



KOCHI METRO RAIL LIMITED

KOCHI METRO RAIL PROJECT

TENDER DOCUMENT FOR

Supply and Installation Works (Including Fabrication) of Signage and Graphics including all transportation, loading and unloading, etc. for Eight Elevated Metro Stations viz. Muttom, Kalamassery, CUSAT, Pathadipalam, Edapally, Changampuzha Park, of Kochi Metro Rail Limited Project.

Tender No: KMRL/PRJ/STN SIGN/235/2015/TEN 01-16

TECHNICAL PROPOSAL

& SHE MANUAL

FEBRUARY - 2016

Regd. Office.

**8th Floor, Revenue Tower, Park Avenue
Kochi. 682011 Kerala , India.**

KOCHI METRO RAIL LTD.*Regd. Office.**8th Floor, Revenue Tower, Park Avenue**Kochi. 682011 Kerala , India.**Telephone No : +91-484-2380980, +91-484-2350355 ,+91-484-2350455,+91-484-2350955**Fax No. +91-484-2380686**Email id: chandrababu@kmrl.co.in***Tender No: KMRL/PRJ/STN SIGN/235/2015/TEN 01-16****Dated: 09.02.2016****KOCHI METRO RAIL PROJECT.**
TENDER NOTIFICATION

KOCHI Metro Rail Corporation Ltd., (KMRL) a Joint Venture of Government of KERALA and Government of India, invites Tenders **Single stage – Single Envelope** from the reputed and experienced Contractors (JV/Consortium Not permitted) having previous experience in the works of similar nature, relating to “Supply and Installation Works (Including Fabrication) of Signage and Graphics including all transportation, loading and unloading, etc. for Six Elevated Metro Stations viz. Muttom, Kalamassery, CUSAT, Pathadipalam, Edapally, Changampuzha Park of Kochi Metro Rail Limited Project.”.

Tenderers are required to have a good financial standing and performance record, requisite experience and capacity in the fields described above.

Sl. No	Tender Notification No:	Name of the work	Tender Processing Fee	Tender Security Amount	Download of Tender Documents	Last Date & time for submission of Tenders
1	KMRL/PRJ/S TN SIGN/235/20 15/TEN 01-16	Supply and Installation Works (Including Fabrication) of Signage and Graphics including all transportation, loading and unloading, etc. for Six Elevated Metro Stations viz. Muttom, Kalamssery, CUSAT, Pathadipalam, Edapally, Changampuzha Park, of Kochi Metro Rail Limited Project.	30,000/- (Rupees Thirty Thousand only)	8.00 Lakhs only	09.02.2016 to 29.02.2016.	01.03.2016 (@ 14.30 hrs IST)

Note:

- The Tender document will be available to Download from 09/2/2016 to 29/2/2016.
- The tender documents can be submitted by furnishing:
Work completed Certificate/s issued by the client/employer as indicated in Qualification Criteria and duly attested by Notary for values indicated in qualification criteria.
- Tender Processing fee is Rs. 30,000/ (Rupees thirty thousand only) in the form of a Crossed Demand Draft issued by an Indian Scheduled Bank (excluding Co-operative Banks) or from a Scheduled Foreign Bank as defined in Section 2(e) of RBI Act 1934 read with Second Schedule drawn in favour of 'KOCHI Metro Rail Limited', payable at KOCHI.
- Mere issue of tender document to the tenderer does not infer that the tenderer has qualified for the award of the work. However, to qualify or otherwise will be decided based on the scrutiny of the documents submitted by the tenderer.
- The intending Tenderers are required to submit all the credentials and information as required in the Tender documents with the requisite Tender Security Amount, as mentioned above at the time of submission of the Tender.

Further details will be available on web site: <http://www.kochimetro.org> from 09.02.2016

General Manager (Civil)
KOCHI Metro Rail Corporation Ltd.

Kochi Metro Rail Limited

Tender Notification No: KMRL/PRJ/STN SIGN/235/2015/TEN 01-16

“ **Supply and Installation Works (Including Fabrication) of Signage and Graphics including all transportation, loading and unloading, etc. for Six Elevated Metro Stations viz. Muttom, Kalamassery, CUSAT, Pathadipalam, Edapally, Changampuzha Park, of Kochi Metro Rail Limited Project.**

SECTION - 1

Notice Inviting Tender

KOCHI METRO RAIL LIMITEDRef: **KMRL/PRJ/STN SIGN/235/2015/TEN 01-16**

Date:09/02/2016

TO

FROM

General Manager(Civil),
Kochi Metro Rail Ltd,
8th Floor, Revenue tower, Park Avenue,
Kochi – 682 011
Kerala State, INDIA

Sub: Supply and Installation Works (Including Fabrication) of Signage and Graphics including all transportation, loading and unloading, etc. for Six Elevated Metro Stations viz. Muttom, Kalamassery, CUSAT, Pathadipalam, Edapally, Changampuzha Park, of Kochi Metro Rail Limited Project.

Ref: **Tender Notification No: KMRL/PRJ/STN SIGN/235/2015/TEN 01-16****NOTICE INVITING TENDER- SECTION - 1**

Kochi Metro Rail Ltd., (KMRL) a Joint Venture of Government of Kerala and Government of India, invites sealed Tenders from the reputed and experienced Contractors (JV/Consortium Not permitted) having previous experience in the works of similar nature, relating to "Supply and Installation Works (Including Fabrication) of Signage and Graphics including all transportation, loading and unloading, etc. Six Elevated Metro Stations viz. Muttom, Kalamassery, CUSAT, Pathadipalam, Edapally, Changampuzha Park, of Kochi Metro Rail Limited Project."

Key Details:

1	Tender Processing Fee	INR 30,000/- (Rupees Thirty Thousand only)
2	Tender Security Amount	INR 8.00 Lakhs (Rupees Eight lakhs only)
3	Download of Tender documents	09.02.2016 to 29.02.2016
4	Last date of Seeking Clarification	17.02.2016
5	Pre-bid meeting	18.02.2016 at 11.00 hrs
6	Venue of Pre bid Meeting	Office of the Kochi Metro Rail Limited 8 th Floor, Revenue tower, Park Avenue, Kochi – 682 011 Kerala State, INDIA
7	Last Date & time of submission of tender	01.03.2016 14.30 hrs
8	Date & Time of opening of tender	01.03.2016 at 15.00 hrs (IST)
9	Period of Completion of Work	6 Months

- Joint Venture (JV) is not permitted.**
- Tenders shall be valid for a period of **180 days** from the date of submission of Tender.

3. The Tenderer shall furnish with his tender, **Tender Security Amount Rs 8.00 lakhs (Rupees Eight lakhs only)** in the form of a **Crossed Demand Draft** for an above mentioned amount, issued by an Indian Scheduled Bank drawn in favour of '**KOCHI Metro Rail Limited**', payable at KOCHI.
4. The tender documents are to be submitted by the Tenderer un-tampered, duly signed and stamped on each page.
5. Please note carefully the requirements, date and time for submitting tenders. Late tenders will be rejected.
6. KMRL requires that bidders should observe highest standard of ethics during the Tender and execution of contracts. KMRL will reject a proposal for award if it determines that the bidder recommended for award has engaged in corrupt or fraudulent practices while competing for the present contract. KMRL may also unilaterally cancel the contract if already awarded in case it comes to its knowledge that the Contractor has engaged in any corrupt or fraudulent practice at any stage during the tender process and performance of the contract.

General Manager (Civil)
Kochi Metro Rail Ltd

SECTION - 2
INSTRUCTION TO TENDERERS

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INSTRUCTIONS TO TENDERERS (ITT)

A. GENERAL

1.0 INTRODUCTION:

- 1.1 Kochi Metro Rail Limited (KMRL) invites sealed tenders from eligible tenderers for the work mentioned below.
- 1.2 **Name of the Work:** Supply and Installation Works (Including Fabrication) of Signage and Graphics including all transportation, loading and unloading, etc. for Six Elevated Metro Stations viz. Muttom, Kalamassery, CUSAT, Pathadipalam, Edapally, Changampuzha Park, of Kochi Metro Rail Limited Project.
- 1.3 Interested Tenderers may apply as a sole contractor or as an Individual Firm, or as a Limited Company.
- 1.4 **Scope of Work:** General Scope of the proposed Supply and Installation (including fabrication) works of Signage and Graphics including all transportation, loading and unloading, etc. is as below; The contractor will procure materials, fabricate, finish, print, assemble, execute illumination, install and erect the signages at the designated locations within the specified time(s) based on designs, specifications and drawings provided by the DDC for Signage and Graphic Design for Kochi Metro Rail Ltd.
- (i) **Material procurement:** Procurement of all materials shall be as specified in performance specifications for each sign including special colour vinyl films, extrusions, electrical, luminaries, finishing and assembly accessories, structural steel, etc.
 - (ii) **Fabrication:** Fabrication should be based on the drawings and specifications of various sign schedules. Fabrication to include all the supporting elements like brackets, suspenders, frameworks, covers, inside structural details, etc.
 - (iii) **Finishing:** Finishing of all signages including their internal structures and panelling as per specifications for colours, etc. Protection against damage is required during handling, transportation and installation.
 - (iv) **Graphic sign faces:** Making signs faces from the original master artworks provided by DDC for the text, graphics, symbols using colours matching the specifications, and exact sizes as designated for each station and detailed in the sign schedule.
 - (v) **Illumination:** Internal illumination of signs to the specified light and specifications including all electrical accessories, connections, and installation inside the casings. Signage contractor shall provide all the cabling and ducting connecting to the nearest designated point provided by the station contractors. Illumination work also includes the integration of dynamic signs within some illuminated signs and integration of input devices and data cabling.
 - (vi) **Structural and civil work:** Detailing and designing for fabrication of structural steel work in signages requiring structural support and providing foundations of external street and totem signs including HD bolts and other necessary fixings.
 - (vii) **Installation of signs:** Finishing and final assembly of all signs at identified locations using the specified fixings.
 - (viii) **Coordination:** Signage contractor to coordinate with DDC for Signage and Graphic Design and other designated contractors for the interface for civil works, electrical, system wide contractors and other requirements during installation at sites.
 - (ix) **Shop drawings:** Contractors to produce one prototype of each sign type to demonstrate an understanding and appreciation of the design details. Contractors will also prepare the shop drawings for fabrication and installation of all signs at all locations in all stations.
 - (x) **Testing and commissioning:** Contractors will be required to produce test results of manufactured signs to demonstrate the quality and correctness of materials used for fabrication, finishing and assembly. Contractor will apply for a taking over certificate for each station after commissioning of all the signs as per the Contract.
 - (xi) **After installation service:** The signage contractor shall provide guarantees against material defects, bad workmanship and incorrect installation and shall also be liable for replacement of complete signs or any part of the signs installed in the stations, for a period of one year from the

- date of completion.
- 1.5 It may be noted that the Civil, Architectural, Electrical and Signal works are in progress in the stations. The successful S&G Tenderer will have to liaise with KMRL and all other designated contractors while executing.
- 2.0 **ELIGIBILITY REQUIREMENTS:**
- This Invitation to Tenderer is open to only those agencies specified in Clause 1.3 above, who fulfil the minimum Qualification Requirement as prescribed in Qualification Criteria (Section – 3) and submit filled up Forms of tender as in Section - 4. Each Tenderer shall submit only **one tender**.
- 2.1 Conflict of Interest:
- The applicant shall not be one of the following:
- a. A firm or an organization which has been engaged by the Employer to provide consulting services for the preparation related to procurement for or implementation of signage works.
 - b. Any association/affiliates (inclusive of parent firms) of a firm or an organisation mentioned in paragraph (a) above.
 - c. A contractor who lends, or temporarily seconds its personnel to firms or organisations which are engaged in consulting services for the preparation related to procurement for or implementation of the signage works, if the personnel would be involved in any capacity on the same project.
- 2.2 All tenders are to note the following:
- a. In the case of a successful tender, the Form of Contract Agreement shall be signed so as to be bound legally.
 - b. The successful Tenderer is responsible for the execution of the Contract till the completion of work.
 - c. In the event of default by the tenderer in the execution of the contract, Employer reserves the right to terminate the contract.
 - d. To qualify for award of Contract, the Tenderers shall submit a written power of attorney authorizing the signatory (ies) of the tender to commit the Tenderer.
 - e. Each page of tender document including Addendum, Corrigendum, etc., if any, shall be signed by the authorized signatory.
 - f. Cancellation or creation of a document such as Power of Attorney, Partnership deed, Constitution of firm etc., which may have bearing on the tender/contract shall be communicated forthwith in writing by the Tenderer to the Engineer and the Employer.
 - g. KMRL will declare a firm ineligible, either indefinitely or for a stated period of time, for any KMRL contract, if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a borrowed financed contract in general.
- 3.0 **COST OF TENDERING:** The Tenderer shall bear all costs associated with the preparation and submission of his tender.
- 4.0 **SITE VISIT:** Any site information given in this tender document is for guidance only. The Tenderer is advised to visit and examine and shall be deemed to have inspected the Site of Works and its surroundings at his/their responsibility, risk and cost and obtain for himself all information that may be necessary for preparing the tender and entering into a Contract. The traffic diversions, if required will be carried out by the contractor in consultation with traffic police.
- B. TENDER DOCUMENTS**
- 5.0 **CONTENTS OF TENDER DOCUMENTS:**
- 5.1 The Tender Documents as listed below have been prepared for the purpose of inviting tenders for Supply and Installation Works (Including Fabrication) of Signage and Graphics including all transportation, loading and unloading, etc. for Six Elevated Metro Stations viz. Muttom, Kalamassery, CUSAT, Pathadipalam, Edapally, Changampuzha Park, of Kochi Metro Rail Limited Project. and as more particularly described in those documents.

		Technical Proposal
1		Tender Notification
2	Section 1	Notice Inviting Tender (NIT)
3	Section 2	Instructions To Tender (ITT)
4	Section 3	Qualification Criteria (QC)
5	Section 4	Form Of Tender (FOT)
6	Section 5	Contract Data
	Section 6	Conditions of Contract
7		Part 1: General Conditions of Contract
8		Part 2: Special Conditions of Contract
9		Part 3: Schedules to Conditions of Contract
10	Section 7	Technical Specifications
	Section 8	Tender Drawings
11		a. Sign Location Drawings
12		b. Sign Schedules
13		c. Fabrication Drawings
14	Section 9	Reference Document (SHE Manual)
		Financial Proposal
	Section 10	Pricing Document
15		a. Preamble to Pricing Document
16		b. Annexure
17		c. Bill of Quantities

5.2 The Tenderer is expected to examine carefully all the contents of the Tender Documents and take them fully into account before submitting his Tender. Failure to comply with the requirements as detailed in these documents shall be at the Tenderer's risk. Tenders, which are not responsive to the requirements of the tender documents, will be rejected.

6.0 CLARIFICATION ON TENDER DOCUMENTS

6.1 While all efforts have been made to avoid errors in the drafting of the tender documents, the Tenderer is advised to check the same carefully and seek clarifications within scheduled period only. No claim on account of any errors detected in the tender documents shall be entertained.

6.2 A Tenderer requiring any clarification of the tender documents including any error or mismatch in the tender documents, may notify the General Manager (Civil) in writing at the mailing address indicated in NIT. The Employer will respond in writing to any request for clarification received in writing from tenderers prior to dead line. Written copies of the response of the KMRL will be sent to all prospective Tenderers who have purchased the tender documents. Only written communications/clarification will be considered.

7.0 AMENDMENT TO TENDER DOCUMENTS

During the tender period, the Employer may issue further instructions to Tenderers or any modifications to existing tender documents in the form of an addendum. The addendum will be Uploaded in the Website which will form the part of tender.

Without prejudice to the order of preference the provisions in such addenda shall take priority over the Invitation to Tender and Tender Documents issued previously. Tenderers should acknowledge receipt of such addenda and list them in the tender submittal.

In order to afford prospective Tenderers reasonable time for preparing their tenders after taking into account such amendments, the Employer may, at his discretion, extend the deadline for the submission of tenders in accordance with Sub-clause 18 of Instructions to Tenderers.

C. PREPARATION OF TENDERS

- 8.0 LANGUAGE OF TENDER:** All documents shall be in **English Language**. In case any accompanying printed literature is in other language, it shall be accompanied by English translation. The English version shall prevail in matters of interpretation.
- 9.0 DOCUMENTS COMPRISING THE TENDER:** The tenders (all documents as described in ITT Clause 5.1) are to be submitted on the date in accordance with Clause 17.1 of Instruction to Tenderers.
- 10.0 TENDER PRICE**
The Contract shall be for the whole works as described in scope of work, Tender Drawings, Specifications and Bill of Quantities. The Tenderer shall fill in rates/prices for all Items/Sections described in the Pricing Document(BOQ). Corrections, if any, shall be made by crossing out, initialing, dating and rewriting.
- 10.1 DELETED
- 10.2 The PRICE/AMOUNT rate quoted shall be reasonable and not unbalanced. Should the Employer come across any unbalanced rates, he may require the Tenderer to furnish detailed analysis to justify the same. If after its examination, the Employer still feel the rates to be unbalanced, he may ask the Tenderer for additional Performance Security or other safeguards to protect Employer's interest against financial loss failing which his tender shall be liable to be rejected by the Employer, who may award the Contract to any other Tenderer.
- 10.3 The Tenderer shall keep the contents of his tender and rates quoted by him confidential.
- 10.4 The Tenderer should quote his rates inclusive of all taxes, duties, royalties, etc. The successful Tenderer (the Contractor) shall maintain meticulous records of all the taxes and duties paid and provide the same as and when required by the Employer for record.
- 11.0 CURRENCIES OF THE TENDER:** Tender prices shall be quoted in **Indian National Rupees** only.
- 12.0 TENDER VALIDITY**
- 12.1 The tender shall remain valid and open for acceptance for a period of **180 days** from the date of submission of tender as indicated in NIT.
- 12.2 In exceptional circumstances, prior to expiry of the original tender validity period, the Employer may request the Tenderers for a specified extension in the period of Validity in writing. A Tenderer may refuse the request without forfeiting his tender security. A Tenderer agreeing to the request, shall not be required or permitted to modify his tender but will be required to extend the validity of his tender security correspondingly.
- 13.0 TENDER SECURITY**
- 13.1 The Tenderer shall furnish with his tender, Tender Security Amount in the form of a Demand Draft for Rs.8.00 Lakhs (Rupees Eight lakhs only) in favor of Kochi Metro Rail Ltd, payable at Kochi from an Indian Scheduled Bank **Any tender not accompanied by an acceptable tender security will be summarily rejected.**
- 13.2 The tender securities of unsuccessful Tenderers shall be returned by the Employer on execution of the agreement by successful bidder as but not later than 30 days after the expiration of the period of tender validity or award to the successful bidder, whichever is later.
- 13.3 The tender security of the successful Tenderer shall be returned upon the Tenderer executing the Contract Agreement after furnishing the required performance guarantee.
- 13.4 The tender security shall be forfeited:
- if a Tenderer withdraws his tender during the period of tender validity.
 - if the tenderer does not accept the correction of his tendered price in terms of Clause 26.0.
 - in the case of a successful tenderer, if he fails to:
 - Furnish the necessary performance guarantee for performance.
 - Enter into the Contract within the time limit specified.
- 13.5 **No interest** will be payable by the Employer on the tender security amount cited above.
- 14.0 DELETED.**

15.0 PRE-BID MEETING: Pre-Tender meeting will be held on 18.02.2016 at 11:00 Hrs. in the Office of the KMRL at Kochi.

16.0 FORMAT AND SIGNING OF TENDERS

- 16.1 If the tender is submitted by a proprietary firm, it shall be signed by the proprietor above his full name and the full name of his firm with its current address.
- 16.2 If the tender is submitted by a firm in partnership, it shall be signed by a partner holding the power of Attorney for the firm. A certified copy of the Partnership deed and the original power of attorney shall accompany the tender. Alternatively, it shall be signed by all the partners.
- 16.3 If the tender is submitted by a limited company or a limited corporation, it shall be signed by a duly authorized person holding the power of attorney for the firm. The original Power of attorney shall accompany the tender.
- 16.4 All amendments/corrections/overwriting shall be initialed by the person or persons signing the tender.
- 16.5 All witnesses and sureties shall be persons of status and probity and their full names, occupations and addresses shall be written below their signatures.

D. SEALING AND SUBMISSION OF TENDERS

17.0 SEALING AND MARKING OF TENDERS

17.1 The Tenderer shall submit the tender in person on the stipulated date in a sealed Single Tender envelope (ALL IN ORIGINAL) containing Tender Security, separate Technical and Financial Package clearly marked with the name of Tenderer, time and date for submission and opening super scribed as: "Tender Notification No: KMRL/PRJ/STN SIGN/235/2015/TEN 01-16"

For submission of the Tender, Tenderer(s) shall assign person(s) in writing. Tender Drawings are also required to be submitted in Original along with the tender documents.

17.2 No responsibility will be accepted by the Employer for the misplacement or premature opening of a tender, not sealed or marked as per aforesaid instructions.

18.0 SUBMISSION OF TENDERS

18.1 Tenders should be submitted at the following address during the time and the date for submission.

The General Manager (Civil)
KMRL, Eight Floor,
Revenue Tower,
Park Avenue, Kochi-682011,
Kerala, India,

The Employer may, at his discretion, extend this date for the submission of tender in which case all rights and obligations of the Employer and the Tenderer previously subject to the original date shall thereafter be subject to the new deadline as extended. (If such nominated date for submission of tender is subsequently declared as a Public Holiday by the Employer, the next official working day shall be deemed as the date for submission of tender).

19.0 LATE TENDERS: Any tender received by KMRL after the deadline prescribed for submission of tenders will be returned unopened to the Tenderer.

20.0 DELETED.

E. TENDER OPENING AND EVALUATION

21.0 TENDER OPENING

21.1 The tender envelope will be opened to ascertain if it contains Tender security, Sealed Technical and Financial envelopes. The Tender security amount will be checked for its adequacies in accordance with Clause 13 of ITT. In case any short comings are observed, the tender will be rejected.

21.2 The Tenderers name, Qualification Criteria, the rates quoted and any such other details as the Employer or his authorized representative, at his discretion, may consider appropriate will be read out and recorded at the time of tender opening. Detailed Evaluation of Technical Proposal will be carried out later.

21.3 **Mere being the lowest bidder financially does not qualify for the award of the work. The Tenderer should fulfill all the conditions as per qualification criteria which will be evaluated in detail later. Also the rates quoted must be found reasonable by KMRL.**

22.0 PROCESS TO BE CONFIDENTIAL

22.1 Except the public opening of tender, information relating to tenders shall not be disclosed to Tenderers or other persons not officially concerned with such process.

22.2 Any effort by a Tenderer to influence the Employer/Engineer in the process of examination, clarification, evaluation and comparison of tenders and in decisions concerning award of contract, may result in the rejection of the Tenderers tender.

23.0 CLARIFICATION OF TENDERS

23.1 Technical evaluation of tender shall be undertaken based on details submitted in the technical package only. Employer reserves the right to ask any clarification from Tenderers for details submitted with technical package during the technical evaluation.

23.2 To assist in the examination, evaluation and comparison of Financial Package, the Employer may ask Tenderers individually for clarification of their tenders, including breakdowns of prices. The request for clarification and the response shall be in writing but no change in the price or substance of the tender shall be sought, offered or permitted except as required to confirm correction of arithmetical errors discovered during the evaluation of tenders in accordance with Clause 25.0 herein.

23.3 **Delay/refusal to the request for clarification as referred in the above Clause 23.1 and 23.2 may result in the rejection of the tender.**

24.0 DETERMINATION OF RESPONSIVENESS

24.1 Prior to the detailed evaluation of tenders, the Employer will determine whether each tender is responsive to the requirements as stipulated in the tender documents.

24.2 A responsive tender is one, which conforms to all the terms, conditions and specifications of the tender documents without material deviation or reservation which include exceptions, exclusions & qualifications.

24.3 If a tender is not substantially responsive to the requirements as stipulated in tender documents, it will be rejected by the Employer, and will not subsequently be permitted to be made responsive by the Tenderer by correction or withdrawal of the non-conformity or infirmity. His tender will be rejected.

24.4 The decision of the Employer as to which of the tenders are not substantially responsive shall be final.

25.0 EVALUATION OF TENDER

25.1 The evaluation of Financial Package by the Employer will take into account, in addition to the tender amounts, the following factors:

a. Arithmetical errors corrected by the Employer.

b. Such other factors of administrative nature as the Employer may consider having a potentially significant impact on contract execution, price and payments, including the effect of items or unit rates that are unbalanced or unrealistically priced.

25.2 Offers, deviations and other factors which are in excess of the requirements of the tender documents or otherwise will result in the accrual of unsolicited benefits to the Employer, shall not be taken into account in tender evaluation.

26.0 CORRECTION OF ERRORS

- 26.1 Tenders determined to be technically acceptable after technical evaluation will be checked by the Employer for any arithmetical errors, in computation and summation during financial evaluation. In case there is a discrepancy between amounts in figures and in words, the amount in words will govern and, if a Tenderer does not accept the correction of errors as outlined above, his tender will be rejected and the tender security forfeited.

F. AWARD OF CONTRACT

27.0 AWARD CRITERIA

- 27.1 Subject to Clause 25.0, the Employer will award, the Contract to the Tenderer, who meet Qualification criteria and whose tender is responsive, complete and in accordance with the tender documents, after evaluating Technical and Financial documents.
- 27.2 The Employer has the right to review at any time prior to award of contract that the qualification criteria as specified in the tender document are still being met by the tenderer whose offer has been determined to be the lowest evaluated tender. A tender shall be rejected, if the qualification criteria as specified in the tender document are no longer met by the tenderer whose offer has been determined to be the lowest evaluated tender. In this event the Employer shall proceed to the next lowest evaluated tender to make a similar reassessment of that tenderer's capabilities to perform satisfactorily.

28.0 EMPLOYER'S RIGHT TO ACCEPT ANY TENDER AND TO REJECT ANY OR ALL TENDERS

- 28.1 Notwithstanding Clause 27.0, the Employer reserves the right to accept or reject any tender, and to annul the tender process and reject all tenders, at any time prior to award of Contract, or to divide the Contract between/amongst Tenderers without thereby incurring any liability to the affected Tenderer or any obligations to inform the affected Tenderer of the grounds for Employer's action.

29.0 NOTIFICATION OF AWARD

- 29.1 Prior to the expiry of the period of tender validity prescribed by the Employer, the Employer will notify the successful Tenderer in writing that his tender has been accepted. This letter (hereinafter called 'the Letter of Acceptance') shall name the sum which the Employer will pay to the Contractor in consideration of the execution, completion, maintenance and guarantee of the works by the Contractor as prescribed by the Contract (hereinafter called 'the Contract Price'). The "Letter of acceptance" will be sent in duplicate to the successful Tenderer, who will return one copy to the Employer duly acknowledged and signed by the authorized signatory, within one week of receipt of the same by him. No correspondence will be entertained by the Employer from the unsuccessful Tenderers. The Letter of Acceptance will constitute a part of the contract.
- 29.2 Upon "Letter of acceptance" being signed and returned by the successful Tenderer, the employer will promptly notify the unsuccessful Tenderers and discharge/return their Tender Securities.

30.0 SIGNING OF AGREEMENT

- 30.1 The successful tenderer shall submit the following documents within 15 days from the date of issue of Letter of Acceptance.
- (a) Performance Security
 - (b) Power of Attorney(s) in case of any change than submitted along with tender submittals.
- 30.2 The Employer shall prepare the Contract Agreement in the form as prescribed in Schedule 1 to the Special Conditions of Contract, with such notifications as may be necessary for duly incorporating all the terms of agreement between the two parties. Within 21 days from the date of issue of Letter of Acceptance the successful tenderer will be required to execute the Contract agreement. One copy of the Agreement duly signed by the Employer and the Contractor through their authorized signatories will be supplied by the Employer to the Contractor.
- 30.3 In the case of the death of a contractor after executing the agreement/commencement of the work, his legal heir, if an eligible registered contractor and willing, can execute and complete the work at the accepted tender rates irrespective of the cost of the work.

The Agreement execution time to as below:

1. Notification: Issue of LOA.
2. LOA + 14 days: PBG should be submitted.
3. PBG + 7 days: Agreement should be executed. Program to be submitted along with agreement. Stamp paper for agreement to be bought by Contractor.

31.0 PERFORMANCE SECURITY

- 31.1 Within 15 days of receipt of the Letter of Acceptance, the successful Tenderer shall deliver to the Employer a performance Security deposit for an amount equivalent to **10% (Ten percent)** of the Contract Price, plus additional security for unbalanced tenders in accordance with Clause 10.2 of ITT and Clause 4.2.1 of General Conditions of the Contract, if any as per form given in Schedule 2.
- 31.2 If the performance security deposit is provided by the successful Tenderer in the form of a Bank Guarantee, it shall be issued either by a Nationalized or Scheduled Bank included in second schedule to RBI Act, 1934 but excluding co-operative Bank payable at designated branch of KOCHI only.
- 31.3 The Performance Security shall be valid up to 28 days from Defect Liability Period.
- 31.4 Failure of the successful Tenderer to comply with the requirements of Sub-Clause 30.0 shall constitute sufficient grounds for cancellation of the award and forfeiture of the Tender Security amount.

