made to such court for the order of enforcement as the case may be.
- 4.64.3 The Arbitral Tribunal shall consist of the sole Arbitrator if the value of claim is upto Rs. 10 Lakhs. The arbitrator will be appointed by the Chairman cum Managing Director of RailTel Corporation of India Ltd. If the value of claim or amount under dispute is more than Rs. 10 Lakhs, the matter shall be referred to the adjudication of arbitral council. Chairman cum Managing Director of RailTel shall furnish a panel of three names to the contractor, out of which the contractor will recommend one name to be his nominee and then Chairman cum Managing Director/RailTel shall appoint out of the panel, one name as RailTel's nominee and these two arbitrators with mutual consent appoint a third arbitrator who shall act as deciding. The award of the sole arbitrator or the Arbitral council, as the case may be, shall be final and binding on both the parties, i.e. Contractor and RailTel Corporation of India Ltd.
- 4.64.4 Each of the parties agree that notwithstanding that the matter may be referred to Arbitrator as provided therein, the parties shall nevertheless pending the resolution of the controversy or disagreement continue to fulfill their obligation under this Agreement so far as they are reasonably able to do so.





CHAPTER – 5

SPECIAL CONDITIONS

OF

CONTRACT

रेलटेल
RAILTEL

A Government of India
Undertaking

CHAPTER - 5**Special Conditions of Contract****I N D E X**

Para	Subject
5.1.	Tender Document
5.2.	Agreement
5.3.	Security Deposit
5.4.	Contractor's Office & Stores depot
5.5	Use of Railway land
5.6.	Program of work.
5.7	Competent Supervisors
5.8	Stores to be supplied by RailTel
5.9	Engagement of Qualified Engineer.
5.10	Test & Measuring Instruments, Special tools& Installation material
5.11	Stores to be supplied by contractor
5.12	Supply of Technical Literatures, Documentation Drawings &Completion Plan etc.
5.13	Deleted
5.14	Deleted
5.15	Quality assurance
5.16	Not used
5.17	Inspection of materials
5.18	Inspection of works
5.19	Quantum of work and variation in Quantities
5.20	Not used
5.21	Deleted.
5.22	Execution of works

- 5.23 Not used
- 5.24. Maintenance of works
- 5.25. Clearance of site
- 5.26. Provisional Acceptance
- 5.27. Maintenance of work till issue of Last PAC
- 5.28. Final Acceptance
- 5.29. Warranty
- 5.30. Training
- 5.31. Infringement of Patents
- 5.32. License as per Govt. of India Contract Labour Act
- 5.33. Defaults and Delays
- 5.34. Loss Sustained Due to Default and Delay
- 5.35. Penalty for Delay in Completion
- 5.36. Adherence of time schedule
- 5.37. Contractors liabilities for Costs and Damages
- 5.38. Prices
- 5.39. Measurement of works
- 5.40. Terms of Payments
- 5.41. Final Payment
- 5.42. Final Settlement
- 5.43. Certificate for GST BENEFITS on bills
- 5.44. Deductions from On Account Payment Bills
- 5.45. Right Of way charges and return of BankGuarantee for ROW charges
- 5.46. Taxes
- 5.47. Mobilization Advance.
- 5.48. Insurance
- 5.49. Force Majeure Clause
- 5.50. Settlement of dispute and Arbitration

CHAPTER - 5**SPECIAL CONDITIONS OF CONTRACT**

Note: Where there is any conflict between these Special Conditions of Contract on one hand and Standard Specifications and General Conditions of Contract on the other hand, the Special Conditions of Contract shall prevail.

5.1. TENDER DOCUMENTS

5.1.1 The goods and services required, bidding procedure and contract terms are prescribed in the tender documents. The set of tender documents issued for the purpose of bidding includes following together with any addendum and corrigendum thereto.

5.1.2 If the Tender submitted by a Tenderer is accepted and the contract awarded to the Tenderer, the various works coming under the purview of the contract shall be governed by tender documents mentioned above.

5.1.3 Any special conditions stated by the Tenderer in the covering letter submitted along with the tender shall be deemed to be a part of the Contract to such extent only as have been explicitly accepted by the RailTel .

5.2. AGREEMENT

5.2.1 The successful Tenderer shall within 15 days after having been called upon by notice to do so be bound to execute an agreement based on accepted rates and conditions, in such form as the RailTel may prescribe, and lodge the same with the RailTel together with the conditions of contract, specifications and Schedule Of Requirements referred to therein duly completed. The form for agreement is included in Chapter - 6 (Form No.3).

5.2.2 In the event of any tenderer whose tender is accepted, refused to execute the Contract documents as herein before provided RailTel may determine that such tenderer has abandoned the contract and thereupon his tender and the acceptance thereof shall be treated and RailTel shall be entitled to forfeit the full amount of the earnest money and to recover the liquidated damage for such default.

5.3 SECURITY DEPOSIT

Refer para 4.16 of chapter-4.

5.4. CONTRACTOR'S OFFICE & STORES DEPOT

The Contractor shall within 10(ten) days of issue of letter of acceptance of tender establish an office and store depot at a convenient place for receiving and storing equipments and materials and progressing field work expeditiously in consultation and with the approval of the purchaser's Engineer. He shall intimate the address thereof to which all correspondence should be sent. Any communication sent to the contractor by post at his said address shall be deemed to have reached the contractor duly and in time. Important documents shall be sent by Registered post.

5.5 USE OF RAILWAY LAND

Use of Railway land required by the Contractor for construction of temporary offices, quarter(s), hutments etc. for the staff and for storing materials etc. will be permitted to him/them subject to approval by Railways, if available at the charges prescribed by the Railways. The land will be restored to Railways by the Contractor(s) in the same condition as when taken over or in vacant condition as desired by the Engineer after completion of the work or at any earlier day as specified by the Engineer. Failure to do so will make the Contractor(s) liable to pay the cost incurred by the Railway for getting possession of land.

5.6. PROGRAMME OF WORK

5.6.1 Refer Para 4.19,4.20,4.21,4.22,4.23 and 4.26.

5.6.2. The contractor will program his work in such a manner so as not to interfere in the working and movement of traffic.

5.7. COMPETENT SUPERVISORS

Refer Para 4.26.

5.8. STORES TO BE SUPPLIED BY RAILTEL.

Refer Para 1.17.

5.9 ENGAGEMENT OF QUALIFIED ENGINEER: Not Applicable

5.10. TEST & MEASURING INSTRUMENTS AND SPECIALTOOLS ETC.

5.10.1 Special tools & instruments required for installation and commissioning of the work as detailed in preamble shall be arranged by contractor at his own cost.

5.10.2 All tests and measuring instruments and other arrangements required for carrying out all the acceptance tests etc shall be provided by the contractor at his own cost.

5.11. STORES TO BE SUPPLIED BY CONTRACTOR

Refer Para 1.18 .

5.12 SUPPLY OF TECHNICAL LITERATURES, DOCUMENTATION DRAWINGS, INSTRUCTION BOOK & COMPLETION PLANS ETC.

5.12.1 The contractor shall supply complete documentation in Electronic form and Hard Copies.

5.13 SPARES

Deleted.

5.14 LONG TERM AVAILABILITY OF SPARES AND SYSTEM SUPPORT

Deleted.

5.15. QUALITY ASSURANCE

All the materials supplied are technically inspected and accepted by purchase's representatives. In the event of RailTel waving off the inspection, the quality assurance department of the manufacturer shall carry out all the tests as per the specification and issue a certificate indicating clearly the test results and the adherence to the technical specifications. This is without prejudice to the purchaser's right to accept or reject the supplies if not found in conformity to its requirement.

5.16. Not used.

5.17 INSPECTION OF MATERIALS

5.17.1 All equipments materials fittings and components supplied by the contractor are required to be inspected as per the Railway/ RCIL codes and specifications by the purchaser or his representative before accepting the delivery.

5.17.2 Not Applicable

5.17.3 All materials shall be procured from the manufacturers of repute/their authorized dealers. Such materials are to be accepted by the Engineer. The contractor may be required to produce test certificate from the manufacturer wherever called for by the Engineer.

5.18. INSPECTION OF WORKS

The contractor shall sign all the measurement recorded in the site register. The final measurement recorded in the Measurement Book, and signed by the contractor which will consider this as an acceptance. In case contractor fails to attend at the measurements or fails to countersign or to record the difference within a week, than in any such events the measurements taken by Engineering-In-Charge or by the subordinate as the case may be shall be final and binding on the contractor and the contractor shall have no right to dispute the same.

5.19. QUANTUM OF WORK AND VARIATION IN QUANTITIES

5.19.1. **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 RailTel 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 RailTel unless and until the same is incorporated in a formal instrument and signed by the RailTel and the Contractor, and till then the RailTel shall have the right to repudiate such arrangements.

5.19.2 **Powers of modification to contract :** The Engineer on behalf of the RailTel 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.

- (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 up to 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 up to the limit of 25% variation in quantity of individual item of works.
- (ii) Quantities operated in excess between +25% & 40% of the agreement quantity of the concerned item shall be paid 98% of the rate awarded for that item in this tender.
- (iii) Quantities operated in excess between +40% & 50% of the agreement quantity of the concerned item shall be paid at 96% of the rate awarded for that item in this tender.
- (iv) Variation in quantities of individual items beyond +50% will be executed through fresh tenders or by negotiating with the existing contractor with finance concurrence and approval of competent authority.
- (v) The contract signing authority can decrease the items up to 25% of individual item without finance concurrence.
- (vi) For decrease beyond 25% for individual items, finance concurrence and approval of competent authority shall be taken after obtaining "No Claim Certificate" from the contractor.
- (vii) Variation in quantity of each item will only be considered with respect to LOA's overall quantity of each item. It will not be considered station / location wise.

5.19.3 Valuation of variations :- The enlargements, extensions, diminution, reduction, alterations or additions referred to in sub-clause (5.19.2) 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 therefore shall be calculated in accordance with the accepted schedule of rates.

5.20. Not used.

5.21. Deleted.

5.22. EXECUTION OF WORK

All the works shall be executed in strict conformity to the provisions of the contract document and with such explanatory detailed drawings, specifications and instructions as may be approved from time to time based on detailed design and engineering carried out by contractor in line with requirements as per contract document. The contractor shall be responsible for ensuring that the work throughout are executed in the most substantial, proper and workman like manner with the quality of material and workmanship in strict accordance with the specifications and as per sound industrial practices and to the entire satisfaction of the RailTel

5.23. Not used.

5.24. MAINTENANCE AND WARRANTY

The section is to be maintained for a period of 12 Months. The following things must be covered in this maintenance:

- a) Any defect arising out of bad workman ship must be rectified.
- b) Manufacturing defects as may be detected during this period must be repaired or replaced as the case may be.
- c) Any defective material that may be noticed must be replaced.
- d) For this maintenance, work must be completed within 24 hours from the time it is notified. In case the same is not complied with requisite penalty will be imposed and amount recovered from your security deposit.

5.25. CLEARANCE OF SITE

At the end of the work at each location the Contractor shall as a part of his Contractual obligation leave the area completely neat and clean.

5.26. PROVISIONAL ACCEPTANCE CERTIFICATE (PAC)

5.26.1 Immediately after the completion of the work at each station / location the contractor shall certify and advise the RCIL in writing that the installation is (i) complete (ii) ready for satisfactory commercial service and (iii) ready to be handed over.

5.26.2 Not Applicable.

5.26.3 Purchaser's Engineer shall issue a Provisional Acceptance Certificate (PAC) for successful commissioning of station / location covering all materials and services included in the Schedule of works after the final acceptance test as per the approved test procedures have been completed and the performance has been found to meet the specifications. PAC shall not be held up for want of minor deficiency which shall be attended by the contractor within reasonable time to the satisfaction of Engineer. RailTel's decision in this respect shall be final. The Provisional Acceptance Certificate shall be signed by both the parties.

5.27 MAINTENANCE OF WORK TILL ISSUE OF LAST PAC

5.27.1 After the work has been completed & placed in service and Provisional Acceptance certificate issued by Purchaser's Engineer, the contractor shall be responsible for proper maintenance supervision of the work for a period of twelve months from the date of PAC.

For this purpose he shall prepare a maintenance plan and make available the services of qualified maintenance engineer stationed at the location approved by Purchaser's Engineer who will guide and supervise the work of RailTel maintenance staff. The maintenance engineer of the tenderer will visit the total installation at least once in a month.

5.27.2 Not Applicable.

5.27.3 During this period of maintenance supervision if any lacuna is noticed in the functioning, as a result of any work, the contractor free of cost will rectify the same. During such rectification if any faulty equipment/modules need

replacement or repair, they shall be provided by the contractor from the set of equipment or modules that the contractor should bring to the site of installation in addition to all the materials to be supplied against this contract. Use of spare modules covered under the Schedule of material of this tender shall not be permitted to be used during installation, commissioning and period of maintenance supervision.

- 5.27.4 The contractor shall be responsible for proper maintenance of the work at his own cost until Last PAC for last completed Link/Location is issued and Whole work is completed in all respect. During this period, the tenderer shall have to attend any fiber cut etc. which takes place.

5.28. FINAL ACCEPTANCE CERTIFICATE (FAC)

- 5.28.1 The final acceptance of the works completed in the whole section shall take effect from the date of expiry of the period of warranty as defined in Para 5.29 i.e. on expiry of the warranty period from the date of issue of last Provisional Acceptance Certificate or brought into commercial operation, provided in any case that the contractor has complied fully with his obligations in respect of each item under the contract.

- 5.28.2 Notwithstanding the issue of Final Acceptance Certificate the contractor and the purchaser (subject to Sub Clause as above) shall remain liable for fulfillment of any obligation incurred under the provision of the contract prior to the issue of Final Acceptance Certificate which remains unperformed at the time such certificate is issued and for determining the nature and extent of such obligation the contract shall be deemed to remain in force between the parties hereto.

5.29. WARRANTY

- 5.29.1 All equipment /material supplied by the Contractor shall be guaranteed against the defects for a period of 12 months from the date of issue of Provisional Acceptance Certificate for last completed Link/Location (issue of last PAC). The contractor shall provide comprehensive warranty maintenance for all the items supplied by him against this tender.

- 5.29.2 Contractor will ensure availability of adequate spares for providing replacement of faulty material, items during the warranty.