The Agreement execution time to as below:

4. Notification: Issue of LOA.
5. LOA + 14 days: PBG should be submitted.
6. PBG + 7 days: Agreement should be executed. Program to be submitted along with agreement. Stamp paper for agreement to be bought by Contractor.

32.0 CONTACT PERSON IN KMRL OFFICE

The contact person in **KMRL** office, regarding this tender will be General Manager (Civil) Telephone No. **484--2380980** and Fax No. **484-2380686**, email: **chandrababu@kmrl.co.in**

SECTION - 3
QUALIFICATION CRITERIA

QUALIFICATION CRITERIA		
Sl. No	CONTENT	Page No.
1	GENERAL INFORMATION AND ELIGIBILITY	2
2	WORKS CRITERIA	2
3	FINANCIAL CRITERIA	3

1. GENERAL INFORMATION AND ELIGIBILITY:

- 1.1 **Supply and Installation Works (Including Fabrication) of Signage and Graphics including all transportation, loading and unloading, etc. for Six Elevated Metro Stations viz. Muttom, Kalamassery, CUSAT, Pathadipalam, Edapally, Changampuzha Park, of Kochi Metro Rail Limited Project.**
- 1.2 **JV is not permitted.**
- 1.3 Applicants are advised that selection of contractors will be entirely at the discretion of KMRL. Applicants will be deemed to have understood and agreed that no explanation or justification on any aspect of the Qualification process will be given and that KMRL qualification decisions are without any right of appeal whatsoever.
- 1.4 To qualify the applicants should demonstrate their capabilities, by providing data based on their experience, past performance, their personnel, equipment and financial resources as per Qualification Requirement.
- 1.5 Applicants for qualifying are required to submit the duly filled in details and associated information as requested in Qualification Requirement document.#

2. WORKS CRITERIA:

The tenderer in his/its name should have relevant and proven experience of having successfully completed similar work relating to Fabrication, Supply and Installation Works of Signage and Graphics including all transportation, loading and unloading etc for Metro Rail Systems / Airport terminals, etc. during the last 5 years ending 31.03. 2015.as under:

- (i) At least **ONE WORK** of similar nature of value of INR **2.50** crores or more.
OR
- (ii) **TWO WORKS** of similar nature each of value of INR **1.50** crores or more.
OR
- (iii) **THREE WORKS** of similar nature i.e. each of value of INR **1.00** crores or more.

Note: In support of works performed, tenderer shall submit duly notarized certificates issued by the Client/Employers as documentary evidence.

AND

3. FINANCIAL CRITERIA:

Tenderer in order to qualify must satisfy the following minimum criteria:

- (a) **Annual Turnover:** To qualify for award of this contract each tenderer in his name should have in the last five years' period(s) achieved in at least two financial years an annual financial turnover of \geq INR **5.00** Crores, duly certified by Chartered Accountant.

- (b) **Liquidity:** It is necessary that the firm can withstand cash flow that the contract will require until payments received from the employer. This shall be seen from the banking reference. Banking reference should contain in clear terms the amount that the bank will be in a position to lend not less than INR 75.00 Lakhs for this work to the applicant.
- (c) Minimum average Net-Worth (Total Assets – Total External Liabilities) should not be less than INR 1.00 Crores during the last Three financial years viz. 2012-13, 2013-14 and 2014-15. The Bidder has to submit a certificate from the statutory auditors or company Secretary in this regard, showing all the details for each of the above financial years.
- (d) The Tenderer should demonstrate the current soundness of his financial position and its prospective long term profitability. Profitability Before Tax should be positive at least in any two financial years out of the last five financial years viz. 2010-11, 2011-12 2012-13, 2013-14 and 2014-15. Copies of the audited profit and loss account shall be submitted by the Bidder for all the above financial years or a Certificate from the statutory auditor certifying the above numbers shall be furnished.

SECTION - 4
FORM OF TENDER
LIST OF CONTENTS

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3	FORM - 3- Letter of Undertaking On Letter head of the Tenderer)	4
4	FORM - 4 - Tenderer Information	5
5	FORM - 5- Statement of Annual Turnover for the last five years	6
6	FORM - 6 - Banker's Certificate	7
7	FORM - 7 - Statement of Similar Works Completed during the last Five Years ending 31.03.2015	8
8	FORM – 8- Statement of Net Worth for last Three years	9
9	FORM – 9- Statement of Profitability for last five years	10
10	FORM - 10 – Details of Man Power (Key personnel) to be deployed.	11
11	FORM – 11 - Details of Machinery and Equipment to be Deployed	12

FORM – 1
LETTER OF APPLICATION

(To be submitted in the letter head of the Tenderer)

Ref:

Dated.....

(Tenderer to provide date and reference no.)

To

The General Manager(Civil),
Kochi Metro Rail Ltd.
Regd. Office.
8th Floor, Revenue Tower, Park Avenue
Kochi. 682011 Kerala , India.

Dear Sir,

Supply and Installation Works (Including Fabrication) of Signage and Graphics including all transportation, loading and unloading, etc. for Six Elevated Metro Stations viz. Muttom, Kalamassery, CUSAT, Pathadipalam, Edapally, Changampuzha Park, of Kochi Metro Rail Limited Project.

Tender Notification No: KMRL/PRJ/STN SIGN/235/2015/TEN 01-16

1. We hereby apply as a Tenderer for the Signage and Graphics, as stated above.
2. In support of the application we submit herewith one Original copy of the required documents.
3. We understand that in the event of any information furnished by us being found later on to be incorrect or any material information having been suppressed, the following action can be taken in addition to the provisions of Para 2.4 of ITT
 - i. Our name will be removed from the panel of qualified agencies.
 - ii. Any tender submitted by us in future for other works may not be considered.
 - iii. If any tender from us is accepted and a contract awarded to us on the basis of our qualification, the tender acceptance may be withdrawn and the contract awarded to us cancelled without any financial claim / Arbitration request from our side.

A Power of Attorney to sign and submit this letter is attached on page _____

Yours faithfully,

Authorized Signature: -----

Date:-----

Name: -----

Address:-----

Witness:

Signature: -----

Date: -----

Name: -----

Address: -----

Witness:

Signature: -----

Date: -----

Name: -----

Address: -----

FORM – 2
POWER OF ATTORNEY FOR SIGNING OF THE TENDER
(To be executed by the Tenderer)

(On Non – judicial stamp paper of Rs 100/- if in India or such equivalent document duly attested by notary public)

POWER OF ATTORNEY

Known by all men these present, we _____(name and address of the registered office of the Tenderer) do hereby constitute, appoint and authorize Mr. / Ms. _____resident of _____(name and address of residence) who is presently employed with us and holding the position of _____as our attorney, to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to the submission of the Tender Proposal for the work of construction of ----
----- (name of the work), (herein after referred as "Project"), including signing and submission of all documents, participating in meeting and providing information / documents / responses to Kochi Metro Rail Ltd.(KMRL), Kochi, representing us in all matters in connection with our Proposal for the said Project, and if successful, till the whole of the bid process.

We hereby agree to ratify all acts, deeds and things lawfully done by our said attorney pursuant to this Power of Attorney and that all acts, deeds and things done by our aforesaid attorney shall and shall always be deemed to have been done by us.

Accepted

For

(Signature)

(Signature)

(Name, Title and Address of the Attorney)

(Name, Designation and Address)

Note:-

- The mode of execution of the Power of Attorney should be in accordance with the rules laid down by the applicable law and the charter documents of the executants(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure.
- Also wherever required, the executants(s) should submit for verification the extract of the charter documents and documents such as resolution/ power of attorney in favour of the person executing this power of attorney for the designation of power hereunder on behalf of the tenderer.

FORM – 3**LETTER OF UNDERTAKING**

(To be submitted in the letter head of the Tenderer)

Ref:

Dated.....

(Tenderer to provide date and reference no.)

To

The General Manager(Civil),
Kochi Metro Rail Ltd.
Regd. Office.
8th Floor, Revenue Tower, Park Avenue
Kochi. 682011 Kerala , India.

Dear Sir,

Supply and Installation Works (Including Fabrication) of Signage and Graphics including all transportation, loading and unloading, etc. for Six Elevated Metro Stations viz. Muttom, Kalamassery, CUSAT, Pathadipalam, Edapally, Changampuzha Park of Kochi Metro Rail Limited Project.

Tender Notification No: KMRL/PRJ/STN SIGN/235/2015/TEN 01-16

We, (name of individual tenderer) hereby undertake:

1. that the tender drawings and the tender documents purchased as a necessary part of our preparation of this tender shall be used solely for the preparation of the tender and that if the tender is successful, shall be used solely for the design of the temporary and permanent works if any.
2. that the aforesaid tender drawings and documents prepared by the Kochi Metro Rail Ltd. shall not be used in whole, in part or in any altered form on any other project, scheme, design or proposal.
3. that we will establish our Project Office for the Tender Notification No. KMRL/PRJ/STN SIGN/235/2015/TEN 01-16 in Kochi to have speedy and effective coordination with the Employer and Engineer, if our offer is accepted by the Employer.
4. and confirm that the resources shall be deployed for the project throughout the contract period as proposed in tender document, except in cases where works requiring use of that machinery is completed in all respects before withdrawing it, if our offer is accepted by the Employer.
5. and confirm that we have not engaged in any fraudulent and corrupt practices and that no agent, middleman or any intermediary has been, or will be, engaged to provide any services, or any other items of work related to the award and performance of this contract.
6. and confirm and declare that virtue of my signature below, I/we confirm to the best of knowledge and belief that the information contained in this **TENDER DOCUMENT**, any Annex thereto and all supporting and explanatory information is truthful and exact.

Signed.....

For on behalf of
(Name of tenderer)
Yours faithfully,

Authorized Signature: -----

Date:-----

Name: -----

Address:-----

FORM – 4

TENDERER INFORMATION	
Contract No.	KMRL/PRJ/STN SIGN/235/2015/TEN 01-16
Title of contract	Supply and Installation Works (Including Fabrication) of Signage and Graphics including all transportation, loading and unloading, etc. for Six Elevated Metro Stations viz. Muttom, Kalamassery, CUSAT, Pathadipalam, Edapally, Changampuzha Park, of Kochi Metro Rail Limited Project.
Tenderer's Legal Name	
Legal Status of the Company (e.g. incorporated private Company, unincorporated, business, Partnership, etc.)	
Tenderer's Year of incorporation	
Tenderer's Legal address.	
Tenderer's Authorized Representative (Name, Address, Telephone Numbers, Fax Numbers, E-mail address)	
Tenderer's Bank Details	(a) Name of the Bank (b) Account Number (c) IFSC code (d) Bank's Contact Number and Fax Number

Yours faithfully,
 Authorized Signature: -----
 Date:-----
 Name: -----
 Address:-----

Note: Enclosures;

1. In case of single entity, articles of incorporation of the legal entity named above, in accordance with Tender Document.
2. Authorization to represent the firm/company.

FORM - 5**Statement of Average Annual Turnover for the last Three years**

Based on the Audited Accounts, we certify that the Turnover of M/s ----- in each of the Three preceding financial years are as given below:

SI. NO	Financial Year	Total Annual Turn Over
1	2014 - 15	
2	2013 - 14	
3	2012 - 13	

- Note:-**
1. Copies of Tenderer Audited Balance sheets and Profit and Loss accounts statements for the relevant years to be submitted.
 2. Above statement should be certified by a Chartered Accountant.
 3. Annual Financial Turnover is calculated (in terms of rupee equivalent adjusted to 31.03.2015 by assuming 5% escalation for Indian Rupees and 2% for Foreign Currency portion per year) using multiplying factor(M/F) as in Form 10.

Signature of the Tenderer:

Name & Designation of Authorized signature:

Place, Date and seal / stamp of the Tenderer:

FORM -6**BANKERS CERTIFICATE**

(Note: Bankers format will also be acceptable)

This is to certify that M/s. _____ is a reputed company with a good financial standing. If the contract for the work of Application for Technical Evaluation for **Supply and Installation Works (Including Fabrication) of Signage and Graphics including all transportation, loading and unloading, etc. for Six Elevated Metro Stations viz. Muttom, Kalamassery, CUSAT, Pathadipalam, Edapally, Changampuzha Park, of Kochi Metro Rail Limited Project. Notification No: KMRL/PRJ/STN SIGN/235/2015/TEN 01-16** is awarded to the above firm, we shall be able to provide over draft/credit facilities to the extent of Rs. _____ (in words Rupees _____) to meet the working capital requirement for executing the above contract.

Signature _____
Name of the issuing official of the Bank _____
Designation _____
Bank Name _____
Address _____
Phone No _____
Fax No _____

FORM - 7

Statement of Signage and Graphics Works Completed during the last Five Years ending 31.03.2015

Sl. No	Name of the Work/Project	Name of the Client	Start Date	Stipulated date of Completion	Date of completion	Description of the work	Value of the Work (in Rs)	Role (Contractor/JV partner / sub-contractor)

Signature of the Tenderer:

Name & Designation of Authorized signature:

Place, Date and seal/stamp of the Tenderer:

Note:

1. The Tenderer shall enclose/attach all the necessary certificates duly attested by the Employer.
2. Only the value of contract as executed by the applicant/member in his own name should be indicated. Where a work is undertaken by a Group, only that portion of the contract which is undertaken by the concerned applicant/member should be indicated and the remaining done by the other members of the group be excluded.
3. The tenderer shall enclose/attach the necessary certificates duly attested by the Employer.
4. For Evaluation purposes the figures of previous years shall be updated @ 5% per annum (for Indian National Rupees) and @ 2% (for Foreign Currency) compounded annually based on Rupee value to bring them to the level of the Financial Year

FORM 8

Statements to show last five years Networth and should be \geq Rs. 1.00 Crores in atleast two years and it will be arrived by audited annual statements.

Name of the Tenderer:					
SI No	Financial Accounting Year	Total Assets (Amount in Rs.)	Total Liabilities (Amount in Rs.)	Net worth (In INR) (Column 3 – 4)	Ref. Page No: of submission on which Auditor/Chartered Accountant's Certificate submitted
1	2	3	4	5	6
1	2010-11				
2	2011-12				
3	2012-13				
4	2013-14				
5	2014-15				

Signature of the Tenderer:

Name & Designation of Authorized signature:

Place, Date and seal/stamp of the Tenderer:

FORM-09

Statement showing the Profitability-earnings before Interest and Tax should also be positive at least in any two financial years out of the last five years and it will be arrived by audited annual statements

Name of the Tenderer:

Financial Year	Profit before Tax (in INR)	Years in which Profitability-earnings before Interest and Tax is +ve (Positive)	Ref. Page No: of submission on which Auditor/Chartered Accountant's Certificate submitted
2010-11			
2011-12			
2012-13			
2013-14			
2014-15			

Signature of the Tenderer:

Name & Designation of Authorized signature:

Place , Date and seal/stamp of

FORM - 10

DETATILS OF MINIMUM MANPOWER (KEY PERSONEL) TO BE DEPLOYED

(To be given in the Tenderer's Letter Head)

Name of Tenderer:

SI. No	Name	Position	Task Assignment	Experience of Similar Nature	Number of Personnel Required
1		Project Manager –BE, 2 years Experience as Project Manager in similar works. Total experience not less than 7 years.			1
2		Safety supervisor with adequate experience in the field			1
3		Site Engineer with adequate experience			1

Signature of the Tenderer:

Name & Designation of Authorized signature:

Place, Date and seal/stamp of the Tenderer:

- Note: -**
- 1) The figures indicated in the brackets against the Key Staff are minimum requirement.
 - 2) Mobilized personnel shall not be demobilized till completion of contract /their job or based on consent of Employer.
 - 3)All should be stationed in Kochi. Site office to be set up by the contractor. One point of contact to be written in writing during the DLP.

FORM-11

DETAILS OF MACHINERY AND EQUIPMENTS EXPECTED TO BE DEPLOYED

(To be given in the Tenderer's Letter Head)

Sl. No	Equipment type and Characteristics (Minimum Require equipment are indicate in brackets)	Qty Required	Qty. proposed to be deployed	Make	Owned or leased
1	CNC Shearing machine	1			
2	CNC Bending machine	1			
4	High resolution large format interior & exterior graphics printing machine	1			
5	Drilling Machine (Hand/Stationery)	1			
6	Spray painting setup	1			
7	Fabrication Setup	1			
8	Printing-Post processing setup	1			

Signature of the Tenderer:

Name & Designation of Authorized signature:

Place, Date and seal/stamp of the Tenderer:

Note: The equipment listed above indicates the minimum equipment and machinery to be deployed for the work. However, the contractor may provide advanced equipment and machinery duly proving the similarity or the better accuracy of the equipment and machinery proposed to be deployed without any additional cost. The utilization of such machinery shall be subject to the approval by the employer.

SECTION – 5 – CONTRACT DATA

Section	Title	Description	Reference
1	Tender Notification	KMRL/PRJ/STN SIGN/235/2015/TEN 01-16	
2	Project Name	Supply and Installation Works (Including Fabrication) of Signage and Graphics including all transportation, loading and unloading, etc. for Six Elevated Metro Stations viz. Muttom, Kalamassery, CUSAT, Pathadipalam, Edapally, Changampuzha Park, of Kochi Metro Rail Limited Project.	
3	Employer and Address	Kochi Metro Rail Limited Regd. Office. 8th Floor, Revenue Tower, Park Avenue Kochi. 682011 Kerala , India.	
4	Duration	6 Months	
5	Amount of Performance Security	10% of the Contract Price. In the event of variations and adjustments during the execution of the contract which result in payments to the contractor over and above the original contract price, the Performance Guarantee shall be suitably adjusted.	ITT – 31.0 GCC – 4.2.1
6	Liquidated Damages (LD)	(i) Indian Rupees 10,000 per calendar day of delay for KD-1 to KD-5 as covered in Section 12 of Contract Data. (ii) For KD-6, Rs 10,000 per calendar day delay. (iii) 0.5% of the contract price for each week or part thereof for delay in achieving KD – 7 as LD. The upper limit of penalties levied for not achieving key dates in KD-1 to KD-6 is 5% of the contract price. Penalties for not achieving KD-7 are in addition to penalties/LD as mentioned in (i) & (ii) above. The upper limit for Liquidated Damages for not achieving KD-7 is 10%+5% (10% is direct LD and 5% is losses incurred due to delay for the Designated Contractors) of Contract Price as indicated.	GCC-8.5
7	Defects Liability Period	24 months from the date mentioned in the Taking Over Certificate for whole of the Works. During the DLP a person should be assigned for attending our queries. That should be given in writing for providing work completion certificate.	GCC-10 SCC-18
8	Mobilisation advance	Mobilisation Advance 10% of the Contract Amount.	GCC – 11.2 SCC – 20-22

9	Retention Money	Retention money equal to 5 percent of the amount due to the Contractor in running bills	GCC-11.5
10	Amount of Third Party Insurance	Third Party Liability including Cross Liability to the extent of at least 10% of the contract works.	GCC 15.3
11	Period in which all insurances have to be effected.	To be effective Within two weeks from the date of issue of "Notice to Proceed".	GCC Sub clause-15
12	Key Dates (weeks from the date of issue of "Notice to Proceed")	Item	Key Date
		KD-1 Submitting all the material samples and Schedule of work	1 Week
		KD-2 Approval on all signage samples and shop drawings	2 Weeks
		KD-3 Presenting receipt of all special materials for the signs	1 Week
		KD-4 Fabrication of all structural Signages at factory 60% quantity	8 weeks
		KD-5 Fabrication of all Artworks at factory 60% quantity	4 weeks
		KD-6 Commence installation at each station simultaneously	16th weeks onwards
		KD-7 Commissioning of 100% Signage and Graphics, Completion and handover	24th weeks

- Note: 1) The Engineer will decide about achievement of Key Dates.
2) Any imposition of Penalty on account of delay in accomplishing key dates is non refundable even if the work as a whole is completed in time.
3) These penalties shall not relieve the Contractor from his obligation to complete the works or from any other obligations and liabilities under this Contract.

**KOCHI METRO RAIL LIMITED
KOCHI METRO RAIL PROJECT**

Supply and Installation Works (Including Fabrication) of Signage and Graphics including all transportation, loading and unloading, etc. for Six Elevated Metro Stations viz. Muttom, Kalamassery, CUSAT, Pathadipalam, Edapally, Changampuzha Park, of Kochi Metro Rail Limited Project. **TENDER NO: KMRL/PRJ/STN SIGN/235/2015/TEN 01-16**

SECTION – 6 – PART 1 – GENERAL CONDITIONS OF CONTRACT

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GENERAL CONDITIONS OF CONTRACT (GCC)

1	DEFINITIONS AND INTERPRETATION
Definitions	<p>1.1 The following contract terms and expressions as used in the contract defined shall have the meanings assigned to them, except where the context otherwise requires. Words indicating persons or parties include and other legal entities except where the context requires otherwise.</p> <p>1.1.1 Documents</p> <p>1.1.1.1 “Contract Data”, which are appended to and form part of the Tender.</p> <p>1.1.1.2 “Construction and/or Manufacture Documents” means all drawings, calculations, computer software (programs), samples, patterns, models, operation and maintenance manuals, and other manuals and information of a similar nature, to be submitted by the Contractor.</p> <p>1.1.1.3 “Contract” means the written Contract Agreement, the Letter of Acceptance, entire set of tender document, Clarifications issued and such further documents which are listed in the Letter of Acceptance or Contract Agreement (if completed).</p> <p>1.1.1.4 “Contract Agreement” means the contract agreement pursuant to acceptance letter referred to in Sub-Clause 1.4. It shall also include all subsequent modifications/ amendments to record the Contract as a result of the communications or negotiation proceedings between the parties.</p> <p>1.1.1.5 “Contractor’s Proposal” means the proposal submitted by the Contractor with the Tender, as modified and accepted by the Employer and included in the Contract. Such documents may include the Contractor’s preliminary Design of Temporary works.</p> <p>1.1.1.6 “Design Data” means all specifications, plans, drawings, details, graphs, sketches, models, levels, setting-out dimensions, calculations duly checked by the Contractor and other documents relating to the Design of Temporary works prepared or to be prepared by or on behalf of the Contractor.</p> <p>1.1.1.7 “Drawings” means the Employer’s Drawings and the Drawings submitted by the Contractor and any modification of such drawings as any, from time to time, be furnished or for which the Engineer has issued a Notice of No Objection</p> <p>1.1.1.8 “Employer’s Requirements” means the description of the scope, standard, specifications, drawings, programme of work, indigenisation programme (where applicable) as included in the Contract, and any alterations and modifications thereto in accordance with the Contract.</p> <p>1.1.1.9 “Letter of Acceptance” means the letter from the Employer or the Engineer, or a person nominated by them on their behalf for this purpose, to the Contractor, conveying acceptance of the Tender, subject to any modifications agreed to between the parties and includes advance acceptance of the tender.</p> <p>1.1.1.10 “Safety, Health and Environmental (SHE) Manual” means the Employer’s manual containing the requirements and conditions to be met during the execution of the Works by the Contractor</p> <p>1.1.1.11 “Schedules” means the information and data submitted with the Tender, as included in the Contract.</p> <p>1.1.1.12 “Tender or Bid” means the completed offer made by individual, Firm, Company, , Joint Venture or Consortium for the execution of the works. “Tenderer” or “Bidder” means the person, firm or submitting a tender against the notice of invitation of tender and includes his authorized agents or representatives. Tenderer shall mean ‘Contractor’ wherever the context so requires and vice-versa.</p> <p>1.1.1.13 Deleted</p>

- 1.1.1.14 **“Special Conditions of Contract”** means any special conditions of contract issued by the Employer prior to submission of the Tender or negotiated and agreed in writing by the Employer and the Contractor prior to acceptance of the Tender.
- 1.1.1.15 **“Works Programme”** means the programme showing the sequence, method and timing of investigations, Design of Temporary works, issue of No Objection Notices, execution, manufacture, delivery to site, erection, installation, testing, commissioning of the Works (including Integrated Testing and Commissioning), indigenisation (where applicable) and related activities in the form and content prescribed by the Employer’s Requirements, or any amended or varied version thereof, as submitted by the Contractor and for which the Engineer has issued a Notice of No Objection.
- 1.1.2 **Persons**
- 1.1.2.1 **“Party”** means the Employer or the Contractor as the context requires
- 1.1.2.2 **“Contractor”** shall mean the person, firm, association of firms, Company or identified as the Contractor and whose tender for the work has been accepted by the Employer and responsible for carrying out the construction scope, in accordance with the Contract Documents and unless the context otherwise so requires shall include his/their executors, administrators, successors and permitted assignees
- 1.1.2.3 **“Contractor’s representative”** means the person (if any) named as such in the Contract or other person appointed from time to time by the Contractor under Sub Clause 4.3.
- 1.1.2.4 **“Designated Contractors”** means any of the following whose activities or the works they are engaged to carry out, affect or are affected by the Works, in any way or at any time:
 (b) Contractors, design consultants and utility authorities engaged on the Project from time to time by the Employer;
 (c) Sub-contractors of any tier of the contractors above; provided that the definition shall exclude the Contractor and his sub-contractors of any tier in relation to the Works”.
- 1.1.2.5 **“Designer”** means the Contractor, or part of the group forming the contractor, person, firm or company or group of companies, or any replacement, carrying out the Design of Temporary Works or part thereof.
- 1.1.2.6 **“Employer”** means KOCHI METRO RAIL LIMITED (KMRL), its legal successors and assignees
- 1.1.2.7 **“Engineer”** means any person/party nominated or appointed from time to time by the Employer to act as the Engineer for the purposes of the Contract and notified as such in writing to the Contractor.
- 1.1.2.8 **“General Consultant” or “GC”** means the firm/JV or consortium of firms appointed by the Employer as a general consultant to the Employer or any other person appointed from time to time and notified as such to the Contractor.
- 1.1.2.9 **“Sub-Contractor”** means the Individual, Firm, Company, , Joint Venture or Consortium, having direct contract with the Contractor and to whom any part of the Work has been sublet by the Contractor, with prior permission of the Engineer or Employer and shall include his heirs, his executors, administrators, successors, legal representatives, as the case may be
- 1.1.3 **Dates, Times and Periods**
- 1.1.3.1 **“Commencement Date”** means the date on which the Contractor shall commence the Works on the written instructions of the Employer contained in the Notice to Proceed.
- 1.1.3.2 **“Notice to Proceed”** means the Notice issued by the Employer to

- the Contractor communicating the date on which the works are to be commenced.
- 1.1.3.3 **“Contract Period”** means the period from the Commencement Date to the end of final Defects Liability Period.
- 1.1.3.4 **“Day”** means a calendar day; **“Week”** means 7 calendar days and **“Year”** means 365 calendar days.
- 1.1.3.5 **“Effective Date”** means the date on which the Contract comes into force and effect.
- 1.1.3.6 **“Gazetted Holiday”** means every holiday which is observed by KOCHI Metro Rail Limited as a gazetted holiday.
- 1.1.3.7 **“General Holiday”** means Sunday
- 1.1.3.8 **“Key Date”** means a date identified as such in the Contract.
- 1.1.3.9 **Deleted**
- 1.1.3.10 **“Stage”** means level of progress of the works identified as such and more particularly described in the Employer’s Requirements for which a Key Date for the achievement thereof is stipulated in the Contract.
- 1.1.3.11 **“Time for Completion”** means the time for completing the Works physically or a section or a part thereof (as the case may be), and passing the Tests on Completion, including Integrated Testing and Commissioning, as stated in the Contract and as applicable for the nature of contract calculated from the Commencement Date.
- 1.1.4 **Tests and Completion**
- 1.1.4.1 **“Factory Tests”** means the tests required to be carried out in the factory premises on components, equipment, subsystem, system, etc. during and/or after manufacture in the factory.
- 1.1.4.2 **Deleted**
- 1.1.4.3 **“Performance Certificate”** means the certificate issued by the Engineer under Sub-Clause 10.9.
- 1.1.4.4 **“Taking Over Certificate”** means a certificate issued under Clause 9.1.
- 1.1.4.5 **“Tests on Completion”** means the tests specified in the Contract and designated as such, including Integrated Testing and any other such tests as may be agreed by the Engineer and the Contractor, or instructed as a Variation, which are to be carried out before the Works, or any Section are taken over by the Employer.
- 1.1.5 **Money and Payments**
- 1.1.5.1 **“Contract Price”** or **“Contract Value”** means the sum stated in the Letter of Acceptance as payable to the Contractor for execution of the work including remedying of any defect during completion and maintenance period therein, subject to such additions thereto or deductions there from as may be made under the provisions of the Contract.”
- 1.1.5.2 **“Cost”** means all expenditure properly incurred (or to be incurred) by the Contractor, whether on or off the Site, including overhead and similar charges, but does not include profit.
- 1.1.5.3 **“Final Payment Certificate”** means the payment certificate issued by the Engineer under Sub-Clause 11.10.
- 1.1.5.4 **“Final Statement”** means the agreed statement defined in Sub-Clause 11.10.
- 1.1.5.5 **“Foreign Currency”** means a freely convertible international trading currency in which part of the Contract Price is payable, but not the Local Currency.
- 1.1.5.6 **“Interim Payment Certificate”** means any payment certificate issued by the Engineer under Sub-Clause 11.4, other than the Final Payment Certificate.
- 1.1.5.7 **“Local Currency”** means Indian Rupees
- 1.1.5.8 **“Retention Money”** It is the Security Deposit to be paid by the contractor in token of due and faithful fulfilment of the contract, the amount/details of retention money is given under sub clause 11.5.
- 1.1.5.9 **“Tender security/Earnest money”** means a tender guarantee in the form of a Bank Guarantee/Pay Order/Bankers Cheque/Demand

		draft to be furnished along with tender by the Tenderer under clause 13.0 of ITT.
	1.1.5.10	“Performance Security” means a guarantee for satisfactory completion of the work by the contractor under sub clause 4.2.1 of GCC and the Employer is guaranteed compensation for any monetary loss up to the amount of performance guarantee.
	1.1.6	Other Definitions
	1.1.6.1	“Contractor’s Equipment” means all machinery, apparatus, appliances, other things of whatsoever nature required for purpose of the Contract, including without limitation, Contractor’s plant and equipment, or materials to or from the Site, but does not include Plant, or Materials intended to form or forming part of the Permanent Works.
	1.1.6.2	“Materials” means things of all kinds (other than Plant) to be provided and incorporated in the Permanent Works by the Contractor, including the supply-only items (if any), which are to be supplied by the Contractor as specified in the Contract
	1.1.6.3	“Plant” means the machinery, equipment, and apparatus and the likes, intended to form or forming part of the Permanent Works, including the supply-only items (if any), which are to be supplied by the Contractor as specified in the Contract.
	1.1.6.4	“Section” means a part of the Works specifically designated in the Contract Data as a Section (if any).
	1.1.6.5	“Site” means the places provided by the Employer where the Works are to be executed and to which Plant and Materials are to be delivered, and any other place as may be specifically designated in the Contract as forming part of the Site.
	1.1.6.6	“Variation” means any alteration and/ or modification to the Employer’s Requirements, which is instructed by the Engineer or approved as a variation by the Employer, in accordance with Clause 12.
	1.1.6.7	“Works” means the work to be executed in accordance with the Contract and shall include both Permanent Works and Temporary Works.
	1.1.6.8	Permanent Works” means the permanent works to be executed, completed and maintained in accordance with the Contract.
	1.1.6.9	“Temporary Works” means all temporary and enabling works of any kind required for the execution and completion of the works and the remedying of any defect therein, and which subsequently be removed by the Contractor.
	1.1.6.10	“Project” means KOCHI Metro Rail Project.
Interpretation	1.2	In the Contract except where the context requires otherwise: <ul style="list-style-type: none"> (a) words indicating one gender include all genders; (b) words indicating the singular also include the plural and words indicating the plural also include the singular and (c) “Written” or “in writing” means hand-written, type written, printed or electronically made and resulting in a permanent record. <p>The marginal words and other headings shall not be taken into consideration in the interpretation of these conditions</p>
Law and Language	1.3	The Contract shall be governed by the Acts and Laws of India, the rules, regulations and bye-laws of the concerned public bodies and authorities. Language of the Contract shall be English.
Contract Agreement	1.4	The Employer and the Contractor shall execute a Contract Agreement in the form annexed in Schedules to Special Conditions of Contract, with such modifications as may be necessary to record the Contract within 45 days from the date of issue of Letter of Acceptance by the Employer. The costs of stamp duties and similar charges imposed by law shall be borne by the Contractor.