- 5.29.3 If any equipment/material supplied by the contractor becomes defective during the warranty, the same shall be replaced by the contractor and total cost of such replacement shall be borne by the contractor. The replaced material will also be guaranteed for the remaining period of original warranty.

5.30. Training

- 5.30.1 Deleted

- 5.30.2 The contractor shall at every stage of installation; testing and commissioning provide all facilities for adequate training of RailTel personnel who may be deputed to work on the project.

5.31. INFRINGEMENT OF PATENTS:

- (a) The Contractor is forbidden to use any patents or registered drawings, processes or patterns in fulfilling his contract without prior consent in writing of the owner of such patents, drawings, patterns or trademarks except where these are specified by the Purchaser himself. Royalties where payable for the use of such patented processes, registered drawings or patterns shall be borne exclusively by the Contractor. The Contractor shall advise the Purchaser of any proprietary rights that may exist on such processes, drawings or patterns which he may use of his own accord.
- (b) In the case of patents taken out by the Contractor of the drawings or patterns registered by him or of those patents, drawings or patterns for which he holds a license, the signing of the contract automatically gives the Purchaser the right to repair by himself the purchased articles covered by the patent or by any person or body chosen by him and to obtain from any sources he desires the component parts required by him for carrying out the repair work. In the event of infringement of any patent rights due to above action of the Purchaser he shall be entitled to claim damages from the Contractor on the grounds of any loss of any nature which he may suffer e.g. in the case of attachment because of counterfeiting.

5.32. LICENSE AS PER GOVT. OF INDIA CONTRACT LABOUR ACT

The Contractors are required to produce license as enjoined in the Government of India Contract Labour (Regulation and Abolition) Act, 1978 with latest amendments, if any. They shall not be allowed to undertake or execute any work through contract Labour except under and in accordance with a license issued under the said Act in that behalf by the authorized licensing Officer.

5.33. DEFAULTS AND DELAYS

The Contractor shall execute the work with due diligence and expedition, keeping to the approved time schedule. Should he refuse or neglect to comply with any reasonable orders given to him in writing by the Purchaser's Engineers in connection with the work or contravene the provision of the Contract or the progress of work lags persistently behind the time schedule due to his neglect, the Purchaser shall be at liberty to give seven days notice in writing to the Contractor requiring him to make good the neglect or contravention complained of and should the Contractor fail to comply with the requisitions made in the notice within seven days from the receipt thereof, it shall be lawful for the purchaser to take the work wholly or in part out of the Contractor's hands without any further reference and get the work or any part thereof, as the case may be, completed by other agencies at the expense of the Contractor without prejudice to any other right or remedy of the Purchaser.

5.34. LOSS SUSTAINED DUE TO DEFAULTS AND DELAYS

In the event of any loss to the purchaser on account of execution and/or completion of the work or any part thereof by agencies other than the contractor, in terms of Para 5.33 of the tender document, the contractor shall be liable to reimburse the loss to purchaser without prejudice to the other

rights and remedies of the purchaser and the reimbursement in full or in part, as the case may be, shall be met at the option of the purchaser from out of all or any of the following sources via :

- (a)
 - i) Any amount due and payable to the contractor by the purchaser on any account whatsoever;
 - ii) The Contractor's security deposit in the hands of the purchaser as far as available, and;
 - iii) Any other assets whatsoever of the contractor;
- (b) In the event of re-imbursement from out of sources (I) and/or (ii) above mentioned, the purchaser shall have the right of appropriation sue motto.

5.35. PENALTY FOR DELAY IN COMPLETION

5.35.1 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 5.48, the RailTel 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 Annex. II) as the Engineer may decide. On such extension the RailTel 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 asum equivalent to $\frac{1}{2}$ of 1% of the contract value of the works for each week or part of the week.

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

- (i) For contract value up to Rs. 2 lakhs 10 % of the value of the contract.
- ii) For contract value above Rs. 2 lakhs 10 % of the 1st 2 lakh and 5 % of the balance
- (iii) The competent authority while granting extension of currency of the contract may also levy token penalty as deemed fit based on the merit of case.

Provided further, that if the RailTel 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 RailTel 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 49 of these conditions, whether or not actual

damage is caused by such default.

5.35.2

Penalty for cutting/damaging the existing cables of RAILTEL and the existing underground facilities of third parties: -

- (a) During excavation of trench utmost care is to be taken by the contractor so that the existing underground cables are not damaged or cut. In-case any damage/cut is done to the existing cables, a penalty as per the schedule given below will be charged from the contractor or the amount will be deducted from his running bills as per Railway Board's Telecom Circular No.17/2013:-

Size of existing UG/ OFC cut/ damaged	Amount of penalty per cut/ damage
Only Quad cable and signaling cable	Rs. 1.0 Lakhs (Rs. One lakh only)
Only OFC	Rs. 1.25 Lakhs (Rs. One lakh & twenty five thousand only)
Both OFC & Quad	Rs. 1.50 Lakhs (Rs. One lakh & fifty thousand only)
Electrical cable	Rs.1.0 Lakhs (Rs. One lakh only)

Besides the above penalty, the contractor shall carry out such repairs for restoration of the damaged cable free of charge. The cost of jointing kit shall also be borne by the contractor. If contractor fails to repair the damage, the cost of repair (including cost of labour & jointing kit) shall be recovered from the contractor.

- (b) Contractor shall either pay to third parties all expenditure incurred for restoring services which are damaged by Contractor while carrying out the work or the same amount will be deducted from his bills. Such expenditure shall be intimated to Contractor either by Engineer-in-charge or concerned third parties in writing. The amount deducted by the Contractor from his bill shall be paid to concerned third parties by Engineer-In-Charge.
- (c) Engineer-In-Charge at his absolute discretion shall reserve the right to reject any bill submitted by the Contractor prior to making payment by him to third parties for the damages caused or to deduct same amount from his bill.
- (d) Penalty to damage stores/materials supplied by the RAILTEL while laying:

The contractor while taking delivery of materials supplied by the RAILTEL at the designated place shall thoroughly inspect all items before taking them over. In case of execution of the work, if any material is found damaged/working unsatisfactorily, then a penalty equivalent to the cost of material + 10% as penalty shall be recovered from the contractor's payments/securities.

- (e) However, contractor will not be penalized for any defect in workmanship of the materials, which are directly supplied by RailTel.

- 5.35.3. If Railways /any other stakeholders of this project imposes any penalty on account of bad workmanship or delays, the same shall be charged to the contractor back to back.

5.36 ADHERENCE OF TIME SCHEDULE

- 5.36.1 Timely completion of the work is the essence of the contract. While delay in execution will attract penalty.

- 5.36.2 If any delay as aforesaid in Para 5.35 of tender document shall have arisen from any cause which the Purchaser may agree as being a reasonable ground for extension of time the purchaser's engineer or his representative may allow such additional time as he may in his absolute discretion consider to be reasonably justified by the circumstances of the case. Such extensions shall be granted, on request from contractor, with liquidated damages in the Form No.11.

5.37 CONTRACTOR'S LIABILITIES FOR COSTS AND DAMAGES

Refer Para 4.52 of the tender document.

5.38 PRICES

- 5.38.1 This tender consists of a percentage bidding system. The estimated prices of each and every item of the schedule are indicated in the Schedule of Requirements. The tenderer is expected to quote the %age above (+) / below(-) /at PAR the RailTel's total estimated cost indicated in the schedule.

The percentage above/below/at par finalized for the entire schedule shall be firm and on all-inclusive basis (inclusive all incidental charges for transport, loading/unloading and handling of materials, commission for arranging dispatch by rail direct from manufacturer's factory and completing all necessary formalities in this respect, such as submission of forwarding notes, arranging placement of Wagon, collection of banker's charges for Bank guarantee, Indemnity Bonds inclusive of cost of Stamp etc. if any, levied by the RailTel).

- 5.38.2 **The prices shall include all taxes, GST and levies applicable on this Work. Therefore, they should quote their rate taking into account the rate of GST on this as leviable.**

- 5.38.3 The rate quoted by the tenderer shall include cost of commissioning and testing and all costs of Administration of Contract, Insurance Premium, Banker's charges for guarantees, cost of storage, loading-unloading and handling of materials

and for any road transport which the contractor may use for carriage of materials to his depot and the site of work. The prices shall include the cost of works and adjustments necessary to be done by the contractor during or after tests carried out by the purchaser.

- 5.38.4 The rate to be quoted by the Tenderers should take into account the credit availed on imports under the CENVAT scheme. The tenderer should give a declaration that any set off in respect of duties on imports as admissible under law is being totally and unconditionally passed on to the purchaser in the price quoted by him (see para 5.43)
- 5.38.5 While the price quoted in the contract are inclusive of all taxes GST levied by any statutory authority, the purchaser shall make any deduction toward GST if statutorily required to do so. The deducted GST shall be remitted to the concerned authority and the purchaser shall in no way be responsible for any disputes between the tax authorities and the contractor in this regard.
- 5.38.6 All taxes, duties and levies arising out of the transaction between the contractor and his sub-contractor/supplier for this work will be included in the rates quoted by the contractor in the relevant Schedule.

The rates are all inclusive of taxes but the tenderer has to submit the breakup of all taxes as per Form no 16 annexed with the Tender Document.

- 5.38.7 Arrangement for permits/license for materials will not be made by the RailTel or any assistance given. The Contractor will have to make his own arrangement.
- 5.38.8 As per provision of GST, for all taxable supplies made by the vendor, vendor will issue valid tax invoice in accordance with GST Act in order to enable RailTel to avail input tax credit.
For all the taxable supplies made by the vendor, the vendor shall furnish all the details of such taxable supplies in the relevant returns to be filed under GST Act.
If the vendor fails to comply with any of the above, the vendor shall pay to purchaser any expense, interest, penalty as applicable under the GST Act.
In case of incorrect reporting of the supply made by the vendor in the relevant return, leading to disallowance of input credit to purchaser, the vendor shall be liable to pay applicable interest under the GST act to the credit of purchaser. The same provisions shall be applicable in case of credit notes.
- 5.38.9 Any statutory revision/variation in taxes /duties shall be to the RailTel's account and shall be admissible on the production of valid documentary evidence. For this tenderer shall submit the taxes/duties structure considered by him while quotating the rates.

5.39. MEASUREMENT OF WORKS

- 5.39.1 Refer Para 5.18 of tender document.

5.39.2 MEANING AND INTERPRETATION BY RAILTEL TO BE FINAL

All measurement, method of measurement, meaning an intent of specifications provided by purchaser's Engineer shall be final and binding.

5.40. TERMS OF PAYMENT

5.40.1 Processing of payment

- 5.40.1.1 On Account Payment:-Ref para 4.46.
 5.40.1.2 Rounding off amounts:-Ref para 4.46.
 5.40.1.3 On account payments not prejudicial to final settlement: - Refer para 4.46.
 5.40.1.4 The tenderer should have Registration No. for GST in respective state where work is to be executed.
 5.40.1.5 submission of commercial invoice is mandatory
 5.40.1.6 .deleted

5.40.2 Manner of payment: - Ref para 4.46.

5.40.3 ON ACCOUNT PAYMENT-

“On account payment” for supply of equipments, materials indicated in the schedule of requirements and execution of work subject to recoveries of liquidated damages, if any, as given below.

- 5.40.3.1 90% (Ninety percent) of On-Account/Progress payment for all SOR items (Both, Supply and Supply cum Execution) shall be made after successful completion of the work items, after joint measurement and testing to the satisfaction of Engineer. 90% of the accepted cost of all SOR items (duly inspected by the nominated Inspection Authority) will be paid after following conditions by the consignee.
- On receipt of material at site.
 - Original Inspection certificate issued by inspecting officer.
 - Challan/ Invoice in duplicate.
 - A certificate that the materials supplied / work executed are as per the contract and the amount claimed in the invoice is correct as per terms of the contract.
 - Insurance policy for material (100% of the value of on account payment) as para 5.48)
 - All on account payments shall be covered by a standing indemnity bond in the approved form (see form No.6).
 - Warranty certificate as per warranty clause 5.29.
- 5.40.3.2 The balance 10 % for each item will be paid after the issue of Provisional Acceptance Certificate.

5.41 FINAL PAYMENT

5.41.1 Deleted.

5.41.2 **Post Payment Audit** : Refer clause 4.51.2.

5.42 FINAL SETTLEMENT

On expiry of the warranty period and issue of Final Acceptance Certificate of the entire installations, the security deposit will be refunded to the Contractor after adjustment of any dues payable by the contractor

5.43

CERTIFICATE FOR GST BENEFITS ON BILLS

- a) The purchaser will not be responsible for payment of taxes and duties paid by the supplier under misapprehensions of law or misclassification and in such cases even if the suppliers bill contain an element of tax or duty which is not payable by the purchaser, such payment would be disallowed.
- b) The claim for GST, if any, on each bill should be supported by the following certificates:-
 - i) Certified that the amount of `.....claimed as GST in this bill is in accordance with the provision of the rules in all respects and the same has been actually paid to the GST authorities in respect of the stores covered by the bills.
 - ii) Quarterly certificate to the effect that no refund of GST already reimbursed against this contract has been obtained during the quarter ending. In the event of any such refund being obtained by the seller, the same should be passed on to the purchaser.
 - iii) Certificate: - The tenderers will have to give the following certificates in their offer:-
 "We hereby declare that in quoting the above price, we have taken into effect, the full effect of the duty set-off on 'Central excise and counter veiling duties' available under the existing scheme. We further agree to pass on such additional duties and set off as may become available in future in respect of all the inputs used for the manufacture of the final product, on the date of the supply under scheme, by way of reduction in price and advise the purchaser accordingly and we shall comply the anti profiteering clause of GSI."
 - iv) Payment of GST will be released only after deposition of GST to the authorities and details given in return as per GST rules.

5.44

DEDUCTION FROM ON ACCOUNT PAYMENT BILLS

- (i) All costs, damages or expenses, which RailTel may have been paid or incurred which under the provisions of contract are Contractor's obligations will be deducted by RailTel from progress payment Bills/Invoice of Contractor, as and when it is understood that such an expense has been incurred or paid for.
- (ii) All such claims of RailTel shall, however be duly supported by appropriate and certified vouchers, receipts or explanations as are available to enable the Contractor to identify such claims.