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 Employer and the Contractor, and no work shall proceed under such modifications until this has been done. Any verbal or written arrangements 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 Employer unless and until the same is incorporated in a formal instrument and signed by the Employer and the Contractor, and till then the Employer shall have the right to repudiate such arrangements.

Priority of Documents	1.5	<p>The documents forming the Contract are to be taken as mutually explanatory of one another. If there is an ambiguity or discrepancy in the documents, the Engineer shall issue any necessary clarification or instruction to the Contractor, and the priority of the documents shall be unless otherwise specified in the Special Conditions of Contract, as follows:</p> <ul style="list-style-type: none"> (a) The Contract Agreement (b) The Letter of Acceptance. (c) Tender document and clarifications, addenda, corrigenda issued to the Tender document. (d) Item Description in Bill of Quantities (e) The Employer's Requirements- Scope of work; <ul style="list-style-type: none"> (i) Technical Specifications. (ii) General Requirement-Construction. (f) The Special Conditions of Contract including SCC Schedules (g) The General Conditions of Contract. (h) Any other document forming part of the Contract.
Care and Supply of Construction and/or Manufacture Documents	1.6	<p>The Construction and/or Manufacture Documents shall be in the custody and care of the Contractor during the Contract. Unless otherwise stated in the Employer's Requirements, the Contractor shall provide six copies for the use of the Engineer and assistants.</p> <p>The Contractor shall keep on Site one complete set of the documents forming the Contract, the Construction and/or Manufacture Documents, Variations, other communications given or issued from time to time and the documents/samples mentioned in Sub-Clause 5.3. The Employer, the Engineer and their assistants shall have the right to access these documents all reasonable times.</p> <p>On discovery of any technical error or defect in a document intended to be used for the purpose of Contract, the Contractor shall promptly give notice to the Engineer of such error or defect.</p>
Communications	1.7	<p>Communications between parties, unless otherwise specified shall be effective only when made in writing. A notice will be effective only when delivered personally or by courier or by electronic means.</p>
Employer's Use of Contractor's Documents	1.8	<p>As between the Parties, the Contractor shall retain the copyright and other intellectual property rights in the Contractor's Documents and other design documents made by (or on behalf of) the Contractor.</p> <p>The Contractor shall be deemed (by signing the Contract) to give to the Employer a non-terminable transferable non-exclusive royalty-</p>

free licence to copy, use and communicate the Contractor's Documents, including making and using modifications of them. This licence shall:

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

Contractor's Use of Employer's Documents **1.9**

As between the Parties, the Employer shall retain the copyright and other intellectual property rights in the Employer's Requirements and other documents made by (or on behalf of) the Employer. The Contractor may, at his cost, copy, use, and obtain communication of these documents for the purposes of the Contract.

They shall not, without the Employer's consent, be copied, used or communicated to a third party by the Contractor, except as necessary for the purposes of the Contract.

Compliance with Statutes, Regulations and Laws **with 1.10 and**

The Contractor shall familiarise themselves and conform to the requirement in all aspects with:

- (a) the provision of any enactment in India as applicable from time to time
- (b) the regulations or bye-laws of any local body and utilities including, but not limited to Electricity Supply Regulation Act, Indian Electricity Rules, Pollution Control Rules, BBMP rules and regulations and byelaws etc.
- (c) The Contractor shall be bound to give all notices required by statute, regulations or bye-laws, as aforesaid and to pay all fees and bills payable in respect thereof. The Contractor will arrange necessary clearances and approvals before the Work is taken up.

Ignorance of Rules, Regulations and Bye-laws shall not constitute a basis for any claim at any stage of work.

The Contractor shall indemnify the Employer against all penalties and liabilities of every kind of breach of any such enactment, laws, regulations, bye-laws or rules.

Joint and Several Liability **1.11**

If the Contractor is a partnership, then each of the partners shall be:

- a) Jointly and severally liable to the Employer for the performance of the Contract;
- b) The Contractor shall not alter its composition or legal status without the prior consent of the Employer.

Severability **1.12**

If any clause, provision, section or part of the Contract is ruled invalid by a court of competent jurisdiction, then the parties shall: (a) promptly meet and negotiate a substitute for such clause, provision, section or part, which shall, to the greatest extent legally permissible, effect the original intent of the parties, and (b) if necessary or desirable, apply to the court which declared such invalidity for a judicial construction of the invalidated portion to guide the negotiations. The invalidity or enforceability of any such clause, provision, section or part shall not affect the validity or unenforceability of the balance of the Contract, which shall be construed and enforced as if the Contract did not contain such

invalid or unenforceable clause, provision, section or part.

	2	The Employer
General Obligations	2.1	The Employer shall provide the Site in reasonable stretches/lengths/locations and shall pay the Contractor in accordance with the Contract. The judgement of 'reasonable stretches/lengths/locations' shall be decided by the Engineer and his decision is final and binding on the Contractor.
Access to and Possession of the Site	2.2	The Employer shall grant the Contractor right of access to, and possession of, the Site progressively for the completion of Works. Such right and possession may not be exclusive to the Contractor. The Contractor will draw/modify the schedule for completion of Works according to progressive possession/right of such sites. If the Contractor suffers delay from failure on the part of the Employer to grant right of access to, or possession of the Site, the Contractor shall give notice to the Engineer in a period of 28 days of such occurrence. After receipt of such notice the Engineer shall proceed to determine any extension of time to which the Contractor is entitled and shall notify the Contractor accordingly. For any such delay in handing over of site, Contractors will be entitled to only reasonable extension of time and no monetary claims whatsoever shall be paid or entertained on this account.
Permits, Licences or Approvals	2.3	It shall be Contractor's exclusive responsibility to get approvals, permits or license required for the Contract. However, the Employer may (where he is in a position to do so) provide reasonable assistance to Contractor at the request and cost of the Contractor in getting Permits, License or Approvals required during the Contract. The rendering of such assistance by the Employer shall not be interpreted as a pretext by the Contractor as condoning of any delay or non-performance of any of the Contractors obligations. The following-up of all such applications shall be the responsibility of the Contractor.
Assignment by the Employer	2.4	The Employer shall be fully entitled without the consent of the Contractor, to assign the benefit of the Contract or any part thereof and any interest therein or there under to any third party.
	3	The Engineer
Appointment of Engineer	3.1	The Employer shall notify the Contractor in writing of the appointment and identity of the Engineer and of any replacement from time to time. The Engineer for the work will be Chief Engineer / Deputy Chief Engineer of KMRL.
Duties and Authorities of the Engineer	3.2	The Engineer shall carry out the duties specified in the Contract. The Engineer shall have no authority to amend the Contract. The Engineer may exercise the authority specified in, or necessarily to be implied from the Contract. If the Engineer is required to obtain the specific approval of the Employer before exercising such authority, such requirements shall be as stated in Special Conditions of Contract. Any requisite approval shall be deemed to have been given by the Employer for any such authority exercised by the Engineer. The Engineer shall have no authority to relieve the Contractor of any of his duties, obligations, or responsibilities under the Contract. Any proposal, inspection, examination, testing, consent, approval or similar act by the Engineer (including absence of disapproval)

shall not relieve the Contractor from any responsibility, including responsibility for his errors, omissions, discrepancies, and non-compliance with Sub-Clause 5.4.

The Engineer shall copy to the Employer all communications given or received by him in accordance with the Contract.

**Engineer's
Authority to
Delegate**

3.3

.i) The Engineer, with the prior approval of the Employer may from time to time assign and delegate authority to Engineer's representatives/assistants and may also revoke such assignments and delegations. The delegation or revocation shall be in writing and shall be applicable only after same has been notified in writing to the Contractor.

ii. Each Engineer's representative/assistants to whom duties have been assigned or authority has been delegated shall be authorized to issue instructions to the Contractor to the extent defined by the delegation. Any determination, approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test or similar act by an Engineer's representative/assistants shall have the same effect as though the act had been an act of the Engineer. However:

- (a) any failure to disapprove any Plant, Material, design and workmanship shall not prejudice the right of the Engineer to reject such Plant, Material, Design of Temporary works and workmanship;
- (b) if the Contractor questions any determination or instruction of Engineer's representative/assistants, the Contractor may refer the matter to the Engineer within three days of such decision having been given, who shall confirm, reverse or vary such determination or instruction.

**Engineer's
Instructions**

3.4

The Contractor shall comply with instructions given by the Engineer in accordance with the Contract.

The Contractor shall give reasonable notice to the Engineer of any instruction, which he considers necessary for the execution of the Works, to enable the Engineer to issue the instruction so that progress of the Works is not delayed. The Engineer shall not, however, be bound to issue any instruction which, in his opinion, is unnecessary.

No act or omission by the Engineer or Engineer's representative/assistants in the performance of any of the Engineer's duties or the exercise of any of the Engineer's powers under the Contract shall, in any way, operate to relieve the Contractor of any of the duties, responsibilities, obligations or liabilities imposed upon the Contractor by any of the provisions of the Contract.

**Engineer to
Attempt Agreement**

3.5

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

**General
Obligations**

**4
4.1**

The Contractor

The Works as completed by the Contractor shall be wholly in accordance with the Contract and fit for the purposes for which they are intended, as defined in the Contract. The Works shall

include any work which is necessary to satisfy the Employer's Requirements, the Contractor's Proposal and Schedules, or is implied by the Contract, or arises from any obligation of the Contractor, and all works not mentioned in the Contract but which may be inferred to be necessary for stability, or completion, or the safe, reliable and efficient operation of the Works.

The Contractor shall Design of Temporary works, manufacture, execute, install, complete, test (including Integrated Testing) and commission, the Works, including providing Construction and/or Manufacture Documents, within the Time for Completion and shall remedy any defects within the Contract Period. The Contractor shall provide all superintendence, labour, Plant, Materials, Contractor's Equipment, Temporary Works and all other things, whether of a temporary or permanent nature, required in and for such Design of Temporary works, manufacture, execution, installation, completion, testing (including Integrated Testing) and commissioning and remedying of defects.

Before commencing Design of Temporary works, the Contractor shall satisfy himself regarding the Employer's Requirements (including design criteria and calculations, if any) and the items of reference mentioned in Sub-Clause 4.8. The Contractor shall give notice to the Engineer of any error, fault or other defect in the Employer's Requirements or such items of reference. After receipt of such notice, the Engineer shall determine whether Clause 12 shall be applied, and shall notify the Contractor accordingly.

The Contractor shall take full responsibility for the adequacy, stability and safety of all Site operations, of all methods of construction, manufacture, and of all the Works, irrespective of any approval or consent by the Engineer.

The Contractor shall be deemed to have satisfied himself before submitting his Tender as to the correctness and sufficiency of his Tender to cover all his risks, liabilities and obligations set out in or implied by the Contract and all matters and things necessary for the proper Design of Temporary works, manufacture, execution, installation, completion, testing (including Integrated Testing), commissioning of the Works and remedying of the Defects.

The Contractor acknowledges responsibility for ascertaining and securing at his own cost:

- (a) conditions bearing upon the proper transportation, disposal, handling and storage of materials (including but not limited to hazardous toxic substances and excavated materials);
- (b) availability of electricity, water and gas;
- (c) availability of skilled manpower;
- (d) the character of equipment and facilities needed preliminary to and during the manufacture, installation, execution, testing (including Integrated Testing), and commissioning of the Works and remedying of any defects;
- (e) the protection of the environment and adjacent structures which will be necessary preliminary to and during the manufacture, installation, execution, testing (including Integrated Testing), and commissioning of the Works and remedying of any defects;
- (f) the location of and the authorisation required for and the means of diversion of any services and facilities required for the purposes of the Works.

The Contractor shall whenever required by the Engineer, submit details of the arrangement and methods which the Contractor proposed to adopt for the execution of the Works. No alteration to these arrangements or methods shall be made without the approval of the Engineer.

Performance Security, Guarantee Warranties and Undertakings.	4.2	“Performance Security” is a guarantee for satisfactory completion of the work by the contractor and the Employer is guaranteed compensation for any monetary loss up to the amount of performance guarantee. It is 10% of the Contract price unless otherwise mentioned in the tender documents.
Amount of Performance Security	4.2.1	<p>(i) Within 15 days of receipt of the Letter of Acceptance, the successful Tenderer shall furnish Performance Security in the form of a bank guarantee from an Indian Schedule bank for an amount of ten per cent of the Contract price in types and proportions of currencies in which the Contract Price is payable. The approved form provided in the “Special Conditions of Contract” or any other form approved by the Employer shall be used for Performance Guarantee. The Performance Security shall be valid up to final completion of Defect Liability Period.</p> <p>(ii) Failure of the successful Tenderer to furnish the required Performance Security shall be a ground for the annulment of the award of Contract and forfeiture of the Tender Guarantee.</p>
Release of performance security	4.2.2	<p>(i) The whole or such portion of the Performance Security amount as he may consider fit shall be liable to be forfeited by the Employer at the discretion of the Employer, in the event of any breach of Contract on the part of the Contractor.</p> <p>(ii) After completion of the entire Work, one half of the Performance Security shall be released to the Contractor, on issue of last Taking Over Certificate if more than one Certificate exist, by the Engineer, in accordance with Sub-Clause 9.1 and 9.2 of these Conditions. This shall not relieve the Contractor from his obligations and liabilities, to make good that may be detected during the final Defects Liability Period.</p> <p>(iii) The balance amount shall be released to the Contractor, after the expiry of the final Defect Liability Period for the entire Work.</p>
Guarantees and Warranties	4.2.3	<p>Within 30 days of the date of Letter of Acceptance of the Tender, the Contractor shall submit to the Employer:</p> <p>(a) An Undertaking in the approved format from a parent company, the identity of which shall have been submitted in writing to the Employer prior to acceptance of the Tender and against which the Employer shall have raised no objection.</p> <p>(b) A written Guarantee in the approved format from a parent company, the identity of which shall have been submitted in writing to the Employer prior to acceptance of the Tender and against which the Employer shall have raised no objection.</p> <p>(c) A warrantee in the approved format from the Contractor.</p> <p>The formats of Performance Guarantee, Parent Company Undertaking, Parent Company Guarantee and Contractor’s Warranty are provided in the Schedule to Special Conditions of Contract.</p>

- In the event that the Contractor shall comprise two or more members, s acting in partnership, joint venture, consortium or otherwise each such member or shall submit a parent company Undertaking and Guarantee.
- Representation on Works 4.3**
- Unless the Contractor's Representative is named in the Contract, the Contractor shall, within 14 days of Notice to Proceed, submit to the Engineer for consent the name and particulars of the person the Contractor proposes to appoint. The Contractor shall not revoke the appointment of the Contractor's Representative without the prior consent of the Engineer. The Contractor's Representative so nominated shall have full authority to act on behalf of the Contractor. The Contractor's Representative shall give his whole time to directing the preparation of the Construction and/or Manufacture Documents and the execution of the Works. The Contractor's Representative shall receive (on behalf of the Contractor) all notices, instructions, consents, approvals, certificates, determinations and other communications under the Contract. Whenever the Contractor's Representative is to be absent from the Site, a suitable replacement person shall be appointed, with prior consent of Engineer.
- Failure on part of the Contractor to comply with these provisions shall constitute a breach of Contract leading to action under Sub Clause no. 13.2.
- The Contractor's Representative may delegate any of his powers, functions and authorities to any competent person, and may at any time revoke any such delegation. Any such delegation or revocation shall be in writing and shall not take effect until the Engineer has given prior consent thereto. The Contractor's Representative and such persons shall be fluent in the language of day to day communication and the Contractor shall be bound by and fully liable for the acts or omissions of the Contractor's Representatives or any of his employees and/or delegates, agents or nominees.
- Facilities for and Coordination with Others. 4.4**
- The Contractor shall not impede and shall afford all necessary facilities, access and/or services to the Employer, Engineer, Designated Contractors, utility undertakings, other relevant authorities and other contractors (whether employed by the Employer or not) who are carrying out on, or in the vicinity of, the Site, works not included in the Contract but forming part of the Project:
- (a) The Contractor shall take all reasonable steps to ensure that the Works are co-ordinated and integrated with the Design of Temporary works, manufacture, installation execution and testing of such other works and shall in particular (but without limitation):
- (i) comply with any direction which the Engineer may give for the integration of the Design of Temporary works with the design of any other part of the Project;
 - (ii) consult, liaise and co-operate with those responsible for carrying out such other works, including where necessary, in the preparation of the respective designs, the preparation of co-ordinated programmes, method statements, co-ordination drawings and specifications together with arrangements of service priorities and zoning;
 - (iii) Participate in Integrated Testing and Commissioning of the system with Designated Contractors and

demonstrate to the satisfaction of the Engineer that the Works have been designed and constructed in a manner compatible with the works of Designated Contractors.

- (b) The Contractor shall undertake Design of Temporary works co-ordination with other contractors who are carrying out works forming part of the Project as described in the Employer's Requirements. At the end of each such co-ordination period, the Contractor and the other contractor with whose works the interface period refers shall jointly state in writing that their design co-ordination activities are complete and that their respective designs are integrated and can be finalised without interference with each other's designs or the designs with which their designs have already been integrated. A copy of this joint written statement shall be provided to the Engineer within 7 days of the end of the said design co-ordination period. Unless and until copies of all relevant and necessary design co-ordination statements have been submitted to the Engineer, the Engineer shall be entitled to suspend any review or further review of the Contractor's or the other contractor's design submissions. Such suspension shall not be grounds for the Contractor to claim nor shall be entitled to receive an extension of time or additional payments.
- (c) The Contractor shall share within the Site, staging, storage and unloading areas for the use of Designated Contractors, if any, who are undertaking track work, fare collection system, supply, testing and commissioning of Rolling Stock, escalators, lifts, signalling and telecommunications and traction power installation works, etc. Separate locations shall be provided for each such contractor. The exact size and location of these staging, storage and unloading areas, and the commencement date shall be co-ordinated and agreed during the design interface period with each Designated Contractor.
- (d) Any other contract which depends for its execution on the Contract or upon which the Contract is dependent for its own execution shall be identified by the Engineer as a "Designated Contract". The Contractor shall provide attendance on Designated Contractors in accordance with the Employer's Requirements and as instructed by the Engineer. The identity of the contractor for a Designated Contract may not be known before the execution of the Contract but this shall not be a ground for the Contractor to object to the subsequent appointment of a Designated Contractor.
- (e) The Contractor shall in accordance with the requirements of the Engineer co-ordinate his own Works with that of Designated Contractors through Co-ordinated Installation Programme (CIP) stated in the Employer's Requirements, or as the Engineer may require, and shall afford the Designated Contractors all reasonable opportunities for carrying out their works.
- (f) The Contractor shall afford all reasonable opportunities, for carrying out their work, to other contractors employed by the Employer and their workmen respectively and the workmen of the Employer who may be engaged on or near the Site of

any work, ancillary to the Works, but, not included in the Contract and shall not cause them inconvenience.

- (g) If the Contractor shall suffer delay by reason of failure by any Designated Contractor to meet the specified installation interfacing and co-ordination, completion dates, which delay shall be caused otherwise than by fault of the Contractor, or, if compliance with sub-clause (f) herein shall involve the Contractor in delay beyond that which could be reasonably foreseen by an experienced contractor at the time of tender, then the Engineer shall take such delay into account in determining any extension of time to which the Contractor is entitled under the Contract.
- (h) It shall be the responsibility of the Contractor to ensure that the full extent of the Works under the Contract and the works to be carried out by Designated Contractors within the Works or, in, on, under, through and over the Site are co-ordinated and integrated in their design, manufacture, installation and construction. Such responsibility shall neither be mitigated nor in any other way affected by virtue of similar responsibilities being placed on other contractors.

The Contractor shall be deemed to have made adequate allowance in the Contract Price and in the Works Programme in respect of these obligations.

If any act or omission of the Contractor whether directly or indirectly results in the delay in the execution of the works of a Designated Contractor, the Contractor, in addition to his liability in respect of liquidated damages if they become due, shall pay to the Employer, or the Engineer may deduct from Interim Payment Certificates such amount as the Engineer shall have certified in respect of additional payments or costs to the Designated Contractor in respect of such delay.

Sub-Contractors

4.5

The Contractor shall sub-contract the Works only with prior consent of Engineer/Employer, unless otherwise stated in the Special Conditions of Contract.

- a the Contractor shall not be required to obtain consent for purchases of Materials which are in accordance with the standards specified in the Contract or provisions of labour or for the sub-contracts for which the Sub-contractor is named in the Contract;
- b the prior consent of the Engineer shall be obtained for other proposed Sub-contractors;
- c not less than 28 days before the intended date of each Sub-contractor commencing work, the Contractor shall notify the Engineer of such intention; and
- d The Contractor shall give fair and reasonable opportunity for contractors in India to be appointed as Sub-contractors.

The Contractor shall be responsible for observance by all Sub-contractors of all the provisions of the Contract. The Contractor shall be responsible for the acts or defaults of any Sub-contractor, his representatives or employees, as fully as if they were the acts or defaults of the Contractor, his representatives or employees and nothing contained in Sub-clause (a) of clause 4.5 shall constitute a

waiver of the Contractor's obligations under this contract. The Contractor shall provide to the Engineer the details of sub contracts upon request of the Engineer. The Contractor shall Endeavour to resolve all matters and payments amicably and speedily with the sub-contractors.

Assignment of Contractor's and Sub-contractor's Obligations

4.6

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

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

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

In the event that a sub-contractor of any tier provides to the Contractor or any other sub-contractor a warranty in respect of Plant, Materials or services supplied in connection with the Works, or undertakes a continuing obligation of any nature whatsoever in relation to such Plant, Materials or services (including without limitation an obligation to maintain stocks of spare parts) extending for a period exceeding that of the Defects Liability Period or where there is more than one Defects Liability Period exceeding that of the latest Defects Liability Period, and if the Engineer so directs in writing within 21 days of the expiry of the Defects Liability Period or the latest Defects Liability Period (as the case may be), the Contractor shall immediately assign or obtain the assignment of the benefit of such warranty or obligation to the Employer or at the direction of the Employer, to any third party referred to in Sub-Clause 2.4.

Compensation for Breach

4.7

Any breach of Sub-clauses 4.5 to 4.6 shall entitle the Employer to rescind the Contract under Sub Clause 13.2 of these conditions and also render the Contractor liable for loss or damage arising due to such termination.

Setting Out Accurate Setting Out

4.8

4.8.1

The Contractor shall be responsible for

- a the accurate setting out of the Works in relation to the original points, lines and levels of reference given in the documents provided by the Engineer in writing.
- b the correctness of position, levels, dimensions and alignments of all parts of the Works
- c the provisions of all necessary instruments, equipment, apparatus and labour in connection with the foregoing responsibilities
- d Carefully protecting and preserving all bench marks, sight rails, pegs and other things used in setting out the Works

The checking of any setting-out or of any line or level by the Engineer shall not in any way relieve the Contractor of his responsibility for the accuracy or correctness thereof and the Contractor shall carefully protect and preserve all bench-marks, sight-rails, pegs and other things used in setting out the Works.

Errors in Setting out

4.8.2

If at any time during the execution of the Work, an error appears in the positions, levels, dimensions or alignment of any part of the Works, the Contractor on being required to do so by the Engineer

		shall, at Contractor's cost, rectify such error to the satisfaction of the Engineer.
Site Data	4.9	<p>(i) The Employer shall have made available to the Contractor with the Tender documents such relevant data in Employer's possession on Geo technical data and sub-surface conditions. The accuracy or reliability of the data/studies/reports and of any other information supplied at any time by the Employer or Engineer is not warranted with respect to the viability of his Design of Temporary works and execution of Works and the Contractor shall be responsible for interpreting all such data any error, discrepancies. The Contractor shall conduct further investigations considered necessary by him at his own cost and any error, discrepancies if found in Employer's data at any stage will not constitute ground for any claim for extra time and costs.</p> <p>(ii) The Contractor shall be deemed to have obtained all necessary information as to risks, contingencies and other circumstances which may influence or affect the Tender or Works.</p> <p>(iii) The Contractor shall also be deemed to have inspected and examined the Site, its surroundings, the above data and other available information with respect to the viability of his Design of Temporary works and execution of Works and to have satisfied himself before submitting the Tender, as to all the relevant matters including without limitation</p> <ul style="list-style-type: none"> (a) the form and nature of the Site, including the sub-surface conditions; (b) the hydrological and climatic conditions; (c) the extent and nature of the work, Plant, and Materials necessary for the execution and completion of the Works and the remedying of any defects; (d) the applicable laws, procedures and labour practices (e) The Contractor's requirement for access, accommodation, facilities, personnel, power, transport and other services. (f) the risk of injury or damage to property adjacent to the Site and to the occupiers of such property or any other risk.
Sufficiency of accepted Contract Amount	4.10	The Contractor shall be deemed to have satisfied himself as to the correctness and sufficiency of the Contract Price. Unless otherwise stated in the Contract, the Contract Price shall cover all his obligations under the Contract and all things necessary for the proper design of temporary works execution and completion of the Works, testing and commissioning (including Integrated Testing and Commissioning) and remedying of any defects.
Access Route	4.11	<p>The Contractor shall be deemed to have satisfied himself as to the suitability and availability of the access routes he chooses to use. The Contractor shall (as between the Parties) be responsible for the maintenance of access routes. The Contractor shall provide at his cost signs or directions, which he may consider necessary or as instructed by Engineer for the guidance of his staff, labour and others. The Contractor shall obtain any permission concessions and related easement right that may be required from the relevant authorities for the use of such routes, signs and directions.</p> <p>The Employer will not be responsible for any claims which may arise from the use or otherwise of any access route. The Employer does not guarantee the suitability or availability of any particular access route, and will not entertain any claim for any non-suitability or non-availability for continuous use during construction of any such route.</p>
Rights of way and	4.12	The Employer will acquire and provide land for Permanent Works

Facilities

and right of way (within KMRL's land) for access thereto over routes established by the Contractor. The Contractor shall bear all cost and charges for special or temporary rights of way which he may require including those for access to the Site. The Contractor shall also obtain, at his risk and cost, any additional facility outside the Site which he may require for the purpose of the Works. The Employer reserves the right to make use of these service roads/rights of way for itself or for other contractors working in the area, as and when necessary without any payment to the Contractor.