5.45.

Not Applicable:

5.46

TAXES

5.46.1

The Contractor and all personnel employed by him shall pay such taxes like Income Tax as are payable under statutory laws of India and the Purchaser **WILL NOT ACCEPT** any liability for the same.

- 5.46.2 Deduction of Income Tax at source as per provisions of Finance Act and Income Tax in force shall be made from the Contractor/Sub-Contractor and the amount so deducted may be credited to the Central Government.
- 5.46.3 Wherever the law makes it statutory for the Purchaser to deduct any amount as per law, the same will be deducted and remitted to the concerned authority.
- 5.46.4 Any changes in taxes, shall be to RailTel account.
- 5.47 **MOBILIZATION ADVANCE**
No mobilization advance will be given to the contractor.
- 5.48 **INSURANCE**
- 5.48.1 The Contractor shall take out and keep in force a policy or policies of insurance against all liabilities of the Contractor or the Purchaser at common law or under any statute in respect of accidents to persons who shall be employed by the contractor in or about the site for the purpose of carrying out the works on the site. The Contractor shall also take out and keep in force a policy or policies of Insurance against all recognized risks to their offices and depots. Such insurance shall in all respects be to the approval of the Purchaser and if he so requires in his name.
- 5.48.2 **INSURANCE OF MATERIALS & INSTALLATIONS**
The Contractor shall take out and keep in force a Policy or policies of Insurance for all materials including materials/ equipments supplied by RailTel irrespective of whether used up in the portion of work already done or kept for the use in the balance portion of the work until such works are provisionally handed over to the RailTel. For this purpose, the works are deemed to have been provisionally handed over when provisional acceptance certificate is issued for the locations.
- 5.48.3 The Contractor shall not be liable for losses/damages to the materials either used up in the portion of work done or his material kept for use at site, in consequence of Mutiny, or other similar causes over which the Contractor has no control and which cannot be insured. Such losses or damages shall be the liability of the Purchaser and if required by the Purchaser, be made good by the contractor at the cost of the Purchaser.
- 5.48.4 The Contractor should, however, insure the stores brought to site, against risks in consequence of war and invasion, as required under the Emergency Risk (Goods) Insurance Act enforce from time to time.
- 5.48.5 It may be noted that the beneficiary of the insurance policy should be RailTel or the policies should be pledged in favor of RailTel. The contractor shall keep the policy/policies current till the installations are provisionally handed over to the purchaser. It may also be noted that in the event of contractor's failure to keep the policy current and alive, renewal of policy will be done by purchaser for which the cost of the premium plus 20% of premium shall be recovered from the contractor.
- 5.48.6 For the purpose of enabling the contractor to take the insurance cover in connection with this contract, the purchaser's Engineer will advise the approximate price of all the RailTel supply materials to the Contractor.

5.49. FORCE MAJEURE CLAUSE

5.49.1 Refer para 4.11 of chapter -4.

5.49.2 Ref para 4.17 of chapter-4.

5.50. SETTLEMENT OF DISPUTE AND ARBITRATION

(1) **Right of RailTel to determine the contract:** - The RailTel shall be entitled to determine and terminate the contract at any time should, in the RailTel'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 RailTel of such determination and the reasons therefore shall be conclusive evidence thereof.

(2) **Payment on determination of contract:** - Should the contract be determined under sub Para 5.49(1) of tender document of this clause and the Contractor claims payment for expenditure incurred by him in the expectation of completing the whole of the work, the RailTel shall admit and consider such claims as are deemed reasonable and are supported by vouchers to the satisfaction of the Engineer. The RailTel's decision on the necessity and propriety of such expenditure shall be final and conclusive.

(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.

(4) Arbitration:-

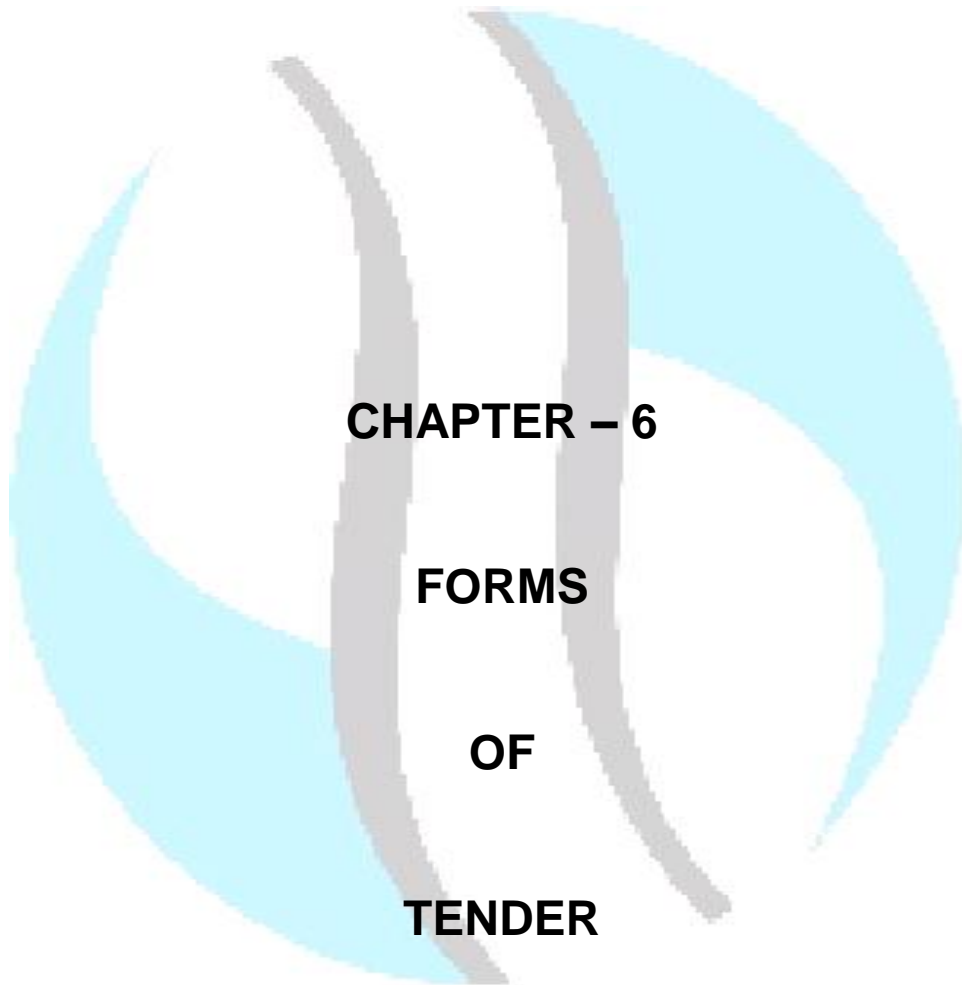
(a) Any dispute or differences of any kind whatever arising in connection with the Contract or the carrying out of the works (whether during the progress of the works or after their completion and whether before or after the determination, abandoned or breach of the Contract) shall be referred to and settled by the sole arbitrator in accordance with the provisions contained in arbitration and conciliation Act, 1996.