Programmes 4.13

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

- a the order in which the Contractor proposes to carry out the Works (including each stage of Design of Temporary works, procurement, manufacture, delivery to Site, construction, erection, testing and commissioning),
- b all major events and activities in the production of Construction or Manufacture Documents; and
- c The sequence of all tests specified in the Contract including Integrated Testing and Commissioning.
- d Requirement of funds, month wise

Unless otherwise stated in the Contract, the programmes shall be developed using precedence networking techniques, showing early start, late start, early finish and late finish dates.

No significant alteration to the programmes, or to such arrangements and methods, shall be made without obtaining consent of the Engineer. If the progress of the Works does not conform to the programmes, the Engineer may instruct the Contractor to revise the programmes, showing the modifications necessary to achieve completion within the Time for Completion.

Consent by the Engineer to Programmes shall not relieve the Contractor of any of his responsibilities or obligations under the Contract. If the Programmes indicate that a Key Date has not, or will not be met, it shall not, by itself entitle the Contractor to an extension of time in relation to such Key Date.

Progress Reports 4.14

The Contractor shall submit to the Engineer by the end of each calendar month his Monthly Progress Report which shall, amongst other things, highlight actual or potential departures from the Works Programmes and/or the Design of Temporary Works Submission Programme and state the measures which the Contractor proposes to take in order to make good or reduce any delay.

If requested by the Engineer, the Contractor shall submit to the Engineer, at weekly intervals, a written report as to the progress of off-Site manufacture of Plant, and Materials.

The Contractor shall also submit to the Engineer such other reports as may reasonably be required by him or any relevant authority or public body.

The progress reports shall conform to the Employer's Requirements.

Contractor's Equipment	4.15	
	4.15.1	All Contractor's Equipment and Temporary Works provided by the Contractor shall, when brought on to the site, be deemed to be exclusively intended for execution of the Works and not be removed without the consent in writing of the Engineer. Such consent shall not be unreasonably withheld or delayed
	4.15.2	Upon completion of the Works the Contractor shall remove from the Site all the said Contractor's Equipment, Temporary works and his unused materials
	4.15.3	The Employer shall not at any time be liable for the loss or damage to any of the Contractor's Equipment, Temporary Works or materials save as mentioned in Clause 14.1
	4.15.4	In respect of any Contractor's Equipment which the Contractor shall have imported for the purpose of the Works, the Employer may assist the Contractor, where required, in procuring any necessary Government consent for re-export of the same after the completion of the Works.
	4.15.5	The Employer may assist (but is not obliged to) the Contractor, where required, in obtaining clearance through the Customs of Contractor's Equipment, materials and other things required for the Works.
Safety of Works	4.16	<p>The Contractor shall throughout the execution of the Works including the carrying out of any testing, commissioning (including Integrated Testing and Commissioning), or remedying of any defect:</p> <ul style="list-style-type: none"> a take full responsibility for the adequacy, stability, safety and security of the Works, Plant, Contractor's Equipment, Temporary Works, operations on Site and methods of manufacture, installation, construction and transportation; b have full regard for the safety of all persons on or in the vicinity of the Site (including without limitation persons to whom access to the Site has been allowed by the Contractor), comply with all relevant safety regulations, including provision of safety gear, and insofar as the Contractor is in occupation or otherwise is using areas of the Site, keep the Site and the Works (so far as the same are not completed and occupied by the Employer) in an orderly state appropriate to the avoidance of injury to all persons and shall keep the Employer indemnified against all injuries to such persons. c provide and maintain all lights, guards, fences and warning signs and watchmen when and where necessary or required by the Engineer or by laws or by any relevant authority for the protection of the Works and for the safety and convenience of the public and all persons on or in the vicinity of the Site; and d where any work would otherwise be carried out in darkness, ensure that all parts of the Site where work is being carried out are so lighted as to ensure the safety of all persons on or in the vicinity of the Site and of such work. <p>Contractor is required to take note of all the necessary provisions in Employer's Safety, Health and Environment Manual (SHE Manual) and the Contractor's price shall be inclusive of all the necessary costs to meet the prescribed safety standards as specified in the Special Conditions of Contract. In the case, the Contractor fails in the above; the Employer may provide the necessary arrangements and recover the costs from the Contractor.</p>
Protection of the Environment	4.17	The Contractor shall take all reasonable steps to protect the environment (both on and off the Site) and to avoid injury, damage

and nuisance to people and property resulting from pollution, noise and other results of his operations. The Contractor shall ensure that air emissions, surface discharges and effluent from the Site during the Contract Period shall not exceed the values indicated in the Employer's Requirements, and shall not exceed the values prescribed by law. The Contractor shall conform to the Employer's Requirements and shall indemnify the Employer against any liability or damages or claims arising out of his operations. The Contractor shall be responsible and liable for any stoppage, closure or suspension of the works due to any contravention of statutory requirements relating to the protection of the environment and shall indemnify and keep indemnified the Employer in this regard.

The Contractor's Site Environmental Plan shall be developed from his Employer's Safety, Health and Environmental Manual (SHE Manual), as per the Employer's Requirements and the Special Conditions of Contract.

Electricity Water and Gas **4.18**

The Contractor shall be responsible for making his own arrangements at his own cost to obtain supply of water, electricity or gas for the Works. The Employer where feasible may at his discretion assist the Contractor in giving recommendatory letters etc.

Tools, Plants and Equipment Supplied by The Employer **4.19**

Except for any specific item mentioned in the Special Conditions of Contract or in Employer's Requirements, the Contractor shall provide all tools, plants and equipment for the Works. In respect of such exceptional tools, plants or equipment committed to be provided by the Employer under terms and conditions specified in the Special Conditions of Contract, the Contractor shall take all reasonable care and shall be responsible for all damages or loss caused by him, his representatives, sub-contractors or his workmen or others while they are in his charge.

On completion of the Works, the Contractor shall hand over the unused balance of the tools, plants and equipment to the Employer in good order and repair, fair wear and tear expected, and shall be responsible for any failure to account for the same or any damage done thereto.

The decision of the Engineer as to the amount recoverable from the Contractor on this account shall be final and binding.

Employer's Materials **4.20**

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

Sheds, Stores, Yards **4.21**

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

Temporary Works **4.22**

All temporary works necessary for the proper execution of the Works shall be provided and maintained by the Contractor at his cost and subject to the consent of the Engineer shall be removed by Contractor at his own expense when they are no longer required and in such manner as the Engineer shall direct. In case the Contractor fails to remove the temporary works on completion the

Engineer is authorized to get the same removed and recover the cost thereof from the Contractor.

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| Unforeseeable Physical Conditions | 4.23 | <p>In this Clause “physical conditions” means natural physical conditions, which the Contractor encounters at Site while executing the Works excluding climatic conditions.</p> <p>If, during the execution of the Works, the Contractor shall encounter physical conditions, which, in his opinion, could not have been reasonably foreseen by an experienced Contractor, the Contractor shall forthwith give written notice thereof to the Engineer and if, in the opinion of the Engineer, such conditions could not have been reasonably foreseen by an experienced Contractor, then the Engineer shall certify and the Employer shall pay reasonable additional cost to which the Contractor shall have been put by reason of such conditions in the following cases:</p> <ol style="list-style-type: none"> a. for complying with any instruction which the Engineer may issue to the Contractor in connection therewith, and b. for any proper and reasonable measures approved by the Engineer which the Contractor may take in the absence of specific instructions from the Engineer, as a result of such conditions or obstructions being encountered. <p>The decision of the Engineer as to the additional cost shall be final and binding.</p> |
| Access for Engineer | 4.24 | <p>The Contractor shall allow at all times the Engineer or the Engineer’s assistant or any other person authorised by the Engineer access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out and to any place where materials or plant are being manufactured, fabricated and/or assembled for the Works. The Contractor shall ensure that sub contracts if any shall contain provisions entitling the Engineer or any person authorised by him to have such access.</p> |
| Access Road and Way Leaves Contractor to keep Site Clear | 4.25
4.26 | <p>Providing access roads/way leaves to the site will be Contractor’s responsibility.</p> <p>During the execution of the Works, the Contractor shall keep the Site free from all unnecessary obstruction, and shall store or dispose of any Contractor’s Equipment or surplus materials. The Contractor shall clear away and remove from the Site any wreckage, rubbish or Temporary Works no longer required.</p> <p>On completion of the works, the Contractor shall clear away and remove from site all Constructional Plant, surplus material and Temporary Works. He should leave the whole of the site and Works in a clean, tidy and workman like condition to the satisfaction of the Engineer.</p> <p>On completion of Work the Contractor shall also clear away the labour camps, hutments and other related installations and restore the land to its original condition to the satisfaction of the Engineer within 45 days of the physical completion of Work. The cost on account of delay in return of land and reinstatement of original condition within the stipulated time as determined by Engineer will be recovered from the Contractor’s dues.</p> <p>No final payment in settlement of the accounts for Works shall be made till, in addition to any other condition necessary for such final payment, site clearance and clearances of labour camps etc. shall have been effected by him. Such clearance may be made by the Engineer through any other agency at the expense of the</p> |

		Contractor in the event of the Contractor's failure to comply with this provision within 7 days after receiving notice to that effect from the Engineer. All expenses on such removal / clearance shall be debit able to the Contractor as loans due from the Contractor to the Employer, and the Employer shall be competent to recover the same from Contractor's on-account or final bills, or from Performance Security amount or from any other amount payable to the Contractor in any other Contract.
Security of the Site	4.27	<p>The Contractor shall be wholly responsible for security of site and Works. Unless otherwise stated in Special Conditions of Contract</p> <p>a the Contractor shall be responsible for keeping unauthorised persons off the Site; and</p> <p>b Authorized persons shall be limited to the Employees of the Contractor, Subcontractor or persons authorized by the Engineer.</p>
Contractor's Operations on Site	4.28	The Contractor shall confine his operations to the Site, and to any additional area which may be provided to the Contractor and agreed by the Engineer as working areas. The Contractor shall take all necessary precautions to keep his personnel and equipment within the Site and such additional areas, and to keep and prohibit them from encroaching on adjacent land.
Discoveries	4.29	All fossils, coins, articles of value or antiquity and structures and other remains or things of geological or archaeological interest, in addition to oil and other minerals discovered on the Site shall be the absolute property of the Government of India and the Contractor shall take all the necessary precautions to prevent its workmen or its sub-contractors' workmen or any other person from removing or damaging any such article or thing and shall immediately upon discovery thereof, acquaint the Engineer of such discovery and carry out the instructions of the Engineer.
Publicity	4.30	The Contractor shall not publish or otherwise circulate alone or in conjunction with any other person, any articles, photographs or other materials relating to the Contract, the Site, the Works, the Project or any part thereof, nor impart to the press, or any radio or television network any information relating thereto, nor allow any representative of the media access to the Site, Contractor's Works Areas, or off-Site place of manufacture, or storage except with the permission, in writing, of the Employer. The Contractor shall ensure that his sub-contractors of any tier shall be bound by a like obligation and shall, if so required by the Employer, enforce the same at his own expense. The provisions of this Sub-Clause shall not exempt the Contractor from complying with any statutory provision in regard to the taking and publication of photographs.
Disclosure of Relationship	4.31	If the Contractor or any partner of the Contractor or Director of the Contractor's company is closely related to any of the Officers of the Employer or the Engineer, or alternatively, if any close relative of an officer of the Employer or the Engineer has financial interest / stake in the Contractor's firm, the same shall be disclosed by the Contractor at the time of filing his tender. Any failure to disclose the interest involved, shall entitle the Employer to rescind the Contract, without payment of any compensation to the Contractor. The Contractor shall note that he is prohibited from developing such interest during the Contract period.
Use of Explosives	4.32	Explosives if required on the Work shall be used by Contractor only with prior Approval of the Engineer and in the manner and to the extent permitted by him. The Contractor shall be responsible for safe upkeep of such explosives in a special magazine as per the law on explosives as well as for taking all the precautions in the

usage of the explosives with proper license and at Contractor's cost, sole risk and responsibility. The Contractor shall hold the Employer harmless and indemnify for the above.

Corrupt or fraudulent practices	4.33	
	4.33.1	<p>The Employer requires that the Tenderers/Contractors observe the highest standards of ethics during Tendering and execution of this Contract. In pursuance with this policy, the Employer:</p> <ul style="list-style-type: none"> a defines, for the purpose of these provisions, the terms set forth below as follows: <ul style="list-style-type: none"> (i) "corrupt practice" means the offering, giving, receiving or soliciting of anything of value to Employer, Engineer or any of their employees, influence in the procurement process or in Contract execution; and (ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a Contract to the detriment of the Employer, and includes collusive practice among Tenderers (prior to or after tender submission) designed to establish tender prices at artificial non-competitive levels and to deprive the Employer of the benefits of free and open competition b Will reject the Tender for the Work or rescind the Contract if the Employer determines that the Tenderer/Contractor has engaged in corrupt or fraudulent practices. c Will declare a Contractor ineligible, either indefinitely or for a stated period of time, to be awarded a Contract/s if he at any time determines that the Contractor has engaged in corrupt or fraudulent practices in competing for, or in executing the Contract.
Compensation to Contractor on rescission of Contract under this clause	4.33.2	<p>In the event of rescission of Contract under Sub-clause 4.33.1, the Contractor shall not be entitled to any compensation whatsoever, except for the work done up to the date of rescission.</p>
Quality Assurance	4.34	<p>Unless otherwise stated in Special Conditions of Contract and/or Employer's Requirement, the Contractor shall institute a quality assurance system to demonstrate compliance with the requirements of the Contract. Such system shall be in accordance with the details stated in the Contract. Compliance with the quality assurance system shall not relieve the Contractor of his duties, obligations or responsibilities.</p> <p>Details of all procedure and compliance documents shall be submitted to the Engineer for his consent before each Design of Temporary works and execution stage is commenced</p>
Work by Persons Other than Contactor	4.35	<p>If the Contractor shall fail to carry out any work required under the Contract or refuse to comply with any instruction or order given by the Engineer in accordance with the Contract within a reasonable time, the Engineer may give the Contractor 14 days' notice in writing to carry out such work or comply with such instruction. If the Contractor fails to comply with such notice, the Employer shall be entitled to carry out such work or instruction by his own workmen or by other contractors in whatever manner the Engineer decides, be it single Tender or limited Tender or open Tender or on entrustment basis without any right of appeal by the contractor. However in case of emergencies/urgencies/affecting safety the period of 14 days notice shall be 24hours notice in</p>

writing. The Classification of work as emergencies/urgencies/affecting safety is the prerogative of Engineer and his decision is final and binding on the contractor. Without prejudice to any other right or remedy, all additional expenditure properly incurred by the Employer in having such work or instruction carried out shall be recoverable by the Employer from the Contractor.

If by reason of any accident or failure or other event occurring to, in, or in connection with the Works any remedial or other work shall, in the opinion of the Engineer, be urgently necessary and the Contractor is unable or unwilling at once to do such remedial or other work, the Engineer may authorize the carrying out of such remedial or other work by a person other than the Contractor. If the remedial or other work so authorized by the Engineer is work, which, in the Engineer's opinion, the Contractor was liable to do under the Contract, all expenses properly incurred in carrying out the same shall be recoverable by the Employer from the Contractor. Provided that the Engineer shall, as soon after the occurrence of any such emergency as may be reasonably practicable, notify the Contractor thereof in writing.

Confidentiality of Information 4.36

The Contractor shall not use or divulge, except for the purpose of the Contract or with the written permission of the Employer, any information relating to the Works or the Project provided in the Contract or otherwise provided by the Employer, or the Engineer. The Contractor shall ensure that his sub-contractors of any tier shall be bound by a like confidentiality undertaking.

The Employer and the Engineer and any third party to whom an assignment has been made in accordance with Sub-clause 2.4 may use any information provided by the Contractor in accordance with the Contract. The Employer shall use reasonable endeavors to ensure that the Engineer and any third party- referred to in aforesaid Sub-Clause 2.4 shall not, divulge such information except for any purpose connected with the Contract

General Obligations

5
5.1

Design of Temporary works

The Contractor Shall Design of Temporary works and provide all necessary specifications for the Works in accordance with the site plans and Employer's requirements. Any Design of Temporary works detail, plan, drawing, specifications, notes, annotations, and information required shall be provided in such sufficient format, details, extent, size and scale and within such time as may be required to ensure effective execution of Works and/or as otherwise required by the Engineer. The Contractor holds himself, and his designers as having the experience and capability necessary for the Design of Temporary works. The Contractor undertakes that the designers shall be available to attend discussions with the Engineer at all reasonable times during the Contract Period. The designer shall be the same entity as proposed by the Contractor at the time of pre-qualification, unless otherwise approved by the Employer. The Contractor shall furnish Designer's Warranty in the format given in schedules to Special Conditions of Contract.

Contractor's warranty of Design of Temporary works

5.2

- a The Contractor shall be fully responsible, for the suitability, adequacy, integrity, durability and practicality of the Contractor's proposal.
- b The Contractor undertakes that the Contractor's Proposals meet the Employer's Requirements and is fit for the purpose thereof. Where there is any inadequacy, insufficiency,

- impracticality or unsuitability in or of the Employer's Requirements or any part thereof, the Contractor's Proposal shall take into account, address or rectify such inadequacy, insufficiency, impracticality or unsuitability at Contractor's own cost.
- c The Contractor undertakes that the Works have been or will be designed, manufactured, installed and otherwise constructed and to the highest standards available using proven up-to-date good practice
 - d The Contractor undertakes that the Works will, when completed, comply with enactments and regulations relevant to the Works
 - e The Contractor undertakes that the Design of Temporary works of the Works and the manufacture of plant have taken or will have taken full account of the effects of the intended manufacturing and installation methods, Temporary Works and Contractor's Equipment. The cost towards proof checking/third party checking, whenever instructed by Employer shall be borne by contractor. Nothing extra is payable.
 - f The Contractor shall also provide a guarantee from the Designer for the Design of Temporary works for suitability, adequacy, practicality of Design of Temporary works for Employer's Requirements
 - g The Contractor shall indemnify the Employer against any damage, expense, liability, loss or claim, which the Employer might incur, sustain or be subject to arising from any breach of the Contractor's Design of Temporary works responsibility and/or warranty set out in this Clause.
 - h The Contractor further specifies and is deemed to have checked and accepted full responsibility for the Contractor's Proposal and warrants absolutely that the same meets the Employer's Requirements:
 - (i) Notwithstanding that such Design of Temporary works may be or have been prepared, developed or issued by the Employer, any of the Contractor's consultants, his sub-contractors and/or his qualified personnel/persons or cause to be prepared, developed or issued by others
 - (ii) Notwithstanding any warranties, guaranties and/or indemnities that may be or may have been submitted by any other person.
 - (iii) Notwithstanding that the same have been accepted by the Engineer

The Contractor shall be fully responsible for the Plants, Materials, goods, workmanship, preparing, developing and coordinating all Design of Temporary works to enable that part of the Works to be constructed and/or to be fully operational in accordance with the Contract's requirements. Apart from the Contractor, the above warranty shall also be applicable for his designer. This warranty shall be a part of his sub contract with the designer and should be made available at the time of signing of the Agreement.

No claim for additional payment or extension of time shall be entertained and/or the Contractor shall not be relieved from any obligation/liability under the Contract, for any delay, suspension, impediment to or adverse effect upon the progress of the Works due to any mistake, inaccuracy, discrepancy or omission in or between the Contractor's, the Definitive Design of Temporary works and the final design, or any failure by the Contractor to

**Construction
and/or Manufacture
Documents** **5.3**

prepare any Design of Temporary works Data or submit the same to the Engineer in due time and the Contractor shall promptly make good any such defect at his own cost.

The Manufacture Documents shall comprise the technical documents specified in the Employer's Requirements, documents required to satisfy all regulatory approvals, documents described in Sub Clause 5.6 (As Built Document). The Contractor shall prepare all Manufacture Documents in sufficient detail and shall also prepare any other document necessary to instruct the Contractor's personnel. The Engineer shall have the right to inspect the preparation of all these documents wherever they are being prepared.

Each of the Construction and/or Manufacture Documents shall, when considered ready for use, be submitted to the Engineer for pre-construction or pre-manufacture review. Unless otherwise stated in Employer's Requirements, each review by the Engineer shall not exceed 21 days, calculated from the date on which the Engineer receives the Manufacture Document.

The Engineer may during the review period, give notice to the Contractor that a Manufacture Document fails (to the extent stated) to comply with the Employer's Requirements, it shall be rectified, resubmitted and reviewed (and if specified, approved) in accordance with this Sub-Clause, at the Contractor's cost.

For each part of the Works, and except to the extent that the prior consent of the Engineer shall have been obtained:

- a In the case of a Construction and/or Manufacture Document which has (as specified) been submitted for the Engineer's approval
 - (i) The Engineer shall give notice to the Contractor that the Construction and/or Manufacture Document is provided with no objection, with or without comments, or that it fails (to the extent stated) to comply with the Contract
 - (ii) Execution of such part of the Works shall not commence until the Engineer has provided with no objection the Construction and/or Manufacture Document; and
 - (iii) The Engineer shall be deemed to have provided with no objection to the Construction and/or Manufacture Document upon the expiry of the review periods for all the Construction and/or Manufacture Documents which are relevant to the Design of Temporary works and execution of such parts, unless the Engineer has previously notified otherwise in accordance with sub-paragraph (i)
- b construction and/or manufacture of such part of the Works shall not commence prior to the expiry of the review of the Construction and/or Manufacture Documents which are relevant to its Design of Temporary works and execution;
- c construction and/or manufacture shall be in accordance with such reviewed (and if specified, approved) Construction and/or Manufacture Documents; and
- d if the Contractor wishes to modify any Design of Temporary works or document which has previously been submitted for such pre-construction and/or pre-manufacture review, the Contractor shall immediately notify the Engineer, and based on Engineer's approval shall subsequently submit revised documents to the Engineer in accordance with the above procedure.

If the Engineer instructs that further Construction and/or Manufacture Documents are necessary for carrying out the Works, the Contractor shall promptly and at Contractor's cost prepare such documents,

Errors omissions, ambiguities, inconsistencies, inadequacies and other defects if found at any stage in construction or any operations manufacture documents, then shall be rectified by the Contractor at his own cost and any approval or consent or review (under this sub-clause or otherwise) by the Employer/Engineer of the Manufacture and Construction Documents under this Sub-clause shall not relieve the Contractor from any obligations or responsibility under the Contract.

Technical Standards and Regulations

5.4

The Design of Temporary works, the Construction and/or Manufacture Documents, the execution and the completed Works (including remedying of defects therein) shall comply with the specifications, technical standards, building construction, safety and environmental regulations and other standards specified in the Employer's Requirements applicable to the Works or defined by the applicable laws and regulations

Samples

5.5

The Contractor shall submit at his own cost the following samples and relevant information to the Engineer for pre-construction and/or pre-manufacture review in accordance with the procedure for Construction and/or Manufacture Documents described in Sub-Clause 5.3:

manufacturer's standard samples of Materials

samples (if any) specified in the Employer's Requirements.

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

As-Built Drawings and Documents

5.6

The Contractor shall prepare, and keep up-to-date, a complete set of "as-built" records of the execution of the Works, showing the exact "as-built" locations, sizes and details of the Works as executed, with cross references to relevant specifications and data sheets. These records shall be kept on the Site and shall be used exclusively for the purposes of this Sub-Clause. Six copies shall be submitted to the Engineer prior to the commencement of the Tests on Completion.

In addition, the Contractor shall prepare and submit to the Engineer "as-built drawings" of the Works, showing all Works as executed. The drawings shall be prepared as the Works proceed, and shall be submitted to the Engineer for his inspection. The Contractor shall obtain the consent of the Engineer as to their size, the referencing system, and other pertinent details.

Prior to the issue of any Taking Over Certificate, the Contractor shall submit to the Engineer one microfiche copy, one full-size original copy and six printed copies of the relevant "as-built drawings", and any further Construction and/or Manufacture Documents specified in the Employer's Requirements.

The contractor shall submit final bills along with 'as built drawings' otherwise, final bills will not be entertained and final bills will be considered as incomplete and returned.

Intellectual Property Rights and Royalties

5.7

The Contractor shall indemnify the Employer and the Engineer from and against all claims and proceedings on account of infringement (or alleged infringement) of any patent rights, registered designs, copyright, design, trademark, trade name, know-how or other intellectual property rights in respect of the Works, the Contractor's Equipment, machines, work method, or Plant, or Materials, or anything whatsoever required for the Works and from and against all claims, demands, proceedings, damages,

costs, charges and expenses whatsoever in respect thereof or in relation thereto. The Contractor shall pay all traffic surcharges and other royalties, licence fees, rent and other payments or compensation, if any, for getting stone, sand, gravel, clay or other materials, machine, process, systems, work methods, or the Contractor's Equipment required for the Works. The Contractor shall, in the event of infringement of Intellectual Property Rights, rectify, modify or replace at his own cost the Works, Plant or materials or anything whatsoever required for the Works so that infringement no more exist or in the alternative shall procure necessary rights/license so that there is no infringement of Intellectual Property Rights.

The Contractor shall be promptly notified of any claim under this Sub- Clause made against the Employer. The Contractor shall, at his cost, conduct negotiations for the settlement of such claim, and any litigation or arbitration that may arise from it. The Employer or the Engineer shall not make any admission which might be prejudicial to the Contractor, unless the Contractor has failed to take over the conduct of the negotiations, litigation or arbitration within a reasonable time after having been so requested. In the event of the Contractor failing to act at the Engineer's notice, the Employer shall be at full liberty to deduct any such amount of pending claim from any amount due to the Contractor under this Contract or any other Contract.

Insofar as the patent, copyright or other intellectual property rights in any Plant, Design Data, plans, calculations, drawings, documents, Materials, know-how and information relating to the Works shall be vested in the Contractor, the Contractor shall grant to the Employer, his successors and assignees a royalty-free, non-exclusive and irrevocable licence to use and reproduce any of the works, designs or inventions incorporated and referred to in such Plant, documents or Materials and any such know-how and information for all purposes relating to the Works (including without limitation the design, manufacture, installation, reconstruction, Testing, commissioning, completion, reinstatement, extension, repair and operation of the Works) for the Employer's own use.

If any patent, registered design or software is developed by the Contractor specifically for the Works, the title thereto shall vest in the Employer and the Contractor shall grant to the Employer a non-exclusive irrevocable and royalty-free licence to use, repair, copy, modify, enhance, adapt and translate in any form such Software for Employer's own use.

If the Contractor uses proprietary software for the purpose of storing or utilising records the Contractor shall obtain at his own expense the grant of a licence or sub-licence to use such software in favour of the Employer and shall pay such licence fee or other payment as the grantor of such licence may require provided that the use of such software under the licence may be restricted to use relating to the Design of Temporary works, construction, reconstruction, manufacture, completion, reinstatement, extension, repair and operation of the Works or any part thereof.

The Contractor's permission referred to above shall be given, inter alia, to enable the Employer to disclose (under conditions of confidentiality satisfactory to the Contractor) programmes and documentation for a third party to undertake the performance of services for the Employer in respect of such programmes and documentation.

If any software is developed under the Contract or used by the

Contractor for the purposes of storing or utilising records over which the Contractor or a third party holds title or other rights, the Contractor shall permit or obtain for the Employer (as the case may require) the right to use and apply that Software free of additional charge (together with any modifications, improvements and developments thereof) for the purpose of the design, manufacture, installation, reconstruction, testing, commissioning, completion, reinstatement, extension, repair, modification or operation of the Works, or any part thereof, or for the purpose of any Dispute.

The Employer reserves the right to use other Software on or in connection with the Works.

Engagement of Staff and Labour

6
6.1

Staff and Labour

The Contractor shall make his own arrangements for the engagement of staff and labour at his own cost. The Contractor shall, if required by the Employer, deliver to the Engineer or to his office, a return in detail, in such form and at such intervals as the Employer may prescribe, showing the number of labour employed in different categories by the Contractor on the Site.

Rates of Wages and Conditions of Labour

6.2

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

The Contractor shall make himself aware of all labour regulations and their impact on the cost and build up the same in the Contract Price. During the Contract Period no extra amount in this regard shall be payable to the Contractor, for whatsoever reason including any revision of rates payable to the labour due to revision of rates payable in Minimum Wages Act.

Labour provided by the Contractor, either directly or through sub-contractors, for the exclusive use of the Employer or the Engineer, shall, for the purpose of this Sub-Clause, be deemed to be employed by the Contractor.

In the event of default being made in the payment of any money in respect of wages of any person employed by the Contractor or any of its sub-contractors of any tier in and for carrying out of this Contract and if a claim therefore is filed in the office of the Labour Authorities and proof thereof is furnished to the satisfaction of the Labour Authorities, the Employer may, failing payment of the said money by the Contractor, make payment of such claim on behalf of the Contractor to the said Labour Authorities and any sums so paid shall be recoverable by the Employer from the Contractor.

“In the event of exceptional situations (mainly arisen due to the contractor inability to deploy adequate resources on the work, on its own) when default being made in the payment by the contractor to his sub-contractors (who are directly fixed by him with prior consent of Engineer/Employer) for carrying out this contract and if a claim is submitted by such sub-contractor(s) to the Employer and proof thereof is furnished to the satisfaction of the Employer, the Employer may, failing payment of the said amount by the contractor, make payment of such claim on behalf of the contractor to the said sub-contractor and any sums so paid shall be recoverable by the Employer from the contractor.

Persons in the service/retired of Employer/ Engineer

6.3

- a) The Contractor shall not recruit or attempt to recruit staff and labour from amongst the Employer and the Engineer’s personnel during the Contract period.
- b) The Contractor either at the tendering stage or during

construction stage will not employ any retired employee of Employer or Engineer of the Employer in any capacity unless such employee has completed at least two years post retirement period or has obtained the no-objection certificate from Employer for being employed with the Contractor. It will be responsibility of the Contractor to collect the Employer's no objection certification from such retired employee and submit the same back to the Employer.

In case of non-compliance of above, in addition to any or several of the courses, referred in Sub-clauses 13.2.1 and 13.2.2 being adopted by the Employer the Contractor on Termination of the Contract for the aforesaid reasons will have no claim whatsoever against the Employer except for actual value of the Work executed till the time of Termination.

Labour Laws	6.4	In dealing with labour and employees, the Contractor and his Sub-Contractors (including piece rate and petty Contractors) shall comply fully with all laws and statutory regulations pertaining to engagement, payment and upkeep of the labour in India.
Working Hours	6.5	The Contractor, generally will have to carry out work during night hours also and in shifts unless specifically provided otherwise in the Contract. No increase in rates or extra payments shall be admissible for night work. The Contractor shall provide adequate lighting and safety arrangements. It is to be noted that the works are being undertaken in an urban area.
Facilities for Staff and Labour	6.6	The Contractor shall provide and maintain all necessary accommodation and welfare facilities as stipulated in the Employer's Requirements for his (and his Sub-contractor's) staff and labour. The Contractor shall also provide the facilities specified in the Employer's Requirements, for the Employer's and Engineer's personnel. All accommodation shall be maintained in a clean and sanitary condition, by the Contractor at his cost.
Health and Safety	6.7	Precaution shall be taken by the Contractor to ensure the health and safety of his staff and labour. The Contractor shall, in collaboration with and to the requirements of the local health authorities, ensure that medical staff, first aid facilities, sick bay and ambulance service are available at the accommodation and on the Site at all times, and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics. The Contractor shall maintain records and make reports concerning health, safety and welfare of persons, and damage to property, as per the Engineer's requirement and will ensure complete compliance with relevant clauses of Employer's Health, Safety and Environment Manual (SHE Manual). The Contractor's Site Safety Plan shall be developed from his Outline Safety Plan as per Employer's Requirements and SHE Manual of the Employer. The Contractor shall appoint a member of his staff at the Site to be responsible for maintaining the safety, and protection against accidents, of personnel on the Site. This person shall be qualified for his work and shall have the authority to issue instructions and take protective measures to prevent accidents.
Contractor's Superintendence	6.8	The Contractor shall provide all necessary superintendence during the Design of Temporary works and execution of the Works, and as long thereafter as the Engineer may consider necessary for the proper fulfilling of the Contractor's obligations under the Contract. Such superintendence shall be provided by sufficient persons having adequate knowledge of the operations to be carried out (including the methods and techniques required, the hazards likely

		to be encountered and methods of preventing accidents) for the satisfactory and safe execution of the Works.
Contractor's Personnel	6.9	The Contractor shall employ (or cause to be employed) only persons who are careful and appropriately qualified, skilled and experienced in their respective trades or occupations. The Engineer may advise or enforce the Contractor to remove (or cause to be removed) any person employed on the Site or Works, including the Contractor's Representative, who in the opinion of the Engineer: <ul style="list-style-type: none"> a. persists in any misconduct, b. is incompetent or negligent in the performance of his duties, c. fails to conform with any provisions of the Contract, or d. persists in any conduct which is prejudicial to safety, health, or the protection of the environment.
Preservation of Peace and orderly conduct.	6.10	
Preservation of Peace and orderly conduct	6.10.1	The Contractor shall be responsible for preservation of peace and orderly conduct at the site and its neighbourhood by Contractor's employees, Representatives, petty contractors, Sub Contractors etc. In case, deployment of a Special Police Force becomes necessary at or near Site, during the tenure of Works, the expenses for the same shall be borne by the Contractor.
	6.10.2	The Contractor shall at all times take all reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or amongst his staff and labour, and to preserve peace and protection of persons and property in the neighbourhood of the Works against such conduct.
Labour to be Contractor's Employee	6.11	If, the Contractor directly or through petty contractors or Sub-Contractors supplies any labour to be used wholly or partly under the direct orders and control of the Engineer or the Employer, whether in connection with any work being executed by the Contractor or otherwise for the purposes of the Employer, such labour shall, for the purpose of this clause, be deemed to be persons employed by the Contractor
Report of Accidents To Labour	6.12	The Contractor shall be responsible for safety of all employees, employed by him on Works, directly or through petty contractors or Sub-Contractors, and shall report accidents to any of them, however, and wherever occurring on Works, to the Engineer and shall make every arrangement to render all possible assistance and to provide prompt and proper medical attention. The compensation for affected Workers or their relatives shall be paid by the Contractor in such cases with utmost expeditious in accordance with the Workmen's Compensation Act.
Claim` on account of violation of Labour laws	6.13	The Contractor shall be solely accountable for violation of any labour law by it, its petty contractors or Sub Contractors and will pay any such claim/damage to the authorities forthwith on demand. If any amount shall, as a result of any instructions, directions or decisions from the Authorities or claim or application made under any of the labour laws or regulations, be directed to be paid by the Employer, such amount shall be deemed to be amount payable to the Employer by the Contractor and he will pay the same to the Employer forthwith on demand, without demur and without asking for any reasons/explanations from the Employer. On failure of the Contractor to repay the Employer any amount paid or to be paid by it as aforesaid within seven days after the same shall have been demanded, the Employer shall be entitled to recover the amount from any amount due or accruing to the Contractor under this or any other Contract with the Employer.

	7	QUALITY CONTROL
Manner of Execution	7.1	All Plant and Materials to be supplied shall be manufactured, and all work to be done shall be executed, in the manner prescribed in the Contract. Where the manner of manufacture and execution is not set out in the Contract, the work shall be executed in a proper, workmanlike and careful manner, with properly equipped facilities and non-hazardous Materials, and in accordance with modern recognized good practice.
Delivery to Site	7.2	The Contractor shall be responsible for procurement, transport, receiving, unloading and safe keeping of all Plant, construction, Materials, Contractor's Equipment and other things required for the completion of the Works.
Inspection	7.3	<p>The Employer and the Engineer shall at all reasonable times</p> <ol style="list-style-type: none"> a. have full access to all parts of the Site and to all places from which natural materials are being obtained, and b. during production, manufacture, fabrication and construction (at the site and elsewhere) be entitled to inspect, examine, measure and test the materials and workmanship, and to check the progress of manufacture, of all Plant and Materials to be supplied under the Contract.
Testing	7.4	<p>The Contractor shall give the Engineer full opportunity to carry out these activities including providing access, facilities, permissions and safety equipment. No such activity/inspection shall relieve the Contractor from any obligation or responsibility.</p> <p>This sub- clause shall apply to all tests specified in the Contract.</p> <p>The Contractor shall provide all documents and other information necessary for all types of testing and such assistance, labour, materials, electricity, fuel, stores, apparatus and instruments as are necessary to carry out such tests efficiently.</p> <p>The Contractor shall agree, with the Engineer, the time and place for the testing of any Plant, Materials and other parts of the Works as specified in the Contract.</p> <p>The Engineer shall give the Contractor not less than 24 hours 'notice of his intention to attend the tests.</p> <p>If the Engineer does not attend at the time and place agreed, or if the Contractor and the Engineer agree that the Engineer shall not attend, the Contractor may proceed with the tests, unless the Engineer instructs the Contractor otherwise. Such tests shall be deemed to have been made in the Engineer's presence.</p> <p>The Contractor shall promptly forward to the Engineer duly certified reports of the tests. If the Engineer has not attended the tests, he shall accept the readings as accurate. When the specified tests have been passed, the Engineer shall endorse the Contractor's test certificate, or issue a certificate to him, to that effect.</p> <p>The expense of conducting such Tests shall be borne by the Contractor. No such testing shall relieve the Contractor from any obligation or responsibility.</p>
Rejection	7.5	If, as a result of inspection, examination or testing, any Plant, Material, Design of Temporary works or workmanships found to be defective or otherwise not in accordance with the Contract, the Engineer may reject the same and by giving notice to the Contractor with reasons. The Contractor shall then promptly make good the

defect and ensure that the rejected item after rectification complies with the Contract.

If the Engineer requires such Plant, Material, Design of Temporary works or workmanship to be retested, the tests shall be repeated under the same terms and conditions. If such rejection and retesting cause the Employer to incur costs, such costs shall be recoverable from the Contractor by the Employer, and may be deducted by the Employer from any amount due, or to become due, to the Contractor.

“If the tests are required to be carried out from the outside laboratory, the Engineer shall decide and approve the laboratory and the sample shall be collected and sealed in presence of the Engineer or his authorised representative. The cost of testing shall be borne by the contractor and nothing extra shall be paid for the expenses incurred on the testing. In the event of variations in the results of in house testing and outside lab testing the decision of Engineer with respect to importance and relevance attached to a particular report and recourse to sort out the dispute arisen because of difference in results shall be final and binding on the contractor”.

Liability after Inspection and Testing	7.6	The Contractor shall not be released from any liability or obligation under the Contract by reason of any such inspection or testing or witnessing of testing, or by the submission of reports of inspection or testing to the Engineer.
Ownership of Plant and Materials	7.7	Each item of Plant and Material shall become the property of the Employer, when it is delivered to Site or payment thereof, either in part or full, has been made. The Contractor shall however continue to bear the risk in respect of such items which continue to remain in his custody.
Cost of Employer's Attendance Including Travel	7.8	The Employer shall bear the costs of attendance including travel, boarding and lodging for the Employer, the Engineer or his assistant for the purposes of Sub-Clauses 7.3 and 7.4 above. The cost of attendance including travel, boarding and lodging for the Employer, Engineer or his assistants for the purpose of Sub-clause 7.5 shall be borne by the Contractor.
Covering up of Works	7.9	

Examination of work before covering up the work already covered up	7.9.1 7.9.2	<p>No work or part of work shall be covered up or put out of view, without the prior approval of the Engineer or the Engineer's Representative.</p> <p>The Contractor shall uncover any part or parts of the Works, or make openings in or through the same, as the Engineer may from time to time direct, and shall reinstate and make good such part or parts, to the satisfaction of the Engineer. If any such part or parts have been covered up, or put out of view after compliance with the requirement of Sub-clause 7.4 and the Works are found to be executed in accordance with the Contract, the expenses of uncovering, making openings in or through, reinstating and making good the same, shall be borne by the Employer, but if the Works are found to be defective, costs shall be borne by the Contractor.</p> <p>In case after completion of a part of the Work, the part of Work is not fully consistent with the Employer's Requirements and there is no way to change the same, in that case, the same (provided it has no implication on safety and operation) shall be accepted only as a Contractor's deemed variation at lower negotiated price.</p> <p>The decision of the Engineer in this regard shall be final and binding on the Contractor.</p>
Tests on Completion Contractor's Obligations	7.10 7.10.1	<p>The Contractor shall carry out the Tests on Completion at his own cost in accordance with the Contract and shall provide the documents in accordance with Sub-Clauses 5.6 and 5.7. The Contractor shall give, to the Engineer, 21days' notice of the date after which the Contractor will be ready to carry out the Tests on Completion. Unless otherwise agreed, such Tests shall be carried out within 14days after this date, on such day or days as the Engineer shall instruct.</p> <p>Unless otherwise stated in Special Conditions of Contract, the Tests on Completion shall be carried out in the following sequence</p> <ul style="list-style-type: none"> (a) pre-commissioning test, which shall include appropriate instructions and ("dry" or "cold") functional tests to demonstrate that each item of the Plant and Work can safely undertake the next stage (b) Commissioning Test shall include the specified operational tests to demonstrate Works or Sections can have operated safely and as specified under all available operating condition (c) trial operation which shall demonstrate that the Works or Section perform reliably and in accordance with the Contract <p>The Contractor at his own cost shall arrange all tools, equipment, gadgets, facilities or as deemed necessary by the Engineer for such tests, in considering the results of the Tests on Completion, the Engineer shall make allowances for the effect of any use of the Works by the Employer on the performance or other characteristics of the Works. As soon as the Works, or a Section, have passed the Tests on Completion described in sub-paragraphs (a), (b) or (c), the Contractor shall provide the Engineer and the Employer with a certified report of the results of all such Tests.</p>
Delayed Tests	7.10.2	<p>If the Engineer opines that Tests on Completion are being unduly delayed by the Contractor, the Engineer may by notice require the Contractor to carry out such Tests within 21days after the receipt of</p>

		the notice. The Contractor shall carry out such Tests on such day or days as the Contractor may fix and of which he shall give notice to the Engineer.
		If the Contractor fails to carry out the Tests on Completion within 21days, the Engineer may proceed with such Tests at the risk and cost of the Contractor. The Tests on Completion then shall be deemed to have been carried out in the presence of the Contractor and the results of such Tests shall be accepted as accurate.
Retesting	7.10.3	If the Works, or a part thereof, or a Section, fail to pass the Tests on Completion, Sub-Clause 7.5 "Rejection" shall apply, and the Engineer or the Contractor may require such failed Tests and the Tests on Completion on any related work, to be repeated under the same terms and conditions at Contractor's cost. Cost of Employer's attendance shall be governed by clause 7.8 above.
Failure to Pass Tests on Completion	7.10.4	<p>If the Works, or a part thereof, or a Section, fail to pass the Tests on Completion repeated under Sub-Clause 7.10.3, the Engineer shall be entitled to:</p> <ul style="list-style-type: none"> (a) order further repetition of Tests on Completion under Sub-Clause 7.10.3; (b) reject the Works, or a part thereof, or a Section (as the case may be), in which event the Employer shall have the same remedies against the Contractor as are provided under Clause 13; or (c) issue a Taking Over Certificate if the Employer so requires. The Contract Price shall then be reduced by such amount as determined by the Engineer and as shall be appropriate to cover the reduced value to the Employer as a result of this failure. The Contractor shall then proceed in accordance with his other obligations under the Contract.
Integrated testing and system commissioning	7.11	
Integrated Testing	7.11.1	Tests on Completion shall also include Integrated Testing. The Contractor shall, following satisfactory completion of tests on his works, equipment, sub-systems or system, perform, at the direction of the Engineer, programme of tests to verify and confirm the compatibility and complete performance of his works, equipment, sub-systems or system with the works, equipment, sub-systems or system provided by others.
Compilation of Test Results	7.11.2	The results of the Integrated Testing and Commissioning shall be compiled and evaluated by the Engineer and the Contractor.
Retesting	7.11.3	If the Works, or a part thereof, or a Section, fail to pass the Integrated Testing and Commissioning, the Engineer may order such failed tests to be repeated with the same terms and conditions. If such failure and retesting result from a default of the Contractor and cause the Employer to incur costs, the same shall be recoverable from the Contractor by the Employer, and may be deducted by the Employer from any amount due, or to become due, to the Contractor.
Failure to Pass Test	7.11.4	If the Works, or a part thereof, or a Section, fail to pass Integrated Testing and Commissioning and the Contractor in consequence proposes to make any adjustment or modification to the Works or a part thereof, or a section, the Engineer may, with the approval of the Employer, instruct the Contractor to carry out such adjustment or modification, at his own cost and to satisfy the requirements of Integrated Testing and Commissioning within such time as the

Employer/Engineer may deem to be reasonable.

Statutory Requirements	7.11.5	The Contractor shall carry out all statutory tests and trials, under the supervision of the Engineer, necessary for obtaining sanction of the competent authority for opening the system for public carriage of passengers as mentioned in the Special Conditions of Contract.
	8	Commencement, Completion and Delay
Commencement of Works	8.1	The Contractor shall commence the Works on the date specified in the Letter of Acceptance or if no date is specified in the Letter of Acceptance, on the date specified in the Notice to Proceed. Thereafter the Contractor shall proceed with due diligence, without delay, and in accordance with the programme or any revised or modified programme of the Works. Time is the essence of Contract and time for Completion shall run from the date the Contractor is to commence the Works under this Clause. The Contractor shall not commence the construction, manufacture or installation of the Works or of any part of the Works unless and until the Engineer has endorsed the relevant Working Drawings in accordance with the Employer's Requirements.
Time for Completion	8.2	Time is the essence of Contract and will remain so at all times during the pendency of the Contract including the extended period of Contract. The Contractor shall ensure defect free completion and have passed the tests on Completion, including Integrated Testing and Commissioning of the whole of the Works and/or parts thereof before the same is taken over by the Employer.
Delay	8.3	In case of delay on the part of the Contractor, the Contractor shall be liable to pay liquidated damages and any other compensation for the damages suffered by the Employer as per Clause 8.5. This is without prejudice to the right of the Employer to rescind the Contract. Failure or delay by the Employer or the Engineer, to hand over to the Contractor the Site necessary for execution of Works, or any part of the Works, or to give necessary notice to commence the Works, or to provide necessary Drawings or instructions or clarifications or to supply any material, plant or machinery, which under the Contract, is the responsibility of the Employer, shall in no way affect or vitiate the Contract or alter the character thereof, or entitle the Contractor to damages or compensation thereof but in any such case, the Engineer shall extend the time period for the completion of the Contract, as in his opinion is / are reasonable.
Extension of Time for Completion	8.4	
Extension of Time	8.4.1	The Contractor may apply for an extension of the Time for Completion if the Work is or will be delayed either before or after the Time for Completion by any of the following causes: <ul style="list-style-type: none"> a. "Force Majeure" referred to in Clause 16.0 b. The Contractor's work held up for not being given possession of or access to the Site in accordance with the Contract c. Instruction of the Engineer to suspend the Works and the Contractor not being in default as to reasons of suspension. d. Acts or omissions of other Designated Contractors in executing work not forming part of this Contract and on whose performance, the performance of the Contractor necessarily depends. e. Any act of prevention or Breach of the Contract by the Employer and not mentioned in this Clause f. Any order of Court restraining the performance of the

Contract in full or in any part thereof and the Contractor not being in default as to reason of such order of count.

- g. Any other event or occurrence which, according to the Employer is not due to the Contractor's failure or fault, and is beyond his control without Employer being responsible for the same.
- h. An Employer's Variation.

In the event of any failure or delay by the Employer 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 Employer due to any other cause due 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 damage or compensation there for but in any case, the Employer may grant such extensions of the completion date as may be considered reasonable.

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

- a. the failure of sub-contractor, to commence or to carry out work in due time,
- b. non-availability, or shortage of Contractor's equipment, labour, utility services, Plant and Materials,
- c. inclement weather conditions, and
- d. the Contractor not fulfilling his obligations under Sub-Clause 4.4.

If the Contractor considers himself to be entitled to an extension of time for Completion, he shall give notice to the Engineer of such intention as soon as possible and in any event within 28 days of the start of the event giving rise to the delay and full and final supporting details of his application within 21 days of the last day of delay, together with any notice required by the Contract and relevant to such Clause. If the cause of delay continued for a period exceeding 7 days, the Contractor shall submit interim details at intervals of not more than 28 days (from the first day of such delays).

The Engineer shall proceed in accordance with Sub-Clause 3.5 to agree or determine either prospectively or retrospectively such extension of the Time for Completion as may be due. The Engineer shall notify the Contractor accordingly.

Extension of time for completion for other reasons

8.4.2

The Contractor shall not be entitled to an extension of time by reason of any delay to any activity in carrying out of the Works unless in the opinion of the Engineer such delay results in or may be expected to result in a delay to completion of the Works, or achievement of any Stage by the relevant Key Date. Whether or not the Contractor fails to achieve any Milestone by reason of any delay shall not by itself be material to the Contractor's entitlement to an extension of time.

Any extension to a Key Date shall not by itself entitle the Contractor to an extension to any other Key Date and the Time for Completion.

Extension of time for delays due to Contractor

8.4.3

If the delay in the completion of the whole Works or a portion of the Works, for which an earlier completion period is stipulated, is due to the Contractor's failure or fault, and the Engineer is of the view that the remaining Works or the portions of Works can be completed by the Contractor in a reasonable and acceptable short

time, then, the Engineer may allow the Contractor extension or further extension of time at its discretion with or without liquidated damages, for completion, as he may decide. Engineer/Employer may also consider levy of token penalty as based on the merit of the case.

**Liquidated
Damages for Delay**

8.5

Time is the essence of the Contract. Contract Data shall include in respect of the Works and in respect of any Stage, a percentage of the total contract value which will be recoverable from the Contractor as liquidated damages for each day/week of delay in completion of the Works or in achievement of a stage by a particular Key Date. The total amount of liquidated damages in respect of the Works in all stages shall, however, not exceed the limit of liquidated damages stated in the Contract Data. The aforesaid liquidated damages do not, however, include the sums payable by the Employer to Designated Contractors on account of delay caused by the Contractor to Designated Contractors which sums shall be recoverable from the Contractor in addition to any liquidated damages payable under this clause, the total ceiling limit of which is 15% (10% is direct LD and 5% is losses incurred due to delay for the Designated Contractors) of Contract Price including Liquidated Damages levied under the provisions as mentioned in Contract Data. The liquidated damages are recovered by the Employer from the Contractor for delay and not as penalty.

The Employer may, without prejudice to any other method of recovery, deduct the amount of such damages from any amount due, or to become due, to the Contractor. In the event of an extension of time being granted under Sub- Clause 8.4, the amount due under this Sub-Clause shall be recalculated accordingly, and any overpayment refunded. The payment or deduction of such damages shall not relieve the Contractor or from his obligations to complete the Works, or from any other of his duties, obligations or responsibilities under the Contract. The liquidated damages shall be recovered as specified in Contract Data. The Contractor shall use and continue to use his best endeavours to avoid or reduce further delay to the Works, or any relevant Stages.

At any time after the Employer has become entitled to liquidated damages, the Engineer may give notice to the Contractor under Sub- Clause 13.1, requiring the Contractor to complete the Works within a specified reasonable time. Such action shall not prejudice the Employer's entitlements to recovery of liquidated damages, under this Sub-Clause and to terminate under Sub- Clause 13.2.

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

Rate of Progress

8.6

If for any reason which does not entitle the Contractor to an extension of time, the rate of progress of the Works is at any time, in the opinion of the Engineer, too slow to ensure timely completion of the Works or achievement of any Stage by the relevant Key Date the Engineer may so notify the Contractor in writing. The Contractor shall thereupon take such steps as are necessary, or in default of taking such steps, shall take such steps as the Engineer may reasonably instruct in writing, to expedite progress so as to complete the Works or any Section in time or achieve any Stage by the relevant Key Date. The Contractor shall not be entitled to any additional payment for taking such steps.

If any steps taken by the Contractor in meeting his obligations under this Sub- Clause cause the Employer to incur additional

costs, such costs shall be recoverable from the Contractor by the Employer, and shall be deducted by the Employer from any amount due, or to become due to the Contractor.

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|-----------------------------------|------------|---|
| Suspension of Work | 8.7 | The Engineer may at any time instruct the Contractor to suspend progress of part or all of the Works stating the grounds for such action. During suspension, the Contractor shall protect, store and secure such part or whole of the Works against any deterioration, loss or damage. |
| Consequences of Suspension | 8.8 | <p>The Contractor shall not be entitled to extra cost (if any), incurred by him, during the period of suspension of Work, if such suspension is</p> <ul style="list-style-type: none">a. provided for in the Contract, orb. necessary for proper execution of Works or by reasons of weather condition or by some default on the part of the Contractor, orc. necessary for the safety of Works or any part thereof ord. necessary for the safety of adjoining public or other property or safety of the public or workmen or those who have to be at the site ore. to ensure safety and to avoid disruption of traffic and utilities, as also to permit fast repairs and restoration of any damaged utilities, |

If suspension is ordered by the Engineer for reasons other than those mentioned in Sub Clause 8.8 then the Contractor's entitlement are in the table below. However, Engineer's decision is final and binding in regard to defining suspension and specifying the suspension period. Contractor has no right to claim or appeal against this decision.

Sr. No.	Suspension Period	Extension of Time	Compensation for the suspension period	Remarks
1	Up to 14 days	NO	NO	Engineer may give extension of time in exceptional circumstances
2	15 – 30 days	YES	NO	Extension of time as considered proper by the Engineer
3	Above 30 days	YES	<input type="checkbox"/> As per Daily rate of wages for idle labour/employees <input type="checkbox"/> 70% of the rate for hire charges for idle plant and machinery (excluding cost of fuel and lubricants) <input type="checkbox"/> 15% above all these items to cover overhead costs	Compensation as assessed by the Engineer on submission of documentary proof by the Contractor to Engineer's satisfaction
4	Above 90 days	NO	As per Clause no. 13.3.4	Contractor may ask for closure of the Contract, or deletion from the Contract of that part of Works which has been suspended

Resumption of Work

8.9

After receipt of permission or of an instruction to proceed, the Contractor shall, after notice to the Engineer, and together with the Engineer, examine the Works, Plant and Materials affected by the suspension. The Contractor shall make good any deterioration or defect in or loss of the Works, Plant and Materials, which has occurred during the suspension.

9

Handing over by Contractor and Taking over by Employer.

Taking Over Certificate

9.1

The Civil works shall be taken over by the designated Contractor from the Civil works Contractor, when they have been completed in

accordance with the Contract, have passed the Tests on Completion (Ex: testing of girders). The Taking Over Certificate for the Works will be issued by the Engineer/Employer.

The System Works shall be taken over by the designated Contractor/Engineer/Employer from the Contractor when they have been completed in accordance with the Contract, have passed the Tests on Completion, including Integrated Testing and Commissioning. The Taking Over Certificate for the Works will be issued by the Engineer/Employer.

If the Works are divided into Sections, the Contractor shall be entitled to apply for a Taking Over Certificate for each Section.

The Contractor may apply by notice to the Engineer for a Taking-Over-Certificate not earlier than 14 days before the works or section (as the case may be) will, in the Contractor's opinion, be complete and ready for taking over. The Engineer shall, within 28 days after the receipt of the Contractor's application:

- (a) issue the Taking Over Certificate to the Contractor, stating the date on which the Works or Section were completed, including the Tests on Completion and Integrated Testing and Commissioning, in accordance with the Contract as specified in the Special Conditions of Contract (except for minor outstanding work that does not affect the use and safety of the Works or Section for their intended purposes); or
- (b) reject the application, giving his reasons and specifying the work required to be done by the Contractor to enable the Taking Over Certificate to be issued. The Contractor shall then complete such work before issuing a further notice under this Sub-Clause.