(b) The sole arbitrator shall be appointed by the MD of RailTel Corporation of India Limited. It is expressly understood between the parties that no objection shall be raised at time after execution hereof to the appointment of the arbitrator by the MD of RailTel Corporation of India Limited including that the person appointing the arbitrator is connected to and / or employed with RailTel Corporation of India Limited.

(c) The venue of the arbitration shall be New Delhi (India). The arbitration proceedings shall be conducted in English and the cost of the arbitration shall be borne between the parties in equal proportion.

(d) The arbitrator shall give a reasoned award, which shall be binding on the parties.

A Government of India
Undertaking



CHAPTER – 6

FORMS

OF

TENDER

रेलटेल
RAILTEL

A Government of India
Undertaking

SECTION-II

CHAPTER-IV

FORMS OF TENDER

Form No. 1	:	Offer Letter
Form No. 2	:	Qualifying Criteria / User's Certificate
Form No. 3	:	Agreement
Form No. 4	:	Guarantee Bond for Performance Guarantee
Form No. 5	:	Statement of Deviations
Form No. 6	:	Standing Indemnity Bond for on Accounts Payments and Stores Supplied by RailTel
Form No. 7	:	System Performance Guarantee
Form No. 10	:	Acknowledgement for receiving materials from RailTel
Form No. 11	:	Extension of period of completion of work on account of contractor
Form No. 13	:	Qualification Experience
Form No. 14	:	RTGS Format



OFFER LETTER

To,
RailTel Corporation of India Ltd
Western Railway Microwave Complex,
SenapatiBapatMarg,
Mahalaxmi- Mumbai- 400 013

1. I/We _____ have read the various conditions to tender attached here to and hereby agree to ABIDE BY THE SAID CONDITIONS. I/We also agree to keep this tender open for acceptance for a period of 120 days from the date fixed for opening the same and in default thereof, I/We will be liable for forfeiture of my/our Earnest Money. I/We offer to do the work of”- _____” for RailTel Corporation of India Limited at the rates quoted in the attached schedules and hereby bind myself/ourselves to complete the work within ---- -- days from the date of issue of Letter of Acceptance of the tender. I/We also hereby agree to abide by the Various Conditions of Contract and to carry out the work according to the Specifications for materials and works laid down by the RailTel for the present contract.

2. A sum of Rs. ----- Only is herewith forwarded as “Earnest Money”. The full value of Earnest Money shall stand forfeited without prejudice to any other rights or remedies if,

a) I/We do not execute the contract agreement within -----days after receipt of notice issued by the Railtel that such documents are ready or,

b) I/We do not commence the work within -----days after receipt of orders to that effect.

3. Until a formal agreement is prepared and executed the acceptance of this tender shall constitute a binding contract between us subject to modifications, as may be mutually agreed to between us and indicated in the “Letter of Acceptance” of my/our offer for this work.

SIGNATURE OF CONTRACTOR (S)

Date

SIGNATURE OF WITNESS

CONTRACTOR (S) ADDRESS

- 1.
- 2.

ACCEPTANCE OF TENDERS

I accept the tender as above and agree to pay the rate as entered in Schedule of Requirements.

WITNESS

- 1.

- 2.

for and on behalf of

Date

RailTel Corporation of India Limited/Mumbai

QUALIFYING CRITERIA

User's CERTIFICATE

Name of the Firm

Contract No. & date

Scope of Work

Contract Amount (in Indian Rupees)

Completion Period as per contract

Data of Commencement

Actual date of Successful Completion

Dated:

Name:

Designation:

Signature of the User with
Company Seal

रेलटेल
RAILTEL

A Government of India
Undertaking

AGREEMENT

An AGREEMENT made this _____ day of _____ two thousand and three, between RailTel Corporation of India Limited, having its registered office at Industrial Area Gurgaon, Sector 44 and regional office at RailTel Corporation of India Ltd, Western Railway Microwave Complex, SenapatiBapatMarg, Mahalaxmi- Mumbai-400 013., acting in the premises through RGM or his successor _____ of M/s. RailTel Corporation of India Limited, Mumbai (hereinafter referred to as 'RailTel') of one part and M/s _____ (Name and Full Address of Firm (Registered and regional office address) (hereinafter referred to as 'contractor') of the other part.

Whereas in response to a call for Tender for _____ **Name of Work]** as per Tender papers at **Annexure 'B'** hereto the Contractor has submitted a Tender hereto and whereas the said Tender of the Contractor has been accepted for _____

_____ [**Name of Work]**
as per copy of **Letter of Acceptance No.** _____ **dated** _____ of **Tender No.** _____ **dated** _____ (**Tender Notice date**) complete with enclosures at the accepted rates and agreed deviations from Tender Papers as per **Annexure-A** hereto and at an estimated contract value of Rs. _____ (Rupees _____ Only).

Now this agreement witnesses that in consideration of the premises and the payment to be made by the Purchaser to the Contractor provided for herein below the Contractor shall supply all equipment and materials and execute and perform all works for which the said Tender of the Contractor has been accepted strictly according to the various provisions in **Annexure 'A' and 'B'** hereto and upon such supply, execute and performance to the satisfaction of the purchaser and the purchaser shall pay to the Contractor at the rates accepted as per the said **Annexure 'A'** and in terms of the provisions therein.

In the witness where of the parties have hereunto set and subscribed their respective hands and/or seals day and year respectively mentioned against their respective signatures.

Signed and delivered at _____ by Shri _____ for and on behalf of M/s. _____

The contractor within named in the presence of:

1. Signatures
Date
Name in Block Capitals
Address
2. Signatures
Date
Name in Block Capitals

Address

Signed and delivered at _____ for and on behalf of RailTel
by Shri _____ (Director / Projects or his successor) in the presence
of:-

1. Signatures
 Date
 Name in Block Capitals
2. Signature
 Date
 Name in Block Capitals

Annexure 'A'
Annexure 'B'

: Copy of Letter of Acceptance
: Tender Document



Form - 4**Para 3 / Section-II Chapter – II**

**Guarantee Bond for Performance Guarantee
(On Stamp Paper of requisite value)
(To be used by approved Scheduled Banks)**

1. In consideration of the RailTel Corporation of India Limited, registered office at Industrial Area Gurgaon, Sector 44 and regional office at RailTel Corporation of India Ltd, and regional office at RailTel Corporation of India Ltd, Mahalaxmi Railway Microwave Compound, SenapatiBapatMarg, Mahalaxmi- Mumbai- 400 013 (hereinafter called "the RailTel") having agreed to exempt **(Name and address of the Company/Contractor both Registered and Regional office address)** (hereinafter called " the said Contractor(s)") from the demand, under the terms and conditions of an L.O.A No.....[.....Dated.....[L.O.A Date] made between.....and RailTel Corporation of India Limited, for.....
[Name of Work/Supply of Materials] (hereinafter called " the said Agreement") of **Performance Guarantee** for the due fulfillment by the said contractor's) of the terms and conditions contained in the said Agreement, or production of a Bank Guarantee for Rs..... (Rs. Only). We,(indicate the name of the Bank and address) hereinafter referred to as " the Bank") at the request of. M/s..... Contractor(s) do hereby undertake to pay the **RailTel** an amount not exceeding Rs. Against any loss or damage caused to or suffered or would be caused to or suffered by the RailTel by reason of any breach by the said Contractor(s) of any of the terms or conditions contained in the said Agreement.