**Taking over of
Parts of the Works**

9.2

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

If the Employer uses any part of the Works for revenue service before the Taking Over Certificate is issued:

- (a) The part which is used shall be deemed to have been taken over at the date on which it is used, subject to the Contractor completing the works which remain outstanding in the opinion of the Employer;
- (b) The Engineer shall, when requested by the Contractor, issue a Taking Over Certificate after the Contractor has completed the outstanding Works and has carried out Tests on Completion, including Integrated Testing; and
- (c) The Contractor shall cease to be liable for the care of such part from such date, when responsibility shall pass to the Employer.

**Completion of
Outstanding Work
and Remedying
Defects**

**10
10.1**

Defects Liability

"Defects Liability Period" shall mean the defects liability period stated in the Special Conditions of Contract calculated from the date of taking over of whole of the Works and not any sub-section or part thereof. Provided that, if any part of the Works or sub-systems or component of that part has been replaced, renewed or repaired, the "Defects Liability Period" in respect of that part or sub-system or components of that part shall start from the date of such replacement, renewal or repair has been completed to the satisfaction of the Engineer.

The Contractor shall remedy, at no extra cost to the Employer, the defect or failure (fair wear and tear excluded) after any part of the Work are taken over by the Employer until the end of Defects Liability Period.

In order that the Construction and/or Manufacture Documents and the Works shall be in the condition required by the Contract (fair wear and tear excepted) at, or as soon as practicable after the expiry of the Contract Period, the Contractor shall:

- (a) Complete any work which is outstanding on the dates stated in a Taking Over Certificate, as soon as practicable after such date, and
- (b) Execute all such work of amendment, reconstruction, and remedying defects or damage, as may be instructed in writing by the Employer or the Engineer during the Contract Period.

Cost of Remedying Defects 10.2

All work referred to in Sub-Clause 10.1(b) shall be executed by the Contractor at his own cost, if the necessity for such work is due to:

- (a) The Design of Temporary works
- (b) Plant, Materials or workmanship not being in accordance with the Contract; or
- (c) Failure by the Contractor to comply with any of his other obligations.

If in the opinion of the Engineer, such necessity is due to any other cause, he shall determine an adjustment to the Contract Price, with the approval of the Employer, and shall notify the Contractor accordingly. In this event, Sub-Clause 12.3 shall apply to such work. The Defect Liability Period shall be extended by a period, after the Works are taken over, during which the Works or any Section or item of Plant, cannot be used, for the purposes for which they are intended, by reason of a defect or damage.

Extension of Defect Liability Period 10.3

When delivery of Plant, and/or Materials, or erection of Plant, or installation of Materials, has been suspended under Sub-Clause 8.7, the Contractor's obligations under this Sub-Clause shall not apply to any defects or damage occurring more than three years after the Plant and/or Materials would otherwise have been delivered, erected and taken over.

Failure to Remedy Defects 10.4

If the Contractor fails to remedy any defect or damage within such time as the Employer/Engineer may deem to be reasonable, the Employer or the Engineer may fix a date on or by which to remedy the defect or damage, and give the Contractor reasonable notice of such date. If the Contractor fails to remedy the defect or damage by such date and the necessity for such work is due to a cause stated in Sub-Clause 10.2(a),(b) or (c), the Employer may in his sole discretion:

- (a) Carry out the work himself or by others, in a reasonable manner by any means/method of procurement of goods and services at the Contractor's risk and cost, but the Contractor shall have no responsibility for such work: the costs incurred by the Employer in remedying the defect or damage shall be recoverable from the Contractor by the Employer;
- (b) Require the Engineer to determine and certify a reasonable reduction in the Contract Price; or
- (c) If the defect or damage is such that the Employer has been deprived of substantially the whole of the benefit to the Works or parts of the Works, terminate the Contract in respect of such parts of the Works as cannot be put to the intended use, the Employer shall then be entitled to recover

all sums paid for such parts of the Works together with the cost of dismantling the same, clearing the Site and returning Plant and Materials to the Contractor, and Sub-Clause 13.1 shall not apply.

Removal of Defective Work	10.5	If the defect or damage is such that it cannot be remedied expeditiously on the Site and if the Employer gives consent, the Contractor may, remove from the Site for the purposes of repair any part of the Works, which is defective or damaged. This consent may require the Contractor to increase the amount of Performance Security by the full replacement cost of these items or to provide other appropriate security acceptable to the Employer.
Further Tests	10.6	If the remedying of any defect or damage is such that it may affect the performance of the Works, the Engineer may require that Tests on Completion, including Integrated Testing, be repeated to the extent necessary. The requirement shall be made by notice within 28 days after the defect or damage is remedied. Such Tests shall be carried out in accordance with Sub Clause 7.10 and 7.11.
Right of Access	10.7	Until the Performance Certificate has been issued, the Contractor shall have the right of access to all parts of the Works and to records of the working and performance of the Works, except as may be inconsistent with any reasonable security restrictions by the organisation responsible for operating the Works.
Contractor to Search	10.8	The Contractor shall, if required by the Engineer, search for the cause of any defect, under the direction of the Engineer. Unless the defect is one for which the Contractor is liable, the Cost of such search shall be added to the Contract Price.
Performance Certificate	10.9	The Performance Certificate shall be issued by the Employer on recommendation of Engineer on taking over of the whole of the Works. The approximate time required is about two months from the date of taking over certificate.
Unfulfilled Obligations	10.10	After the Performance Certificate has been signed by the Employer and delivered to the Contractor, stating the date on which the Contractor completed his obligations to the Engineer's satisfaction, the Contract shall be considered to be complete. However, the Contractor and the Employer shall remain liable for the fulfilment of any obligation, which remains unperformed at that time. For the purposes of determining the nature and extent of any such obligation, the Contract shall be deemed to remain in force.
Emergency defect rectification	10.11	If any defect or damage is one requiring immediate attention from safety, environmental or operational viewpoint, the Engineer has the authority to proceed with rectification in any manner suitable and deduct such sums from the Contract Price.
The Contract Price	11	Contract Price and Payment
	11.1	
	11.1.1	Unless otherwise stated in the Special Conditions of Contract, the Contract Price shall be accepted BOQ rates and amount subject to any adjustment thereto in accordance with the Contract. The Contract price shall be inclusive of all taxes, levies, duties, royalties and other charges leviable and payable to the authorities.
		The Contract price shall not be adjusted in respect of any increase or decrease of cost to the contractor in carrying out the work by reason including of;
		1) an alteration in the rates of wages or allowances payable to labour or a change in the conditions of employment thereof;
		2) a change in the cost of materials (whether for the permanent or temporary works), consumables stores, fuel or power;

- 3) a variation in the rates of freight or insurance;
- 4) variation in the incidence of landing charges;
- 5) a variation in the cost of any other matter or thing of whatsoever nature except as stated in Special Conditions of Contract.

Nothing extra shall be payable over the quoted rates, notwithstanding any provision to the contrary in any law for the time being in force, save and except what is specifically provided in General or Special Conditions of Contract.

- 11.1.2** The Contract Price shall not be adjusted to take into account any increase or decrease in cost resulting from any change in taxes, duties, levies from the last date of submission of the Tender to the completion date including the date of the extended period of Contract unless a contrary provision exists in Special Conditions of Contract.

Advance Payments 11.2

- Mobilisation Advance 11.2.1** The Employer shall pay mobilisation advance as specified in **Contract Data** and Special Conditions of Contract. Mobilisation advance shall be payable against acceptable Bank Guarantee of an amount of 110% of the advance admissible from an Indian Schedule bank (excluding Cooperative Banks) or from a schedule Foreign Bank as defined in Section 2(e) of RBI Act 1934 read with Second Schedule payable at KOCHI. The requisite Bank Guarantee shall be accompanied with the Contractor's written request for mobilisation advance. Such bank Guarantee shall remain effective until the mobilisation advance has been repaid but its amount can be reduced at six monthly intervals upon request of the Contractor by the amount recovered by the Employer. .

- Advance against Plant and Machinery 11.2.2** Unless otherwise specified in the Special Conditions of Contract, Plant and machinery advance shall not be paid.

- Advance against Materials 11.2.3** Unless otherwise specified in the Special Conditions of Contract, Material advance shall not be paid.

- Written Request for Advances 11.2.4** Special advances, etc. may be considered by the Employer in the interest of expediting progress/completion of works. Special condition shall govern the same. All advances shall have Bank Guarantees supporting the advance plus 10% extra. i.e., the BG shall be for an amount of 110% of the advance sanctioned with suitable validity period.

Part payment against material supply shall be supported by Indemnity Bond and Insurance against theft, fire, deterioration and arson.

Advances as admissible, shall be payable only on Contractor's written request to the Employer.

- Recovery of Advances 11.2.5** The Commencement and the period of recovery of advance shall be as specified in the Special Conditions of Contract.

The Contractor shall always have the option to have the recoveries commenced and/or completed earlier, and/or to have recoveries affected in statements of higher amount and also to repay part or whole of the advance by direct payment rather than through interim payments.

- Interest in Case of 11.2.6 Deleted.**

**Delay in
Repayment of
Advances**

**Advances to be
Used only for This
Work.**

11.2.7

The advances shall be used by the Contractor strictly for the purpose of the Contract, and for the purpose for which they are paid. Under no circumstances, shall the advances be diverted for other purposes. Any such diversion shall be construed as a breach of the Contract and the Contractor shall be asked to return the advance at once and pay interest at 18% per annum till the advance is recovered back from him. The Contractor shall return the advance and pay the interests in one go without demur.

The Employer retains the right for any other remedy prescribed for breach of Contract in this regard.

The Contractor, if required by the Employer shall provide the details of Mobilization advance expended or to be expended.

**Issue of Interim
Payment
Certificates**

11.3

No amount will be certified or paid until the Employer has received, and approved, the Performance Security and signing of the Contract Agreement. Thereafter, the Engineer shall, within 21 days of receiving a statement and supporting documents, deliver to the Employer, with a copy to the Contractor, an Interim Payment Certificate showing the amount which the Engineer considers to be due; if no payment is considered to be due, the Engineer shall promptly notify the Contractor accordingly.

Where only a part of the payment applied for is disputed, payment certificate shall be issued for the undisputed amount.

The Engineer shall have the power to omit from any of the contractor's requests for payment the value of any work executed or Materials supplied or services rendered, with which he may for the time being be dissatisfied and for that purpose and for any other reason which to him may seem proper, may delete, correct or modify the sum(s) previously certified by him as being due to the Contractor.

**Payment- Interim
and Final**

11.4

Unless otherwise stated in Special Conditions of Contract,

(a) After scrutiny and certification by the Engineer, payment of the certified interim amount of 80% bill shall be made by the Employer within 4 working days and 20% bill within 12 working days (if the Interim Payment Certificate is received in forenoon) from the date of submission of Interim Payment Certificate by the Engineer.

(b) The contractor to submit final bills along with 'as built drawings' otherwise, final bills will not be entertained and final bills will be considered as incomplete and returned. The Employer shall pay the amount certified in the Final Payment Certificate within 56 days from the date of issue of the Final Payment Certificate.

(c) The Price Variation bills to be segregated from IPC's. The Price Variation bills shall be processed separately and payment shall be released only after detailed check. Payment made against any item doesn't necessarily mean acceptance are hundred percent with respect to quality of construction (as defects could arise later on), tests to be done may not have been undertaken due to whatever reason before release of payment.

Payments shall be made into the designated bank account(s) of the Contractor only in a bank unless otherwise permitted in Special Conditions of Contract.

Retention Money

11.5

Retention money equal to 5 percent of the amount due to the Contractor in running bills from time to time will be retained, so as

to maintain a reserve in the hands of the Employer equal to 5 percent of the Contract Price in respective currencies. Alternatively, the contractor may submit Bank Guarantee, in an acceptable form, equal to 5 per cent of the Contract Price as retention money at the beginning of contract period. This Bank Guarantee should be made valid at least for a period of one year beyond the date of completion of the contract and should be extended, as and when required by the Employer. **The Contractor has to exercise this option at the time of tender submittal itself. This option should be exercised in Technical Proposal.**

The Retention money shall be held by the Employer without obligation to invest them or account for interest thereon or to place them in a designated account. No interest of whatsoever nature and type will be paid to the Contractor by the Employer in respect of Retention money.

The Employer shall at six monthly intervals release 75% of retention money by submission of Bank Guarantee (BG to be submitted by each member of consortium/JV in proportion to their participation) of like amount in respective currencies as per format given in schedule to the Special Conditions of Contract and issued by an Indian Schedule bank (excluding Cooperative Banks) or from a schedule Foreign Bank as defined in Section 2(e) of RBI Act 1934 read with Second Schedule.

The remaining 25% of retention money shall remain with the employer.

50% of the Retention money (Bank Guarantees and/or money) shall become due to the Contractor on the date of issue of the Taking Over Certificate for the whole of the works or the date of issue of last Taking over Certificate, if more than one Taking Over Certificate exist.

25% of the Retention money (Bank Guarantees and/or money) shall become due to the Contractor on the date of issue of the Performance Certificate and the balance 25% shall become due to the Contractor upon the issue of Final Payment Certificate by the Engineer.

When contract amount exceeds the contract price due to variation in quantities of certain BOQ items on the higher side or due to operation of additional non tendered items as per site requirement, the additional retention money at 5% of the increased amount shall be recovered from Interim Payment bills. The additional retention Money recovery shall start when the actual cumulative payment exceeds the original Contract Price. The contractor will also have an option to submit the additional retention money in the form of Bank Guarantee, in an acceptable form, instead of recovery from the Interim Payment Bill and the BG should be made available along with the Interim Payment Bill. This BG should be made available up to one year beyond completion of contract.

All Retention Money BGs shall be valid at least for a period of one year beyond the date of completion of the contract, to be suitably extended as needed at contractors cost.

Wherever Bank Guarantee or any other instrument is to be extended or fresh BG to be obtained, the cost towards getting extension of BG or fresh BG will be on contractor's account.

The Contractor should submit all claims (if any) before the release of final/third stage of retention money.

No new claims on whatsoever account shall be entertained on release of final stage of retention money.

No interest will be payable upon the Earnest Money and

Security Deposit or amounts payable to the Contractor under the Contract.

Statement at Completion	11.6	<p>Not later than 60 days after the issue of the Taking Over Certificate for the whole of Works, the Contractor shall submit, to the Engineer, six copies of a statement of completion with supporting documents, showing in detail, in the form approved by the Engineer under Sub-Clause 11.3:</p> <ul style="list-style-type: none"> (a) the final value of all work done in accordance with the Contract, up to the date stated in such Taking Over Certificate, (b) any further sums which the Contractor considers to be due, and (c) an estimate of amounts which the Contractor considers will become due to him under the Contract. (d) As built drawings (e) Qualified No Claim Certificate (QNCC) in standard form <p>The estimated amounts shall be shown separately in such statement at completion. The Engineer shall certify payment under Sub-Clause 11.4.</p>
Application for Final Payment Certificate	11.7	<p>Not later than 60 days after the issue of the Performance Certificate, the Contractor shall submit to the Engineer six copies of a draft final statement with supporting documents showing in detail, in a form approved by the Engineer:</p> <ul style="list-style-type: none"> (a) the value of all work done in accordance with the Contract, and (b) any further sums which the Contractor considers to be due to him under the Contract or otherwise. <p>If the Engineer disagrees with or cannot verify any part of the draft final statement, the Contractor shall submit such further information as the Engineer may reasonably require and shall make changes in the draft as may be agreed between them. The Contractor shall then prepare and submit to the Engineer the Final Statement as agreed.</p> <p>If, following discussions between the Engineer and the Contractor and any changes to the draft final statement which may be agreed between them, it becomes evident that a dispute exists, the Employer shall pay those parts of the draft final statement as certified by the Engineer as not being in dispute. The remainder of the dispute may then be resolved under Clause 17, in which case the Contractor shall then prepare and submit to the Engineer a Final Statement in accordance with the outcome of the dispute.</p>
Discharge	11.8	<p>When submitting the final statement, the Contractor shall submit a written discharge which confirms that the total of the Final Statement represents full and final settlement of all amounts due to the Contractor under the Contract. Such discharge may state that it shall become effective only after payment due under the Final Payment Certificate has been made and the Performance security referred to in Sub-Clause 4.2 has been returned to the Contractor.</p>
Issue of Final Payment Certificate	11.9	<p>The Engineer shall issue to the Employer, with a copy to the Contractor, the Final Payment Certificate within 28 days after receiving the Final Statement and written discharge in accordance with Sub-Clause 11.8 and 11.9, stating:</p> <ul style="list-style-type: none"> (a) the amount which is finally due, and (b) after giving credit to the Employer for all amounts previously paid by the Employer and for all sums to which the

Employer is entitled, the balance, if any, due from the Employer to the Contractor or from the Contractor to the Employer, as the case may be.

If the Contractor has not applied for a Final Payment Certificate in accordance with Sub-Clauses 11.8 and 11.9, the Engineer shall request the Contractor to do so. If the Contractor fails to make such an application within a period of 28 days, the Engineer shall issue the Final Payment Certificate for such amount as he considers to be due.

The approximate time required to issue the Final Payment Certificate is about three months from the date of issue of performance certificate and it works out to about five months from the date of taking over of whole of the works.

Cessation of Employer's Liability	11.10	In respect of any matter or thing arising out of (or in connection with) the Contract or execution of the Works before the issue of the Taking Over Certificate for the whole of the Works, the Employer shall not be liable to the Contractor unless the Contractor shall have included a claim for it in his Statement at Completion described in Sub-Clause 11.7. For any such matter or thing arising after the issue of the Taking Over Certificate for the whole of the Works, the Employer shall not be liable to the Contractor unless the Contractor shall have included a claim for it in his Final Statement.
Calculation of Payments in Foreign Currency	11.11	All payments made by the Employer pursuant to the terms of the Contract shall be in the currency or currencies specified in the Contract. Wherever any sum in a foreign currency has to be converted into Indian Rupees for bid evaluation, the exchange rate to be employed for such conversion shall be the selling rate of exchange at the close of business of the State Bank of India 14 days before the latest date of submission of Tenders.
Round off	11.12	In every payment to the Contractor, sums of less than fifty paise shall be omitted and sums of fifty paise and more up to one rupee shall be reckoned as one rupee.
Payment By Cheque and E-Payment	11.13	All payments to the Contractor will be made generally by RTGS (Real Time Gross Settlement) or NEFT (National Electronic Funds Transfer).
Tax Deduction at Source	11.14	Tax deductions will be made at source as per statutory requirement from every payment made to the Contractor at rates notified from time to time.
Production of Vouchers	11.15	<p>(I) The Contractor shall, whenever required by the Engineer, produce or cause to be produced for examination by the Engineer, any quotation, invoice, cost or other account books, vouchers, receipts, letters, memoranda or any copy of or extract from any such documents and also furnish information and returns, as may be required, relating to the execution of this Contract or relevant for verifying or ascertaining the cost of execution of this Contract or ascertaining the Materials supplied by the Contractor are in accordance with the Specifications laid down in the Contract. The Engineer's decision on the question of relevancy of any documents, information or returns shall be final and binding on the parties.</p> <p>(II) If any part or item of the Work is allowed to be carried out by a Sub-Contractor, assignee or any subsidiary or allied firm, the Engineer shall have power to secure the books of such</p>

		Sub-Contractor, assignee or any subsidiary or allied firm through the Contractor, and shall have power to examine and inspect the same. The above obligations are without prejudice to the obligations of the Contractor under any statute, rules or orders
Withholding And Lien For Sums Claimed	11.16	<p>(i) The Employer shall have lien on and over all materials of every description, tools, tackles, plant, equipment or any amount due and/or that may become due and payable to the Contractor under the Contract, and / or on and over the deposit of Performance Security or other amount or amounts made under the Contract and which may become payable to the Contractor. Employer may exercise a general lien also.</p> <p>(ii) And further, unless the Contractor pays and clears immediately on demand any claim of the Employer, the Employer shall at all times be entitled to deduct the amount of the said claim from the amount, securities and / or deposits which may have become or will become payable to the Contractor under the existing contract, or under any other Contract or transaction whatsoever between the Employer and the Contractor even if the matter stands referred to Arbitration. The Contractor shall have no claim for any interest or damage whatsoever in respect of any amounts withheld or treated as withheld under the lien referred to above and duly notified as such to the Contractor.</p>
Signature On Receipts For Payments	11.17	Every receipt of payment to Contractor including refund of the Performance Security shall be signed by the person authorized to do so on his behalf. In the event of death of any of the Contractor's partners in case the Contractor is a partnership firm, during the currency of the Contract, it is hereby expressly agreed that every receipt by any one of surviving Contractor's partners, shall, if so signed as aforesaid, be a good and sufficient discharge as aforesaid, provided that nothing in this Clause shall be deemed to prejudice or affect any claim, which the Employer may hereafter have against the legal representatives of any Contractor's partner so dying, for or in respect of breach of any of the conditions of the Contract. Provided also that nothing contained in this clause shall be deemed to prejudice or affect the respective rights and obligations of the Contractor's partners, or of the legal heirs / representatives of any deceased Contractor / partner interest.
Post Payment Audit	11.18	It is an agreed term of the Contract, that the Employer reserves to himself the right to carry out a post payment audit and / or technical examination of the Works, and the Final bill including all supporting vouchers, abstracts, etc., and to make a claim on the Contractor for the refund of any excess amount paid to him, if as a result of such examination, any over-payment to him is discovered to have been made in respect of any work done or alleged to have been done by the Contractor, under the Contract. If any under-payment is discovered, the same shall be paid by the Employer to the Contractor. Such payments or recoveries, however, shall not carry any interest.
Recovery of money due to the Employer	11.19	<p>All damages (including, without limitation, liquidated damages), costs, charges, expenses, debts, or sums for which the Contractor is liable to the Employer under any provision of the Contract may be deducted by the Employer from amount due to the Contractor under the Contract including, without limitation, and the Employer shall have the power to recover any balance not so deducted from amount due to the Contractor under any other contract between the Employer and the Contractor.</p> <p>When the Contractor has assigned to a third party the right to</p>

receive amount due, or, to become due, under the Contract to the Contractor or charged such amount in favour of a third party, the Employer's right to deduct damages (including without limitation liquidated damages), costs, charges, expenses, debts or sums for which the Contractor is liable to the Employer from amount due to the Contractor under the Contract shall be limited to the right expressed above.

	12	Variations
Right to Vary	12.1	All Variations shall be recorded in a written instruction from the Engineer either as a Contractor's Variation or as an Employer's Variation, and shall not be implemented by the Contractor without such an instruction in writing from the Engineer. No Variation shall in any way vitiate or invalidate the Contract. The Contractor shall not make any alteration and/or modification of the Works, unless and until the Engineer instructs or gives consent to a Variation. If the Construction and/or Manufacture Documents or Works are not in accordance with the Contract, the rectification shall not constitute a Variation.
Contractor's Variations	12.2	Value Engineering or Innovation
Value Engineering Proposals	12.2.1	The Contractor may submit to the Employer, in writing at his own cost, value engineering proposals for modifying the Employer's Requirements, provision of additional land, access or feasibility over and above that is provided in the Contract for the purpose of saving in time, construction or manufacture costs. The value engineering proposal shall not impair the essential character, functions or characteristics or the Work, including service life, economy of operation, ease of maintenance, desired appearance, or Design of Temporary works and safety standards. The Contractor shall provide his value engineering proposal in a time limit prescribed by the Engineer. The Engineer's decision in this regard shall be communicated to the Contractor within a reasonable period of time. If by any reason the time limit specified by the Engineer is exceeded, the proposal may not be considered. The decision of the Engineer in this regard shall be final and binding.
Value Engineering Proposals – Contents	12.2.2	If the Employer requires or accepts it, and if the Contractor wants to proceed with the proposal, the Contractor must provide (at no cost to the Employer) a detailed report prepared by a consultant acceptable to the Employer and which shall include: <ul style="list-style-type: none"> a. a general description of the original Contract requirements for the Works and the proposed changes b. any detail of all the proposed modifications to the drawings and specifications c. any detail of all Work and goods affected by the value engineering proposal d. a detailed estimate of the construction cost based on the original Contract requirements and based on the proposed changes e. any resultant time extensions or reductions for the Contract f. statement to the extent of minimum saving expected. The Contractor's cost of preparing value engineering proposal shall be excluded in determining the estimated net savings in construction costs.
Value Engineering Proposals- Employer Review	12.2.3	The Employer may in his sole discretion, accept or reject the value engineering proposal or any part thereof and determine the estimated net saving in the construction cost. The Employer shall not be liable for delays or damages to the Contractor due to any

failure of the Employer to accept or act upon any value engineering proposal submitted pursuant to this Clause. If the submitted value engineering proposal is similar to a change / variation already under consideration by the Employer, the Employer may make such changes without respect to the value engineering proposal.

Once, the Employer or the Engineer rejects the value engineering during proposition due to any reason, it shall not be pursued by the Contractor in any other form.

Amendments- Employer Issuance	12.2.4	If the value engineering proposal is acceptable to the Employer in whole or in parts, it will accept by execution of an amendment. Such amendment shall identify all the changes in the specifications, Contract Period etc., shall specify net savings on construction costs and shall provide that the Contractor be paid 30% of saved net savings amount based on the difference between the amount contained in the Contract and the estimated net savings both as determined by the Employer.
Contractor's Acceptance and Payment	12.2.5	The Contractor shall either accept or reject any proposed amendment executed by the Engineer pursuant to this section within 5 working days of its receipt date from the Employer. If the Contractor does not reject the same in the period stipulated above, the amendments shall be deemed to be accepted by the Contractor and shall become a variation to the Contract. The Contractor's acceptance shall be unconditional and compensation of 30% of the value shall constitute the full compensation. The Contractor will be paid this 30% or less but not more at the time of final payment on Engineer's certification that the net savings as intended by value engineering have been achieved.
Employer's Variations	12.3	<p>If the Engineer requests a proposal, prior to instructing a Variation, the Contractor shall submit at his own cost within 14 days or within the period as specified by the Engineer, the following details.</p> <ul style="list-style-type: none"> a a description of the proposed work to be performed and a programme for its execution, b the Contractor's proposal for any necessary modifications to the programme according to Sub-Clause 4.13, and c the Contractor's proposal for adjustment to the Contract Price, Time for Completion and/or modifications to the Contract. d The decision of the Employer in regard to consider it as Employer's variation or not is final and binding on the contractor
Variation Procedure	12.4	<p>The Engineer shall, as soon as practicable after receipt of proposals under sub-clauses 12.2 and / or 12.3, respond with approval, rejection or comments.</p> <p>After receipt of proposal, it will be the prerogative of the Employer, whether to instruct and proceed ahead with the variation or drop the proposal in part or full. In that case, no cost of preparing and submitting the proposal will be payable to Contractor.</p> <p>If the Engineer instructs or approves a Variation, he shall proceed in accordance with Sub-Clause 3.5 to agree or determine adjustments to the Contract Price, Time for Completion and Payments as per SCC Clause No: 24.</p>
Payment in Applicable Currencies	12.5	If the Contract provides for payment of the Contract Price in more than one currency, and an adjustment is agreed or fixed as stated above, the amount payable in each of the applicable

currencies shall be specified when the adjustment is agreed or fixed. In specifying the amount in each currency, the Contractor and the Engineer (or, failing agreement, the Engineer) shall take account of the actual or expected currency proportions of the Cost of the varied work, without being bound by the proportions of various currencies specified for payment of the Contract Price.

13 **Determination/Termination of the Contract**

Notice to Contractor

13.1 **Right of Employer to determine the contract**

The Employer shall be entitled to determine/terminate the contract at any time should, in the Employer's option, the cessation of work become necessary owing to paucity of funds or from any other cause whatsoever, in which case the value of approved materials at site and 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 Employer of such determination and the reasons therefore shall be conclusive evidence thereof.

Payment on determination of contract by Employer.

(i) Should the contract be determined under Sub-Clause 13.1 and the Contractor claims payment for expenditure incurred by him in the expectation of completing the whole of the works, the Employer shall admit and consider such claims as are deemed reasonable and supported by voucher to the satisfaction of the Engineer. The Employer's decision on the necessity and propriety of such expenditure shall be final and conclusive.

(ii) 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.

Termination Of Contract Due To Contractor's Default

13.2

If the Contractor fails to carry out any of his obligations, or if the Contractor is not executing the Works in accordance with the Contract, the Engineer may give notice to the Contractor requiring him to make good such failure and remedy the same within such time as the Employer / Engineer may deem to be reasonable.

Conditions Leading To termination Of Contract

13.2.1

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

- (a) fails to comply with a notice under Sub clause 13.2 above
- (b) abandons or repudiates the Contract
- (c) without reasonable excuse acceptable to the Engineer, fails to commence the Works in accordance with the Contract
- (d) subcontracts the whole of the Works or goes beyond the permitted limit as given in the General Conditions of Contract Clause 4.5 or assigns the Contract without approval of the Employer.
- (e) becomes bankrupt or insolvent or goes into liquidation except voluntary liquidation for the purpose of amalgamation or reconstruction
- (f) persistently disregards instructions of the Engineer or contravenes any provisions of the Contract, or
- (g) fails to adhere to the agreed programme of work on review weekly / fortnightly / monthly basis by margin of 10% or 60 days, whichever is earlier or fails to complete the Works or parts of the Works within the stipulated or extended period of completion, or is unlikely to complete the whole Work or

- part thereof within time because of poor record of progress;
or
- (h) fails to remove materials from the Site, or pull down and replace work, after receiving notice from the Engineer to the effect that the said materials or Works have been condemned or rejected, or
 - (i) fails to take steps to arrange and/or augment machinery, tools, plant and equipment or employ competent and/or additional staff and labour, or
 - (j) fails to afford the Engineer or his representative proper facilities for inspecting the Works or any part thereof, or
 - (k) indulges in corrupt or fraudulent practices as explained in Clause 4.33.1.
 - (l) Diversion of advances as explained in Clause 11.2.7.

In any one of the above events or circumstances, the Employer may upon giving 14 days' notice to the Contractor, terminate the Contract in whole or in parts in so far as it is practicable to do so and expel the Contractor from the Site for that portion of the Work which is terminated. However, in case of sub-paragraph (e) or (k), the Employer may by notice terminate the Contract immediately, viz. within 24 hours.

The Employer's decision to terminate the Contract shall not prejudice any other rights of the Employer under the Contract.

After termination, the Employer may complete the works and/ arrange for any other entities to do so, in any manner whatsoever or by adopting any means whatsoever, as decided by the Employer, at the risk and cost of the Contractor. The Employer and his entities may then use the signage and graphics, the Contractor's documents and his Design of Temporary works document made by or on behalf of the Contractor.

On termination of Contract due to Contractor's default, the Employer shall be entitled to

- (a) forfeit the whole or such portion of the Performance Security amount and Retention money as he may consider fit, and
- (b) recover from the Contractor the cost of carrying out the balance work in excess of the sum which he would have been paid according to the certificate of the Engineer, if the works had been carried out and completed by the Contractor under the terms of Contract. Such certificate shall be final and binding upon the Contractor. The amount to be recovered may be deducted by the Employer from any amount then due or which, at any time thereafter, may become due to the Contractor alone or jointly under this or any other Contract or otherwise.

Valuation at the date of Termination **13.2.2**

The Engineer shall, as soon as possible after termination under Sub-Clause 13.2.1, determine and advise the Contractor of the value of the Construction and/or Manufacture Documents, Plant, Materials, Contractor's Equipment and works and all sums then due to the Contractor as at the date of termination.

After termination under Sub-Clause 13.2.1, the Employer shall not be liable to make any further payments to the Contractor until the costs of Design of Temporary works, manufacture, execution, completion and remedying of any defects, damages for delay in completion (if any), and all other costs incurred by the Employer, have been established.

The Employer shall be entitled to recover from the Contractor the extra costs, if any, of completing the Works after allowing for any sum due to the Contractor under Sub-Clause 13.2.2. If there are no such extra costs, the Employer shall pay any balance amount to the Contractor.

The contractor shall not seek the possession of machinery brought to the site till the Advance obtained from Employer is fully settled.

Employer shall be the sole custodian of the entire plant and machinery whenever the advance amount is given to the contractor and the same shall remain in the custody of Employer, till the Advance obtained from Employer, is fully settled.

The machinery and equipment brought to the site shall be exclusively intended for the execution of the work of Employer and shall not be removed without the consent of the Engineer.

The contractor shall indemnify and hold harmless, the Employer against all actions, suits, proceedings, claims, damages, losses, expenses, demands pertaining to advance amount towards plant and machinery.

The contractor;

- (a) Shall not mortgage/create charge/hypothecate/encumber, in any way the machineries and equipment brought to site from the amounts advanced by Employer and shall give an undertaking in writing to that effect in favour of Employer.
- (b) Shall not sell or alienate any part/portion of machinery and equipment without the consent of Employer.
- (c) In the event of any such sale/alienation of any portion or part of machinery, Employer shall hold First Charge and the proceeds of such sale or alienation shall be appropriated towards the loan/ credit/ advance in respect of plant and machinery brought to the site by contractor. The Employer has full right to take the custody of plant and machinery brought to site by the contractor and offer the machinery for use by any other contractor to get the balance work completed.

**Payment after Termination
Right of Employer on Termination of contract due to default of Contractor**

13.2.3 Right of Employer after rescission of contract owing to default of Contractor

- 13.2.4**
- (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 work thereto for actually performed under the contract, unless and until the Engineers have certified the performance of such work and value payable in respect thereof and the Contractor shall only be entitled to be paid the value so certified;

- (b) The Engineer or the Engineer's representative shall be entitled to take possession of any material, tools, implements, machinery and buildings on the works or on the property on which these are being or ought to have been executed, and to retain and employ the same in the further execution of the works or any part thereof until the completion of the works without the Contractor being entitled to any compensation for the use and employment thereof or for wear and tear or destruction thereof;
- Non-exercise of power not to constitute waiver** **13.2.5** Provided always that in case any of the powers conferred upon the Employer by Sub-clause 13.2 and Sub Clause 13.2.1 above, shall have become exercisable, and the same may not have been exercised, the non-exercise thereof shall not constitute waiver of any of the conditions thereof.
- Termination by Contractor** **13.3**
- Default of Employer** **13.3.1** In the event of the Employer becoming bankrupt or, being a company, going into liquidation, other than for the purpose of a scheme of reconstruction or Amalgamation, then, the Contractor may give notice requiring the Employer to remedy the default within 28 days after receipt of the notice. If the Employer fails to remedy the default or fails to propose steps reasonably acceptable to the Contractor to do so and in that case, the Contractor may terminate the Contract after issue of 14 days' notice to the Employer with a copy to the Engineer. In this case, the Contractor shall be compensated as per Sub Clause no.13.3.4.
- The Engineer's decision on the amount payable on this account shall be final and binding.
- Contractor's Entitlement to Suspend the Work** **13.3.2** If the Contractor suspends work or reduces the rate of progress of work in accordance with the provisions of this Sub-Clause and thereby suffers delay or incurs costs the Engineer shall, after due consultation with the Employer and the Contractor, determine any extension of time to which the Contractor is entitled under sub-clause-8.4.
- Cessation of Work by Contractor** **13.3.3** After termination under Sub-13.3, the Contractor shall:
- a. cease all further work, except for such work as may be necessary and instructed by the Engineer for the purpose of making safe or protecting those parts of the Works already executed, and any Work required to leave the Site in a clean and safe condition,
 - b. hand over all Construction and/or Manufacture Documents, Plant and Materials for which the Contractor has received payment,
 - c. hand over those parts of other Works executed by the Contractor up to the date of termination, and
 - d. remove all Contractor's Equipment which is on the Site and repatriate all his staff and labour from the Site.

Any such termination shall be without prejudice to any other right of the Contractor under the Contract.

Payment Termination	on 13.3.4	<p>After termination under Sub-Clause 13.3.1 the Employer shall return the Performance Security, and shall pay the Contractor an amount calculated and certified in accordance with the following conditions:</p> <ul style="list-style-type: none"> a The value of approved materials actually brought to the site and reasonably required to execute the works during next three months, as per approved programme, and b Value of work completed up to date by the Contractor at rates specified in the Contract, after taking into account any deductions, retentions, setoff. c In addition a sum not exceeding 2% (two percent) of the value of the work remaining incomplete on the date of Termination notice taking effect. <p>The payment as above are full compensation for termination under this clause and the Contractor has no claim for damages or other entitlements whether under the contract or otherwise.</p>
	13.3.5	<p>In case of termination/ foreclosure of the Contract under whatsoever circumstances, any remaining tools, plants, equipment and surplus materials of the Employer with the Contractor will be returned to the Employer at Employer's depot at the Contractor's cost. In case of the failure of the Contractor to do so, the Employer will be entitled to recover their cost from the Contractor from the amount becoming due to the Contractor or from any other amount due in any other contracts. The decision of the Engineer of the amount to be recovered will be final decision and full credit at rates initially charged to the Contractor shall be allowed for such materials. Similarly the Employer shall be entitled to recover the cost of the unreturned material, plants, equipment and tools from the Contractor, where such material have been supplied free of cost and plants, equipment and tools, free of cost or on lease basis to the Contractor as stipulated in the Contract</p>
Survival	13.4	<p>Termination of this Contract</p> <ul style="list-style-type: none"> a. shall not relieve the Contractor or the Employer of any obligations already incurred hereunder which expressly or by implication survives Termination hereof and b. except as otherwise provided in any provision of this Contract expressly limiting the liability of either party, shall not relieve either party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.
Indemnity	14 14.1	<p>Risk and Responsibility</p> <p>The Contractor shall indemnify and hold harmless the Employer, the Engineer, the Designated Contractors, representatives and employees from and against all actions, suits, proceedings, claims, damages, losses, expenses and demands of every nature and description, by reasons of any act or omissions of the Contractor, his representative or his employees in the execution of the Works, including professional services provided by the Contractor or in the guarding the same.</p> <p>These indemnification obligations shall include but not be limited to claims, damages, losses, damage proceedings, charges and expenses which are attributable to:</p> <ul style="list-style-type: none"> (a) sickness, or disease, or death of, or injury to any person; and (b) loss of, or damage to, or destruction of any property (other than the Works) including consequential loss of use; and

- (c) loss, damage or costs arising from the carriage of Plant and Materials and/or ownership or chartering of marine vessels by the Contractor, or any sub-contractor of any tier.

The Contractor shall also indemnify and save harmless the Employer from and against all claims and proceedings on account of infringements of patents rights, design, trademark name etc. as detailed out in Sub Clause 5.8.

All sums payable by way of compensation under these conditions shall be considered reasonable compensation payable to the Employer, without reference to the actual loss or damage sustained, and whether or not any damage shall have been sustained. The decision of the Engineer as to compensation claimed shall be final and binding.

Contractor's Care of the Works

14.2

The Contractor shall take full responsibility for the care of the Works, or any part thereof, including full responsibility for the care of any work being manufactured, or stored off-Site for inclusion in the Works, or in the course of transportation to the Site, and for the care of Contractor's Equipment, Temporary Works, Plant and any other Material, whatsoever, on the Site or delivered to or placed on the Site in connection with, or for the purpose of the Works.

The Contractor shall take this responsibility from the Commencement Date until the date of issue of the Taking Over Certificate, when responsibility shall pass to the Employer. If the Engineer issues a Taking Over Certificate for any Section or part of the Works, the Contractor shall cease to be responsible for the care of that Section or part from the date of issue of such Taking Over Certificate when responsibility shall pass to the Employer.

The Contractor shall take responsibility for the care of any outstanding work which is required to be completed prior to the expiry of the Contract Period, until the Engineer confirms in writing that such outstanding work has been completed.

If any loss or damage happens to the Works, any other property or person, arising from any cause other than the Employer's risks listed in Sub-Clause 14.3, during the period for which the Contractor is responsible, the Contractor shall rectify such loss or damage, at his cost, so that the Works conform with the Contract or at the option of the Employer, will pay or allow to the Employer the cost of rectifying such loss or damage. Notwithstanding such loss or damage, the Contractor shall proceed with the execution of Works in all respects in accordance with the Contract and the Engineer's instructions. The Contractor shall also be liable for any loss or damage to the Works caused by any operations carried out by the Contractor after the date of issue of the Taking Over Certificate.

Employer's Risks

14.3

The Employer's risks of loss or damage to physical property in India and of death and personal injury occurring in India in consequence of the performance of obligations under the Contract are:

- a war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
- b rebellion, revolution, insurrection, or military or usurped power, or civil war, within India,
- c riot, commotion or disorder by persons unless solely restricted to or caused by employees of Contractor or of sub-contractors currently or formerly engaged in the

Works,

- e Ionising radiations, or contamination by radio-activity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radio-active toxic explosive, or other hazardous properties of any explosive nuclear assembly or nuclear component to such an assembly, except to the extent to which the Contractor may be responsible for the use of any radio-active material,
- f Pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds, and use or occupation by the Employer of any part of the Works, except as may be specified in the Contract.

- | | | |
|---|-------------|--|
| Consequences of Employer's Risks | 14.4 | <p>If an Employer's risk results in loss or damage, the Contractor shall promptly notify the Engineer and shall rectify this loss or damage to the extent required by the Engineer.</p> <p>If the Contractor suffers delay and/or incurs cost from rectifying this loss or damage, the Contractor shall give notice to the Engineer and shall be entitled to claim:</p> <ul style="list-style-type: none"> (a) Extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4, and (b) Amount of such cost, which shall be included in the Contract Price |
| Contractor's Risks | 14.5 | <p>The Contractor's risks are all risks other than the Employer's risks given in sub-clause 14.3.</p> |
| Limitation of Liability | 14.6 | <p>Except as provided otherwise in these Conditions, neither party shall be liable to the other party for loss of use of any Works, loss of profit, loss of any Contract or any other indirect or consequential loss or damage which may be suffered by the other party in connection with the Contract. The total liability of the Contractor to the Employer under the Contract shall not exceed the Contract Price. Except that this Sub-Clause shall not limit the liability of the Contractor:</p> <ul style="list-style-type: none"> (a) Under Sub-Clauses 4.18, 4.19, 5.7, 7.9, 7.10, and 8.6 (b) Under any other provisions of the Contract which expressly impose a greater liability, (c) In cases of fraud, wilful misconduct or illegal or unlawful acts, or (d) In cases of acts or omissions of the Contractor which are contrary to the most elementary rules of diligence which a conscientious Contractor would have followed in similar circumstances. |

15. Insurance

**Injury to third party
personnel and
Property of third
party/ies** 15.1

The contractor shall be liable for and shall indemnify the Employer (principal) against any liability, loss claim or proceedings whatsoever arising under any statute or at common law in respect of personal injury to or the death of any person whatsoever arising out of or in the course of or caused by the carrying out the contract works, unless due to any act or neglect of the Employer (principal). The contractor shall be liable for and shall indemnify the Employer(Principal) against any expenses, liability, loss, claim or proceedings in respect of any injury or damage whatsoever to any property real or personal in so far as such injury or damage arises out of or in the course of or by reason of the carrying out of the contract works, and provided always that the same is due to any negligence, omission or default of the contractor, his servants or agents of any sub-contractor, his servant or agent.

**Insurance Against
Injury to Persons
and Property.** 15.2

Without prejudice to his liability to indemnify the Employer (Principal), the contractor shall take all types of insurance policies such as Contractors All Risks and Workmen's Compensation (Employers Liability) Policy at his cost in the JOINT NAMES OF THE EMPLOYER (PRINCIPAL) AND CONTRACTOR AND SUB CONTRACTOR, IF ANY and maintain such policies throughout the period of contract works.

Such insurance as are necessary to cover the liability of the contractor or as the case may be of such Sub-Contractor in respect of personal injuries or death of workmen engaged by the contractor or sub-contractor, arising out of or in course of or caused by carrying out of work.

The contractor at his cost shall maintain in the joint names of the Employer(principal) and contractor such insurances as may be required in respect of any expenses, liability, loss, claim or proceedings which the Employer(principal) may incur or sustain by reason of injury or damage to property real or personal arising out of or in the course or by reason of the carrying out the work, and caused otherwise than by the negligence, omission or default of the contractor, his servants or agents or any sub-contractor, his servants or agents.

Any such insurance policy or policies or receipts effected shall have to be deposited in original with the Employer (principal).

The contractor at his cost shall in the JOINT NAMES OF THE EMPLOYER (PRINCIPAL)AND CONTRACTOR :

- (i) Insure the plant ,material and works forming part of the contract works against loss or damage by all types of risks as envisaged under the standard Contractors All Risks policy
- (ii) obtain the insurance policy for the full replacement cost at site of the contract works entrusted to the contractor, sub-contractor
- (iii) include in the insurance policy the cost of demolition works, if any
- (iv) ensure that the policy shall remain in force till the entire contract works is completed and the Taking Over Certificate issued.

**Insurance of the
contract works
under a
Contractors All
Risks Insurance
Policy.** 15.3

The Contractors All Risks policy which is an All Risks policy with only named exclusions normally extends cover for loss or damage caused by fire, storm, tempest, lightning, flood, aircraft or anything dropped there from, aerial objects, riot and civil commotion, defective materials, defective workmanship, etc. and shall be extended to cover the following :

- a. earthquake risks
- b. terrorism

- c. Third Party Liability including Cross Liability to the extent of at least 10% of the contract works.
- d. Debris removal (of insured property) to the extent of at least Rs 50 lakhs
- e. Owners(Principal's) surrounding property to the extent of 10% of the policy limits
- f. Maintenance visits (Defect Liability) for a period of 12 months from the date mentioned in the taking over certificate for the whole of the works. Design Defect.

The contractor shall insure all his machinery, equipment used for the construction works under a Contractors Plant & Machinery Insurance policy which normally covers unforeseen and sudden physical loss or damage to the plant & equipment insured. The policy shall be availed for the full Replacement cost of the plant & machinery with the following extensions:

- i. Policy on Floater basis which provides usage of the plant & machinery at different project sites
- ii. Earthquake
- iii. Terrorism
- iv. Inclusion of cover for "underground works"
- v. Third Party Liability to the extent of at least 10% of the total value of plant & machinery insured
- vi. Clearance and Removal of Debris of insured property.

Workman's compensation policy with the following endorsement no.140 to protect Employer (Principal) interest.

"It is hereby understood and agreed that in the event of any workman employed by the within named insured or any dependent of such workman bringing or making a claim under Section 12 of the Workmen's Compensation Act 1923, and subsequent amendments of the said Act againstfor personal injury or disease sustained whilst at work on any contract covered by the terms and conditions of the within policy which the Insured may be carrying out for the said.....the Company will indemnify the said.....against such claim and/or any costs, charges and expenses in respect thereof Provided always that the Company shall not be liable hereunder unless the Company have the sole conduct and control of all claims covered by this endorsement. Nothing in this endorsement shall be construed as affecting the Insured's title to recover damages under any other Section of the said Act."

The policy shall be :

- a. In the joint names of the Employer(Principal), contractor and sub-contractor
- b. for the full contract value
- c. cover all the workmen of the contractor and sub- contractor
- d. in force till the completion of the project
- e. include cover for medical expenses incurred on account of an accident or injury sustained by the workmen in the course of and during the employment
- f. include cover for Liability as per Fatal Accidents Act and Common Law.

The Contractor shall also provide a Professional Indemnity Insurance. Alternatively the Contractor shall redeem the insurance before the expiry of the Yearly Insurance in such a way that the entire validity period is covered.

The Contractor shall, within the respective periods stated in the Contract Data (calculated from the Commencement Date), submit to the Employer.

Contractor's plant & machinery. 15.4

- (a) Evidence that the insurances described in this Clause have been effected, with an Indian Insurance Company, and
- (b) Deposit the original of the policies with the Employer (Principal) for the insurances described as above.

When each premium has been paid, the Contractor shall submit copy of receipts to the Employer (Principal). The Contractor shall also, when providing such evidence, policies and receipts to the Employer (Principal), notify the Engineer of so doing.

The Contractor shall effect all insurances for which he is responsible with insurers and in terms approved by the EMPLOYER (Principal). Each policy insuring against loss or damage shall provide for payments required to rectify such loss or damage. Payments received from insurers shall be used for the rectification of such loss or damage.

The Contractor (and, if appropriate, the Employer-Principal) shall comply with the conditions stipulated in each of the insurance policies. The Contractor shall make no material alteration to the terms of any insurance without the prior approval of the EMPLOYER (Principal). If an insurer makes (or purports to make) any such alteration, the Contractor shall notify the EMPLOYER (Principal) immediately.

If the Contractor fails to effect and keep in force any of the insurances required under the Contract, or fails to provide satisfactory evidence, policies and receipts in accordance with this Sub-Clause, the Employer (Principal) may, without prejudice to any other right or remedy, effect insurance for the coverage relevant to such default, and pay the premiums due. In such cases the premium paid by the Employer (Principal) plus overheads (equal to 50% of the premium paid) shall be recoverable from the Contractor by the Employer (Principal), and may be deducted by the Employer (Principal) from any monies due, or to become due, to the Contractor or recover the same as debt due from the Contractor. The Contractor shall not dispute the amount of premium paid by the EMPLOYER (Principal) or the overhead charges thereon.

Nothing in this clause limits the obligations, liabilities or responsibilities of the Contractor or the EMPLOYER (Principal), under the other terms of the Contract or otherwise. Any amount not insured or not recovered from the insurers shall be borne by the Contractor and/or the Employer (Principal) accordingly, unless otherwise specified in the Special Conditions of Contract.

The Contractor shall submit to the Engineer, the details of all claims made with the insurer and claims accepted by the insurer or any other details as required by the Engineer on monthly basis.

All insurances mentioned shall be obtained with insurers approved by the Employer (Principal) and the contractor shall deposit with the Employer (Principal) the policy or policies and the receipts in respect of premium paid.

Should the contractor make default in insuring or continuing to insure different from stated aforesaid the employer(principal) may himself insure against any risk with respect of which the default shall have occurred and deduct the premium from any moneys due to or to become due to the contractor. The Deductions shall be as envisaged in of the General Requirement for insurance given

above.

**Workmen
Compensation
(Employers
Liability)
Insurance.**

15.5

Provided always that if the contractor shall independently of his obligations under this contract maintain a policy of insurance which covers (inter-alia) the said work, materials and goods against the aforesaid contingencies to the full value thereof then the maintenance by the contractor of such policy shall if the employer's (principal) interest is endorsed thereon, be a discharge of the contractor's obligation to insure in the joint names of the employer (Principal) and the contractor and the production by the contractor as and when may reasonably be required by the Employer (Principal) of a current certificate of insurance from the company or firm which shall have issued the said policy shall be a discharge of the contractor's obligation to deposit with the Employer (Principal) a policy or policies and the receipts in respect of premium paid.

Upon settlement of any claim by the insurance companies under the insurances aforesaid, the contractor shall diligently with due diligence shall restore work damaged, replace or repair unfixed materials or goods which have been destroyed or injured, remove or dispose of any debris and proceed with the carrying out and completion of the work. All moneys received from such insurances shall be paid to the contractor by instalments under certificates of the Employer issued at the "Period of interim Certificate". The contractor shall not be entitled to payment in respect of restoration of work damaged, replacement and repair of any unfixed materials or goods and removal and disposal of debris Employer (Principal) other than moneys received under said insurance.

**Professional
Indemnity
Insurance.**

15.6

The Contractor shall also provide a Professional Indemnity Insurance. Alternatively the Contractor shall redeem the insurance before the expiry of the Yearly Insurance in such a way that the entire validity period is covered.

**General
requirements for
insurances.**

15.7

The Contractor shall, within the respective periods stated in the Contract Data (calculated from the Commencement Date), submit to the Employer.

- (a) Evidence that the insurances described in this Clause have been effected, with an Indian Insurance Company, and
- (b) Deposit the original of the policies with the Employer (Principal) for the insurances described as above.

When each premium has been paid, the Contractor shall submit copy of receipts to the Employer (Principal). The Contractor shall also, when providing such evidence, policies and receipts to the Employer (Principal), notify the Engineer of so doing.

The Contractor shall effect all insurances for which he is responsible with insurers and in terms approved by the EMPLOYER (Principal). Each policy insuring against loss or damage shall provide for payments required to rectify such loss or damage. Payments received from insurers shall be used for the rectification of such loss or damage.

The Contractor (and, if appropriate, the Employer-Principal) shall comply with the conditions stipulated in each of the insurance policies. The Contractor shall make no material alteration to the terms of any insurance without the prior approval of the EMPLOYER (Principal). If an insurer makes (or purports to make) any such alteration, the Contractor shall notify the EMPLOYER (Principal) immediately.

If the Contractor fails to effect and keep in force any of the insurances required under the Contract, or fails to provide satisfactory evidence, policies and receipts in accordance with this Sub-Clause, the Employer(Principal) may, without prejudice to any other right or remedy, effect insurance for the coverage relevant to such default, and pay the premiums due. In such cases the premium paid by the Employer(Principal) plus overheads (equal to 50% of the premium paid) shall be recoverable from the Contractor by the Employer(Principal), and may be deducted by the Employer(Principal) from any monies due, or to become due, to the Contractor or recover the same as debt due from the Contractor. The Contractor shall not dispute the amount of premium paid by the EMPLOYER (Principal) or the overhead charges thereon.

Nothing in this clause limits the obligations, liabilities or responsibilities of the Contractor or the EMPLOYER (Principal), under the other terms of the Contract or otherwise. Any amount not insured or not recovered from the insurers shall be borne by the Contractor and/or the Employer (Principal) accordingly, unless otherwise specified in the Special Conditions of Contract.

The Contractor shall submit to the Engineer, the details of all claims made with the insurer and claims accepted by the insurer or any other details as required by the Engineer on monthly basis.

All insurances mentioned shall be obtained with insurers approved by the Employer (Principal) and the contractor shall deposit with the Employer (Principal) the policy or policies and the receipts in respect of premium paid.

Should the contractor make default in insuring or continuing to insure different from stated aforesaid the employer(principal) may himself insure against any risk with respect of which the default shall have occurred and deduct the premium from any moneys due to or to become due to the contractor. The Deductions shall be as envisaged in of the General Requirement for insurance given above.

Provided always that if the contractor shall independently of his obligations under this contract maintain a policy of insurance which covers (inter-alia) the said work, materials and goods against the aforesaid contingencies to the full value thereof then the maintenance by the contractor of such policy shall if the employer's (principal)interest is endorsed thereon, be a discharge of the contractor's obligation to insure in the joint names of the employer(Principal) and the contractor and the production by the contractor as and when may reasonably be required by the Employer(Principal) of a current certificate of insurance from the company or firm which shall have issued the said policy shall be a discharge of the contractor's obligation to deposit with the Employer(Principal) a policy or policies and the receipts in respect of premium paid.

Upon settlement of any claim by the insurance companies under the insurances aforesaid, the contractor shall diligently with due diligence shall restore work damaged, replace or repair unfixed materials or goods which have been destroyed or injured, remove or dispose of any debris and proceed with the carrying out and completion of the work. All moneys received from such insurances shall be paid to the contractor by instalments under certificates of the Employer issued at the "Period of interim Certificate". The

contractor shall not be entitled to payment in respect of restoration of work damaged, replacement and repair of any unfixed materials or goods and removal and disposal of debris Employer(Principal) other than moneys received under said insurance.