2. We, Bank (indicate the name of the Bank and address) do hereby undertake to pay the amount due and payable under this Guarantee without any demur, merely on demand from the **RailTel** stating that the amount is claimed is due by way of loss or damage caused to or would be caused to or suffered by the **RailTel** by reason of breach by the said Contractor(s) of any of terms or conditions contained in the said Agreement or by reason of the Contractor(s) failure to perform the said Agreement. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs.

3. We, Bank (indicate the name of the Bank and address) undertake to pay to the **RailTel** any money so demanded notwithstanding any dispute or disputes raised by the Contractor(s) / Supplier(s) in any suit or proceedings pending before any court or Tribunal relating thereto our liability under this present being, absolute and unequivocal.

The Payment so made by us under this Bond shall be a valid discharge of our liability for payment thereunder and the Contractor(s) / Supplier(s) shall have no claim against us for making such payment.

4. We, Bank (indicate the name of the Bank and address) further agree that the Guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of the RailTel under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till **RailTel** certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said

Contractor(s) and accordingly discharges this Guarantee. Unless a demand or claim under the Guarantee is made on us in writing on or before the We shall be discharged from all liability under this Guarantee thereafter.

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

6. This Guarantee will not be discharged due to the change in the Constitution of the Bank or the Contractor(s) Supplier(s).

7. We, (indicate the name of Bank) lastly undertake not to revoke this Guarantee during its currency except with the previous consent of the **RailTel** in writing.

8. Notwithstanding anything contained herein,

1. Our liability under the Bank guarantee shall not exceed Rs. (In Rupees)

2. This Bank Guarantee shall be valid uptoand

3. We are liable to pay the guaranteed and or any part thereof under this Bank Guarantee only and only if you serve upon is a written claims or demand or before(date of expiry of guarantee)

Dated the day of 2012
for
(Indicate the name of the Bank)

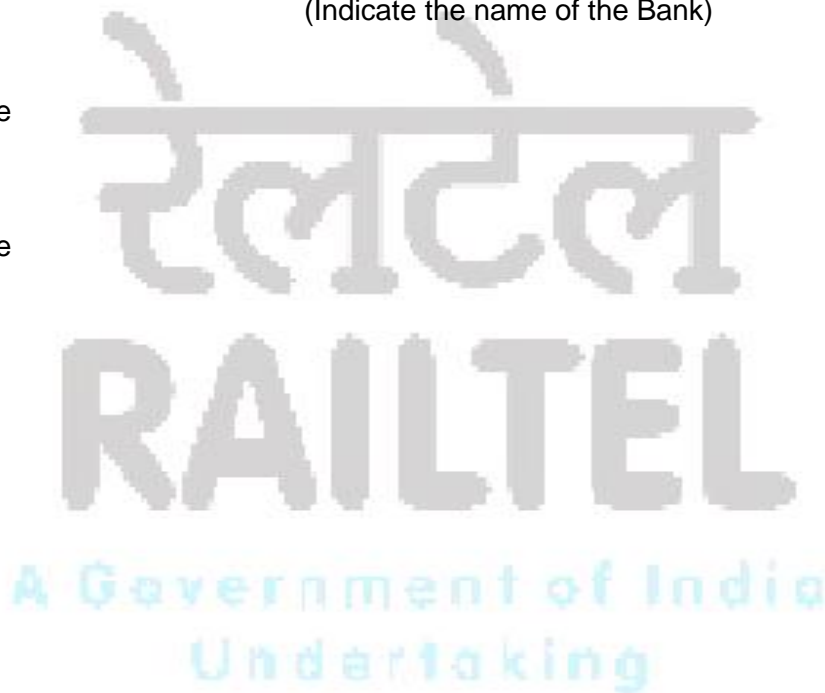
Witness:

1. Signature

Name

2. Signature

Name



FORM – 5

Para 4 Section-II Chapter-I

Statement of Deviations**PROFORMA FOR STATEMENT OF DEVIATIONS**

1. The following are the particulars of deviations from requirement of the Instructions to Tenderers and Conditions of Tendering , Preamble and Special conditions of Contract.

1.1 Instructions to Tenderers and Conditions of Tendering

Clause	Deviation	Remarks (Including Justification)
--------	-----------	--------------------------------------

1.2 Preamble

Clause	Deviation	Remarks (Including Justification)
--------	-----------	--------------------------------------

1.3 Special conditions of Contract.

Clause	Deviation	Remarks (Including Justification)
--------	-----------	--------------------------------------

2. The following are the particulars of deviations from requirement of the technical specifications.

Annexure	Clause	Deviation	Remarks (Including Justification)
----------	--------	-----------	--------------------------------------

Notes:

Where there is no deviation, the statement should be returned duly signed with an endorsement indicated no deviations.

SIGNATURE AND SEAL OF THE
MANUFACTURER / TENDERER

RAILTEL
A Government of India
Undertaking

FORM - 6**Para 8, Section-II Chapter -II****STANDING INDEMNITY BOND**

(For on Account Payments and Stores supplied by RailTel)

(On Stamp paper of Requisite Value)

We, M/s _____ hereby undertake that we hold at our Stores Depot/s at _____ for and on behalf of RailTel Corporation of India Limited in the premises through RGM or his successor hereinafter referred to as "the Purchaser" all materials for which 'On Account' payments have been made to us against the Contract for ----- vide letter of Acceptance of Tender No. _____ and the materials handed over to us by the Purchaser for all purpose of execution of the said Contract, until such time the materials are duly erected or otherwise handed over to him.

We shall be entirely responsible for the safe custody and protection of said materials against all risk till they are duly delivered as erected equipment to the purchaser or as he may direct otherwise and shall indemnify the Purchaser against any loss, damage or deterioration whatsoever in respect of the said materials while in our possession and against disposal of surplus materials. The said materials shall at all times be open to inspection by any engineer authorized by the Director / Projects (whose address will be intimated in due course).

Should any loss, damage or deterioration of materials occur or surplus materials disposed off and refund becomes due, the purchaser shall be entitled to recover from us the full cost as per prices included in the Contract (as applicable) and also compensation for such loss or damage, if any, along with the amount to be refunded without prejudice to any other remedies available to his by deduction from any sum due or any sum which at any time hereafter becomes due to us under the said or any other Contract.

Dated this _____ day of _____ 2018

for and on behalf of
M/s _____ (Contractor)

Signature of witness

Name and witness in Block letters

Address

SYSTEM PERFORMANCE GUARANTEE**PROFORMA FOR THE SYSTEM PERFORMANCE GUARANTEE**

To

The RGM/RCIL, Mumbai

I / We hereby guarantee that the design on the basis of which we have submitted our tender no. has been carefully made to conform to the end objectives in the tender documents and to technical specification therein. We further guarantee that in the event of the performance of the system, when installed, not complying with the end objectives or with the specifications contained in the tender documents, we shall provide further inputs to enable the RailTel to realize the end objectives contained in these documents without any additional payment for any additional equipment which may be required in this regard. We further guarantee that all the expenses for providing the additional inputs under the System Guarantee will be borne by us. We further guarantee that these additional inputs will be provided by us to make the system workable within 1 month from the date on which this guarantee is invoked by the Purchaser. The guarantee is valid for a period of one year from the date of commissioning of the system.

(Signature of Firm's Authorized Officer)
Seal

Signature of witness:

1.

2.

रेलटेल
RAILTEL

A Government of India
Undertaking

**ACKNOWLEDGMENT
FOR RECEIVING MATERIALS FROM RAILTEL**

Station: _____

Date: _____

Sub: Receipt of Material from RailTel

It is hereby acknowledged that the following materials have been received in full and good condition by me on _____ at _____ for the work under the Agreement no. dated

Sr. No.	Description of Material (Meter/No.)	Quantity if any	Remarks
---------	--	--------------------	---------

 Witnessed by:

 (Signature of Engineer's
Representative with
Designation)

 (Signature of Contractor
or Contractor's
Representative)


EXTENSION OF PERIOD OF COMPLETION OF WORK ON CONTRACTOR'S ACCOUNT

No.

Date:

To,

.....

.....

Sub: (i) (Name of Work)
(ii) Acceptance Letter No.
(iii) Undertaking / Agreement No.

Ref:(Quote specific application of the Contractor for extension to date, if received).

Dear Sir,

The stipulated date for completion of the work mentioned above isfrom 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)

Expecting that you may be able to complete the work if some time is given the Executive Director, RailTel Corporation of India Limited, Mumbai although not bound to do so, hereby extends the time for completion from to

Please note that an amount equal to 0.5% of the total value of the contract per week or part thereof (rounded off to the nearest whole number) subject to a maximum of 10% of the total contract value of the works as a recovery for delay in the completion of the work after the expiry of (1) will be recovered from as mentioned in Para 35 chapter III, section II of the special conditions of contract for the extended period notwithstanding the grant of this extension. You may proceed with the work accordingly.

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.

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

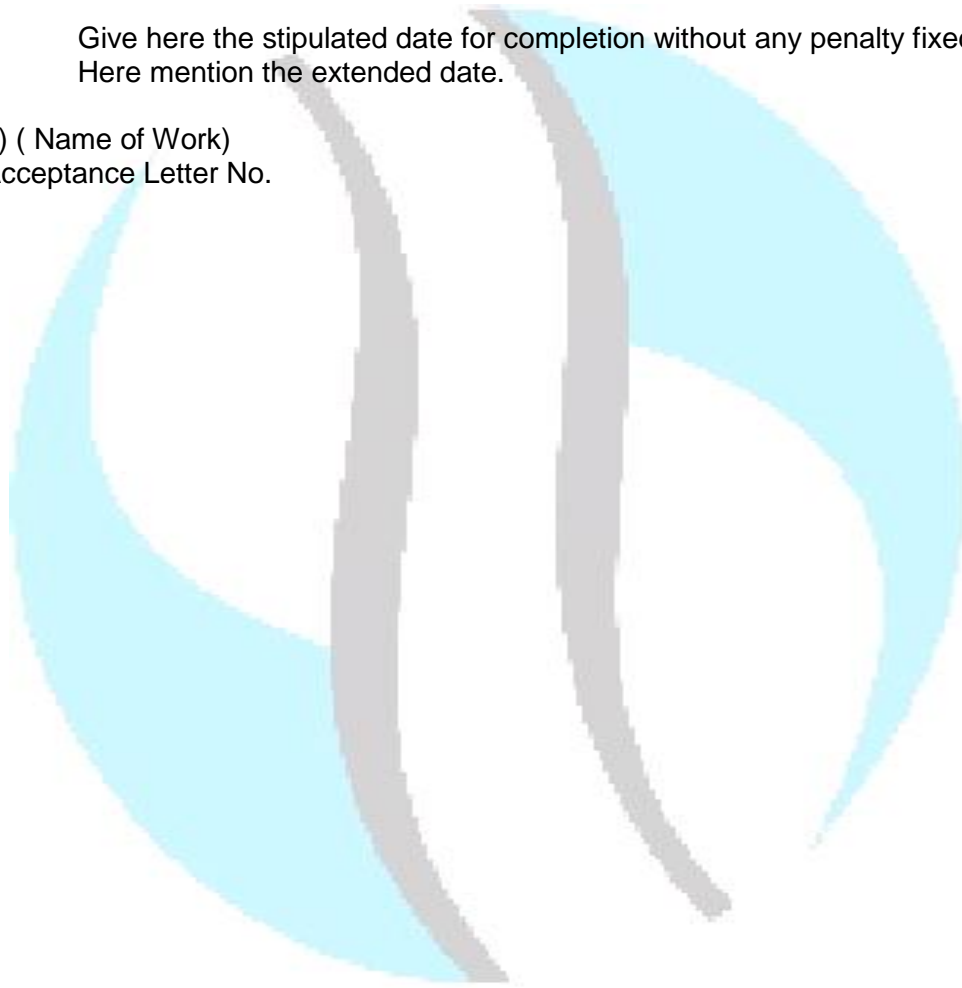
Please note that in the event of declining to accept the extension on the above said conditions or, in the event of your failure after accepting or acting up to this extension to complete the work by (2)here mention the extended date), further action will be taken in terms of relevant Para of special conditions of contract.

Yours faithfully,
for& on behalf of RailTel Corporation of India Limited

Note:

1. Give here the stipulated date for completion without any penalty fixed earlier.
2. Here mention the extended date.

Sub: (i) (Name of Work)
(i) Acceptance Letter No.



रेलटेल
RAILTEL

A Government of India
Undertaking

FORM - 13**Para 18.1.3 Section-II Chapter I****QUALIFICATION EXPERIENCE**

Details of works executed and under execution during the last 5 years should be furnished in the following format.

Sr.No.	Name of Remarks	Party's Address of whom the work was done	Total value of contract (in Indian Rupees)	Year of completion and schedule period of Execution (in months)	Year of completion and actual period of execution (in months)

Note: A certificate from the organization , for which the work was executed, should preferably be executed to indicate that the contract was satisfactorily performed.

Signature and Seal of the
Manufacturer / contractor

RAILTEL

A Government of India
Undertaking

To
The Dy. General Manager (Finance)
RailTel Corporation of India Ltd. (Regional Office)

Western Railway Microwave Complex,
SenapatiBapatMarg,
Mahalaxmi, Mumbai – 400 013.

Sub. : Option for Payment through RTGS/NEFT

Sir,

You are requested to remit the payment due to us through RTGS/NEFT into our Current Account.

The detail required duly verified by our bank for Online payment is provided here under for needful please.

DETAIL REQUIRED FOR PAYMENT THROUGH RTGS/NEFT

1.	Beneficiary Name :	M/s
2.	Beneficiary Address :	
3.	PAN No.	
4.	Bank A/c No. :	
5.	Name of Bank :	
6.	Bank Branch Address:	
7.	Branch Id Code :	
8.	Current Account No. :	
9.	RTGS / IFSC Code :	
10.	NEFT/ IFSC Code :	
11.	MICR no.	

I do 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, RailTel will not be held responsible. Further, I undertake that till we request a change, paying authority may kindly continue to make the payments in our account as per above detail.

For
payments

Verified above Bank Particulars for Online

Authorised Signatory

Bank's Authorised Signatory

[illegible]

SAC/HSN CODE OF ITEMS