	16	Force Majeure
Definition of Force Majeure	16.1	<p>In this Clause, "force majeure " means an event beyond the control of the Employer and the Contractor, which makes it impossible or illegal for a party to perform, including but not limited to:</p> <ul style="list-style-type: none"> (a) act of God; (b) war, hostilities (whether war be declared or not), invasion, act of foreign enemies, mobilisation, requisition, or embargo; (c) rebellion, revolution, insurrection, or military or usurped power, or civil war; (d) contamination by radio-activity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radio-active toxic explosive, or other hazardous properties of any explosive nuclear assembly or nuclear component of such an assembly; (e) riot, commotion or disorder, unless solely restricted to employees of the Contractor or of his Sub-contractors currently or formerly engaged on the Works. <p>If a party considers that it may be affected by Force Majeure, the party shall promptly notify the other party and Engineer of such Force Majeure within 21 days of such occurrence. If neither party issues any notice regarding the event within 21 days of its occurrence, the said event shall be deemed not to have occurred and the Contract shall continue to have effect as such.</p>
Effect of Force Majeure Event	16.2	<p>Neither the Employer nor the Contractor shall be considered in default or in contractual breach to the extent that performance of obligations is prevented by a Force Majeure event which arises after the date of Notice to Proceed. Upon the occurrence of such Force Majeure, the affected party shall endeavour to continue to perform its obligations as far as reasonably practicable</p>
Contractor's Responsibility	16.3	<p>If affected by such Force Majeure, the Contractor shall promptly notify the Engineer of any proposals for overcoming the consequences of the Force Majeure, including any reasonable alternative means for performance, but shall not carry out these proposals without the consent of the Engineer.</p>
Employer's Responsibility	16.4	<p>If affected by such Force Majeure, the Employer shall promptly notify the Engineer and the Contractor of any proposals for overcoming the consequences of the Force Majeure.</p>
Payment to Contractor	16.5	<p>If the Works shall suffer loss or damage due to such Force Majeure, the Contractor shall be entitled to have included, in an Interim Payment Certificate, the Cost of work executed in accordance with the Contract.</p>
Resumption of Work	16.6	<p>The obligations under the Contract shall be resumed as soon as practicable after the event has come to an end or ceased to exist.</p> <p>In case of doubt or dispute, whether a particular occurrence should be considered an "event" as defined under this clause, the decision of the Engineer shall be final and binding.</p>
Optional Termination, Payment and	16.7	<p>Works that have already been measured shall be paid for by the Employer even if the same is subsequently destroyed or damaged as a result of the event. The cost of rebuilding or replacing any work that has been measured shall be borne by the Employer.</p> <p>Irrespective of any extension of time, if a Force Majeure occurs and its effect continues for a period of 6 months, after notice has been given under Sub-Clause 16.1, either party may give to the other</p>

Release		<p>party a notice of termination the Contract which shall take effect 28 days after the notice is given. Unless at the end of 28 days' period the effect of the Force Majeure has ceased, the Contract shall terminate upon that date. Otherwise, the Contract shall remain in effect.</p> <p>The Contractor shall be paid fully for the work done under the Contract, but not for any defective work or work done which has been destroyed or damaged before its measurement. The Employer shall have the option to take over any Plant and Materials lying at site, at rates provided for in the Contract, failing that, as per rates, which are determined to be fair and reasonable by the Engineer.</p>
Release from Performance Under the Law	16.8	<p>If under the law of the Contract the Employer and the Contractor are released from further performance, the sum payable by the Employer to the Contractor shall be the same as would have been payable under Sub-Clause 16.7, if the Contract had been terminated under that Sub-Clause.</p>
Procedure for Claims	17	<p>CLAIMS, DISPUTES, CONCILIATION AND ARBITRATION</p>
	17.1	<p>If the Contractor intends to claim any additional payment under any clause of these Conditions or otherwise, the Contractor shall give notice to the Engineer as soon as possible and in any event within 28 days of the start of the event giving rise to the claim.</p> <p>The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at any other location acceptable to the Engineer. Without admitting the Employer's liability, the Engineer shall, on receipt of such notice, inspect such records and may instruct the Contractor to keep further contemporary records. The Contractor shall permit the Engineer to inspect all such records, and shall (if instructed) submit copies to the Engineer.</p> <p>Within 28 days of such notice, or such other time as may be agreed by the Engineer, the Contractor shall send to the Engineer an account, giving detailed particulars of the amount and basis of the claim. Where the event giving rise to the claim has a continuing effect, such amount shall be considered as interim. The Contractor shall then, at such intervals as the Engineer may reasonably require, send further interim accounts giving the accumulated amount of the claim and any further particulars. Where interim accounts are sent to the Engineer, the Contractor shall send a final account within 28 days of the end of the effects resulting from the event.</p>
Payment for Claims	17.2	<p>If the Contractor fails to comply with this Sub-Clause, he shall not be entitled to claim any additional payment.</p> <p>The Contractor shall be entitled to have included in any Interim Payment Certificate such amount for any claim as the Engineer considers due, after taking approval from the Employer. If the particulars supplied are insufficient to substantiate the whole of the claim, the Contractor shall be entitled to payment for such part of the claim as has been substantiated.</p>
No legal action Till Dispute Settlement Procedure is Exhausted	17.3	<p>Any and all Disputes shall be settled in accordance with the provisions of Clause 17. No action at law concerning or arising out of any Dispute shall be commenced unless and until all applicable Dispute resolution procedures set out in Clause 17 shall have been finally exhausted in relation to that Dispute or any Dispute out of which that Dispute shall have arisen with which it may be or may have been connected.</p>

Notice of Dispute	17.4	For the purpose of Sub-Clause 17.5, a Dispute shall be deemed to arise when one party serves on the other party a notice in writing (hereinafter called a "Notice of Dispute") stating the nature of the Dispute provided that no such notice shall be served later than 28 days after the date of issue of Performance Certificate by the Engineer.
Two Stages for Dispute Resolution	17.5	Disputes shall be settled through two stages: <ul style="list-style-type: none"> a. Conciliation procedures as established by "The Arbitration and Conciliation Act-1996" (as amended from time to time) and in accordance with this Clause. In the event this procedure fails to resolve the Dispute then; b. Arbitration procedures undertaken as provided by "The Arbitration and Conciliation Act -1996" (as amended from time to time) and in accordance with this Clause.
Conciliation	17.6	Within 60 days of receipt of Notice of Dispute, either party shall refer the matter in dispute to conciliation. <p>Conciliation proceedings shall be initiated within 30 days of one party inviting the other in writing to Conciliation. Conciliation shall commence when the other party accepts in writing this invitation. If the invitation is not accepted, then Conciliation shall not take place. If the party initiating conciliation does not receive a reply within 30 days from the date on which he sends the invitation, he may elect to treat this as a rejection of the invitation to conciliate and inform the other party accordingly.</p> <p>The Conciliation shall be undertaken by one Conciliator selected from a panel of Conciliators maintained by the Employer. The Conciliator shall assist the parties to reach an amicable settlement in an independent and impartial manner.</p>
Conciliation Procedure	17.7	The Employer shall maintain a panel of Conciliators with requisite qualifications and professional experience who shall be from serving or retired engineers of Government Departments, or of Public Sector Undertakings. Out of this panel, a list of three Conciliators shall be sent to the Contractor who shall choose one of them to act as Conciliator and conduct conciliation proceedings in accordance with "The Arbitration and Conciliation Act, 1996", of India. The party serving notice of dispute on the other party shall also serve such notice on the Conciliator chosen as per this Clause. The Employer at the time of offering the panel of Conciliators to be appointed as Conciliator shall also supply the information with regard to the qualifications of the said Conciliators nominated in the panel along with their professional experience, phone nos. and addresses to the Contractor. <p>In the event of the Contractor not choosing the Conciliator from the panel furnished by the Employer, within a period of 30 days, the Employer is at liberty to choose and nominate a Conciliator from the same panel and communicate to the Contractor which will be final and binding on the Contractor.</p> <p>The Employer and the Contractor shall in good faith co-operate with the Conciliator and, in particular, shall endeavour to comply with requests by the Conciliator to submit written materials, provide evidence and attend meetings. Each party may, on his own initiative or at the invitation of the Conciliator, submit to the Conciliator suggestions for the settlement of the dispute.</p> <p>When it appears to the Conciliator that there exist elements of a</p>

settlement which may be acceptable to the parties, he shall formulate the terms of a possible settlement and submit them to the parties for their observations. After receiving the observations of the parties, the Conciliator may reformulate the terms of a possible settlement in the light of such observations.

If the Parties reach agreement on a settlement of the dispute, they may draw up and sign a written settlement agreement. If requested by the Parties, the Conciliator may draw up, or assist the Parties in drawing up, the settlement agreement.

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

The Conciliator shall authenticate the settlement agreement and furnish a copy thereof to each of the Parties.

As far as possible, the conciliation proceedings should be completed within 60 days of the receipt of notice by the Conciliator.

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

**Termination of
Conciliation
Proceedings**

17.8

The conciliation proceedings shall be terminated:

- a. by the signing of the settlement agreement by the Parties on the date of agreement; or
- b. by written declaration of the Conciliator, after consultation with the Parties, to the effect further efforts at conciliation are no longer justified, on the date of declaration; or
- c. by a written declaration of the Parties to the Conciliator to the effect that the conciliation proceedings are terminated, on the date of declaration; or
- d. by a written declaration of a Party to the other Party and the Conciliator, if appointed, to the effect that the conciliation proceedings are terminated, on the date of declaration.

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

Arbitration

17.9

If the efforts to resolve all or any of the disputes through conciliation fails, then such disputes and differences arising out of 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 Engineer/Employer and the Engineer/Employer shall on receipt of the Contractor's representation, make and notify decisions on all matters referred to by the Contractor in writing provided that matters for which provision has been made in clauses of the General conditions of contract (clause 17.16 of GCC) or in any clause of the special conditions of contract shall be deemed as "excepted matters" (matters not arbitrable) and decisions of the Engineer/Employer, 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. All disputes other than excepted matters shall be referred to arbitration in accordance with the following provisions:

- (a) Matters to be arbitrated upon shall be referred to a Sole

Arbitrator where the individual claim does not exceed Rs. Five (5) million or the total value of claims does not exceed Rs. Fifteen (15) millions. Beyond the above limit(s), there shall be three Arbitrators. For this purpose, the Employer shall maintain a panel of Arbitrators with the requisite qualifications and professional experience relevant to the field to which the Claims relate. In case of a Sole Arbitrator, the Panel will be of three Arbitrators, out of which the Contractor will choose one. In case three Arbitrators are to be appointed, the Employer will make out a panel of five. The Contractor and the Employer will choose one Arbitrator each from the above and the two so chosen will choose the third Arbitrator from the above Panel only who will act as the 'Presiding arbitrator' of the Arbitration Panel.

If in a dispute, the Contractor fails to choose the Arbitrator within thirty (30) days after the Employer has nominated the Panel, the Employer may apply to the Indian Council of Arbitration, New Delhi, to nominate an Arbitrator from the same panel of Arbitrators given by the Employer for the matter in dispute.

If, in a dispute, the two chosen Arbitrators fail to appoint third Arbitrator within thirty (30) days after they have been appointed, the Employer may apply to the Indian Council of Arbitration, New Delhi, to nominate the third Arbitrator from the same panel of Arbitrators given by the Employer for the matter in dispute.

Neither Party shall be limited in the proceedings before such Arbitrator(s) to the evidence or arguments put before the Engineer for the purpose of obtaining his decision. No decision given by the Engineer in accordance with the foregoing provisions shall disqualify him from being called as a witness and giving evidence before the Arbitrator(s) on any matter, whatsoever, relevant to dispute or difference referred to Arbitrator(s). The arbitration proceedings shall be held in KOCHI only. The language of proceedings, which of documents and communication shall be English.

- (b) The Employer at the time of offering the panel of Arbitrators to be appointed as Arbitrator shall also supply the information with regard to the qualifications of the said Arbitrators nominated in the panel along with their professional experience, phone nos. and addresses to the Contractor.
- (c) The award of the sole Arbitrator shall be binding on all parties.
- (d) In arbitral proceedings with more than one Arbitrator, any decision of the arbitral tribunal shall be made by a majority of all the members and shall be binding on all parties.

Reasoned Award	17.10	The Arbitrator(s) shall always give item-wise and reasoned award(s) irrespective of the value of claim(s) in the dispute in all cases.
Interest on Arbitration Award	17.11	Where the arbitral award is for the payment of money, no interest shall be payable on whole or any part of the money for any period, till the date on which the award is made.
Cost of Arbitration	17.12	The cost of arbitration shall be borne by the respective Parties. The cost shall, inter alia, include the fees of the Arbitrator(s) fixed by the Employer as incorporated in special conditions of contract.

Jurisdiction of Courts	17.13	Where recourse to a Court is to be made in respect of any matter, the court at KOCHI shall have the exclusive jurisdiction to try all disputes between the parties.
Suspension of Work on Account of Arbitration	17.14	The reference to Conciliation/Arbitration shall proceed notwithstanding that the Works shall not then be or be alleged to be complete, provided always that the obligations of the Employer, Engineer and the Contractor shall not be altered by reasons of arbitration being conducted during the progress of the Works. Neither party shall be entitled to suspend the work or part of the work to which the dispute relates on account of arbitration and payments to the Contractor shall continue to be made in terms of the Contract.
Matters finally determined by the Employer.	17.15	If the Contractor (s) does/do not prefer his/ their specific and final claims in writing, within a period of 90 days of receiving the intimation from the Employer that the final bill is ready for payment, he/they will be deemed to have waived his/their claims (s) and the Employer shall be discharged and released of all liabilities under the contract in respect of these claims.
Excepted matters.	17.16	The following are the list of excepted matters in arbitration. <ul style="list-style-type: none"> a. Assistance by Employer for the Stores to be obtained by the Contractor. b. Illegal Gratification. c. Meaning and intent of specifications and Drawings. d. Rates for extra items of works. e. Signing of "No claim Certificate" f. Measurement of works. g. Provisions of Payment of Wages Act. h. Provisions of Contract labour (Regulation and Abolition) Act, 1970. i. Provisions of Workmen's Compensation Act. j. Provisions of Mines Act. k. Right of Employer to determine the contract l. Payment on determination of contract by Employer. m. Determination of contract owing to default of Contractor as per Clause 13.2.1 of GCC:
	18	Service of Notices
Notice to Contractor	18.1	<ul style="list-style-type: none"> a. All notices to the Contractor shall be served by post or telex or telefax or by hand to the Contractor or his authorized representatives. In case of notices delivered by post, they will be deemed to have been delivered after 7 days of dispatch. b. The Contractor shall, on award of the Contract, furnish to the Engineer, the name, designation, address and telephone, telex and telefax numbers and e-mail address of his representative referred to in Clause 4.3.
Notice to Employer and Engineer	18.2	All notices to the Employer or Engineer shall be served by post or telex or telefax, or by delivering by hand to the address nominated for the purpose.
Change of Address	18.3	Parties to the Contract may change the nominated address with a notice to all concerned.

Conflict of Interest 19

The remuneration of the Tenderer shall constitute the Tenderer's sole remuneration in connection with this Contract or the Services and, the Tenderers shall not accept for their own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations hereunder, and the Tenderers shall use their best efforts to ensure that any Personnel either of them, similarly shall not receive any such additional remuneration

Neither the Tenderer nor the Personnel of either of them shall engage, either directly or indirectly, in any of the following activities:

- (a) during the term of this Contract, any business or professional activities in India which would conflict with the activities assigned to them under this Contract

The tenderer shall not be one of the following:

- (i) A firm which has been engaged by the Employer to provide consulting services for the preparation related to procurement for or implementation of this project.
- (ii) Any association/affiliation (inclusive of parent firms) of a firm or an organization mentioned in para (i) above.
- (iii) A Tenderer who lends, or temporarily seconds its personnel to firms or organizations which were engaged in consulting services for the preparation related to procurement for or implementation of the project, if the personnel would be involved in any capacity on the same project.

Jurisdiction of Court in case of dispute or differences arising on account of this tender: Any suit or application, arising out of any dispute or differences on account of this pre-qualification tender shall be filed in a competent court at KOCHI, KERALA only and no other court or any other district of the country shall have any jurisdiction in the matter.

KOCHI METRO RAIL LIMITED

A. GRANTING OF EXTENSION OF TIME

(By registered Post with Acknowledgement Due)

(Without Prejudice)

No..... Date:

M/s./Shri.....
.....

Dear Sir(s),

Sub:

Ref:

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

Expecting that you may be able to complete the work, if some more time is given as requested by you vide reference above, the competent authority, although not bound to do so, hereby extends the time for completion fromto.....

Please note that an amount equal to the liquidated damages for delay in the completion of the work after the expiry of..... (give here the stipulated date for completion with/without any penalty fixed earlier) will be recovered from you as mentioned in the General conditions of Contract for the extended period. You may proceed with the work accordingly

The above extension of the completion date will also be subject to the further conditions that no increase in rates on any account will be payable to you and other terms and conditions of the contract hold good.

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

You shall sign a rider agreement for this purpose by (give date here)

Yours faithfully,

(Name & designation of the officer signing
For and on behalf of the Employer)

KOCHI METRO RAIL LIMITED

B. 14 DAYS NOTICE

(By registered Post with Acknowledgement Due)
(Without Prejudice)

No..... Date:.....

**To,
M/s./ Shri.....**
.....

Dear Sir(s),

Sub:
Ref:.....

In spite of repeated Instruction to you by this office in various letters of even No.dt....., you have failed to start work /show adequate progress and / or submit detailed programme for completing the work.

Your attention is invited to this office letter Nodated.....in reference to your representation dated.....

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

Kindly acknowledge the receipt.

Yours faithfully,

(Name & designation of the officer signing
For and on behalf of the Employer)

KOCHI METRO RAIL LIMITED

C. TERMINATION NOTICE

(By registered Post with Acknowledgement Due)
(Without Prejudice)

No..... Date:.....

To,

M/s./ Shri.....
.....

Dear Sir(s),

Sub:
Ref:.....

Fourteen (14) Days notice was given to you under this office letter of even No.....dated....., but you have taken no action to commence the work / show adequate progress of the work.

Since the period of 14 days' notice has already expired, the above contract stands rescinded in terms of Clause..... of the General Conditions of Contract and the balance work under this contract will be carried out independently without your participation. Your participation as well as participation of every member/partner in any manner as an individual or a partnership firm/JV is debarred from participation in the tender for executing the balance work and your performance guarantee stands forfeited and it shall be encashed.

Kindly acknowledge the receipt.

Yours faithfully,

(Name & designation of the officer signing
For and on behalf of the Employer)

SECTION – 6 – PART 2 – SPECIAL CONDITIONS OF CONTRACT

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Special Conditions of Contract (SCC)

GCC

Sub-Clause 1.5

Priority of Documents

The priority of the documents shall be as follows:

- (a) The Contract Agreement;
- (b) The Letter of Acceptance;
- (c) The Tender;
- (d) The Employer's Requirements
- (i) Technical Specification
- (ii) General Requirement - construction
- (e) The Special Conditions of Contract including Schedules;
- (f) The General Conditions of Contract;
- (g) Any other document forming part of the Contract.

All "Documents" and "Annexures" of tender booklet and clarifications of Prebid Queries will cover complete tender.

2 Sub-Clause 3.2

Duties and authorities of the Engineer

The Engineer, In addition to the duties mentioned in Clause 3.2 of General Conditions of Contract:

- (i) shall watch and inspect the Works, monitor the test results and examine any material to be used and workmanship employed by the Contractor in connection with the Works;
- (ii) shall carry out such duties and exercise such powers vested in the Engineer in accordance with the provisions of the Contract;
- (iii) shall issue instructions which in his opinion are necessary for the execution of the Works; and
- (iv) May issue any other instruction which in his opinion is desirable in connection with the Works.

3. Sub-Clause 4.5

Sub-contractors

The sub-contracting, is limited to 50% of the Value of Work. The value of a sub-contract, as and when awarded, should be intimated by the Contractor to the Engineer and it should also be certified that the cumulative value of the sub-contracts awarded so far is within the aforesaid limit of 50%.

At the request of the Engineer, a copy of the contract between the Contractor and Sub-Contractor shall be given to the Engineer and the Contractor shall not carry any modification without the consent in writing of the Engineer. The terms and conditions of sub-contracts and the payments that have to be made to the sub-contractors shall be the sole responsibility of the Contractor. Payments to be made to such sub-contractors will be deemed to have been included in the Contract price. It will

be obligatory on the part of the Contractor to obtain consent of the Employer to the identity of the sub-contractor. The Employer will give his consent after assessing and satisfying himself of the capability, experience and equipment resources of the sub-contractor. Decision of the Engineer is final and binding in this regard. The Contractor shall provide sufficient superintendence, whether on the site or elsewhere, to ensure that the work to be carried out by a sub-contractor complies with the requirements of the Contract.

In the case of sub-contracts for electrical and mechanical works, which the Contractor intends to procure on the basis of outline design, design briefs and performance specification, the Contractor shall, prior to inviting tenders from sub-contractors, submit such documents to the Engineer for review.

The proposed sub-contract terms and conditions shall impose on the sub-contractor such terms of the Contract as are applicable and appropriate to the part of the Works to be sub-contracted, to enable the Contractor to comply with his obligations under the Contract.

Notwithstanding any consent to sub-contract given by the Engineer, if in his opinion he considers it necessary, the Engineer shall have full power to order the removal of any sub-contractor from the Site or off-Site place of manufacture or storage, which power shall not be exercised unreasonably.

4 Sub-Clause 4.8.1 Accurate Setting out

The Contractor shall establish at his cost, at suitable points, additional reference lines and bench marks as may be necessary. The Contractor shall remain responsible for the sufficiency and accuracy of all his bench marks and reference lines. He shall take precautions to see that lines, pints and bench marks fixed by the Engineer are not distributed by his work and shall make good any damage thereto.

5 Sub-Clause 4.9 Site Data

The Tenderer should satisfy himself with the data furnished and make his own investigations if required before submitting his Tender. Any change in design or methodology later during execution, cost towards redesigning on account of change if proposed to be carried out by KMRL, will be borne by KMRL.

The Contractor shall not be relieved from any risk or obligation imposed on or undertaken by him under the Contract on any such ground or on the ground that he did not or could not foresee any matter which may affect or have affected the execution of the Works, or compliance with his other obligations under the Contract.

6 Sub-Clause 4.11 Access Route

All operations for the execution of the Works shall be carried out so as not to interfere unnecessarily with the convenience of the public or the access to public or private roads or footpaths or properties owned by the Employer or by any other person.

The Contractor shall select routes, choose and use vehicles so that movement of Contractor's Equipment, Plant and Materials from and to the Site is limited so that traffic is not delayed and damage to highways and bridges is prevented. If there is any delay or damage or injury, the cost of rectification or

reconstruction of highways or bridges shall be borne by the Contractor. The Contractor shall indemnify the Employer in respect of all claims, demands, proceedings, damages, costs, charges and expenses whatsoever arising out of or in relation to any such matters.

If during the execution of the Works the Contractor shall receive any claim arising out of the execution of the Works in respect of damage to highways or bridges, he shall immediately report the facts to the Engineer. The Contractor shall negotiate a settlement in respect of such claims and indemnify the Employer in respect of all claims, proceedings, damages, costs, charges and expenses in relation thereto.

7 Sub-Clauses 4.13 Programmes

Within 14 days of the date of receipt of letter of acceptance, the Contractor shall submit to the Engineer, for consent, the Detailed Works Programme in the form and content prescribed in the Tender Documents.

The Contractor shall complete the work in phased manner fixing priorities to the different Stages of the work to give access to other interfacing contracts as per the requirement of project from time to time and as milestone indicated in **Contract Data**.

The Engineer shall inform the Contractor in writing within 10 days after receipt of the above information;

- (a) that the programme has received his consent; or
- (b) that the programme is rejected, in which case reasons for such rejection shall be given; or
- (c) that further information is required to clarify or substantiate the programme or to satisfy the Engineer as to its reasonableness, or
- (d) that the programme has received his consent subject to incorporation of comments attached to the Notice of No Objection

Provided that if none of the above actions is taken within the 21 day period, the Engineer shall be deemed to have given consent to the programme submitted.

The Contractor shall, within 21 days of receiving notification under sub-paragraphs (c) or (d) above, provide further information requested or the programme shall be deemed to have been rejected. The Engineer shall, within 21 days of receipt of such further information, either reject the programme or give his consent.

In the event of a programme being rejected, or deemed to have been rejected, the Contractor shall, within 21 days thereafter, submit a revised programme taking account of the reasons given for the rejection or incorporating further information requested by the Engineer, as the case may be.

The Contractor, following receipt of consent to the Works Programme, may at any time, submit to the Engineer an amended version. In the event that the Engineer grants an extension of time, instructs an Employer's Variation, or on the occurrence of any event or happening or situation, which could materially affect the progress of the Works, the Contractor shall submit a revised programme to the Engineer for his consent.

If the Engineer feels that there is a significant deviation between the actual or anticipated progress of the Works and the Works programme, the Engineer may require the Contractor to submit a revised/modified programme to ensure timely completion of Whole of Works or a milestone. The Contractor shall submit such revised programme within 14 days of the Engineer's instruction or within such other time as the Engineer will allow in writing.

Unless and until an amended version has the consent of the Engineer, the existing programme shall remain as the Works Programme for all purposes of the Contract.

Consent by the Engineer to a Works Programme shall not relieve the Contractor of any of his duties or responsibilities under the Contract, nor in the event that a Works Programme indicates that a Key Date has not or will not be met, constitute any form of acknowledgement that the Contractor is or may be entitled to an extension of time in relation to such Key Date.

8 **Sub-Clauses
4.16 and 6.7**

Safety of Works, Health and Safety

In addition to Sub-clause 4.16 of the General Conditions of Contract, within 8 weeks of receipt of letter of acceptance, the Contractor shall submit a detailed and comprehensive contract-specific Site Safety Plan based on the Employer's Safety, Health and Environmental Manual (SHE Manual). The Contractor is required to make himself aware of all the requirements of the Employer's Safety, Health and Environmental Manual in this regard and comply with them. The Site Safety Plan shall include detailed policies, procedures and regulations which, when implemented, will ensure compliance with Sub-Clauses 4.16 and 6.7 of General Conditions of Contract and SHE Manual (Section -9).

The Contractor shall, from time to time and as necessary or required by the Engineer, produce supplements to the Site Safety Plan such that it is at all times a detailed, comprehensive and contemporaneous statement by the Contractor of his site safety and industrial health obligations, responsibilities, policies and procedures (under the laws of India) or as stated in the Contract or elsewhere relating to work on Site.

If at any time the Site Safety Plan is, in the opinion of the Engineer, insufficient or requires revision or modification to ensure the security of the Works and the safety of all workmen upon, and visitors to the Site, the Engineer may instruct the Contractor to revise the Site Safety Plan. The Contractor shall, within 14 days, submit the revised plan to the Engineer for review.

Any omission, inconsistency or error in the Site Safety Plan or the Engineer concurrence or rejection of the Site Safety Plan and/or supplements thereto shall be without prejudice to the Contractor's obligations with respect to site safety and industrial

health and shall not excuse any failure by the Contractor to adopt proper and recognised safety practices throughout the execution of the Works.

The Contractor shall adhere to the Site Safety Plan and shall ensure that all sub-contractors of all tiers have a copy of the Site Safety Plan and comply with its provisions.

The Contractor shall provide all necessary access, assistance and facilities to enable the Engineer and the Employer to carry out surveillance to verify that the Site Safety Plan is being properly and fully implemented.

The Contractor shall notify the Engineer immediately of any occurrence or incident that results in death or serious injury as defined in the Indian Penal Code. Such initial notification may be verbal and confirmed in writing thereafter and shall be followed by a comprehensive written report within 24 hours of the occurrence/incident. The Contractor shall duly complete standard forms as required by the Engineer and Statutory Authorities.

The Contractor shall provide and maintain all necessary temporary fire protection and fire fighting facilities on the Site during the construction of the Works in accordance with the statutory regulations and as required by the Engineer. The Contractor shall ensure that all gases, fuels and other dangerous Materials and goods are stored and handled in a safe manner and in accordance with the statutory regulations and as required by the Engineer.

The obligations and requirements for safety and industrial health under this Contract are entirely without prejudice to, and do not derogate from, the Contractor's statutory obligations, with respect to safety and industrial health.

First aid Base

The Contractor shall provide a First Aid Base at his principal Works Area/ Construction Depot, suitable medical facilities for Workmen's Camps, suitable and sufficient first aid boxes at worksites for the Contractor's workforce and his Sub-contractors' workforce as further described in the Employer's Requirements.

9 Sub-Clause 4.17 Protection of the Environment

Outline Environmental Plan means the environmental plan forming part of the Tender, setting out, in summary form, the Contractor's proposed means of complying with his obligations in relation to environmental quality. Site Environmental Plan means the site environmental plan including all supplements thereto, or any amended or varied version thereof, as submitted by the Contractor in accordance with Employer's Safety, Health and Environmental Manual (SHE Manual), this Clause and which has received the Engineer's consent. The Site Environmental Plan shall include detailed policies, procedures and regulations which, when implemented, will ensure compliance with this Clause. The Contractor is required to make himself aware of all the requirements of the Employer's SHE Manual in this regard and comply with them.

Within 8 weeks of the receipt of Letter of acceptance, the Contractor shall submit a detailed and comprehensive Site

Environmental Plan based on the Employer's Safety, Health and Environmental Manual (SHE Manual), and shall include such further material, which the Contractor considers necessary and relevant.

Upon the Engineer notifying his consent to the Site Environmental Plan, or any supplemental part thereof, the Contractor shall adhere to the principles and procedures contained in such document save to the extent that the Engineer may give his consent to any amended or varied version thereof.

The Contractor shall provide all necessary access, assistance and facilities to enable the Engineer and the Employer to monitor and conduct tests to verify that the Site Environmental Plan is being properly and fully implemented.

10 Sub-Clause 4.19, 4.20 Tools, Plants and Equipment Supplied by the Employer and Employer's Materials

No material, tools, plant and equipment shall be supplied by the Employer. The Contractor has to arrange all tools, plant, equipment as well as construction materials required for the work.

11 Sub-Clause 4.22 Temporary Works.

The Contractor's proposals for erection of all ancillary and temporary works shall be in conformity with the proposals submitted along with the Tender and modifications thereto as approved by Engineer.

The Contractor shall submit drawings, supporting design calculations where called for by the Engineer and other relevant details of all such works to the Engineer for approval at least fifteen days before he desires to commence such works. Approval by the Engineer of any such proposal shall not relieve the Contractor of his responsibility for sufficiency of such works. No extra payment will be made for complying with the provisions of this Clause and the cost of work under this element shall be deemed to be included in the Financial proposal.

12 Sub Clause 4.25, 4.26, 4.27 and 4.28 Access Road and Way Leaves, Contractor to keep Site clear, Security of the Site & Contractor's Operations on Site

This is in addition to provisions defined in General Conditions of Contract.

Existing roads and other public roads may be used by the Contractor at his risk and cost to carry out construction activities, with prior approval of the competent authority.

The Contractor's heavy construction traffic or tracked equipment shall not travel on any public road or bridge, unless the Contractor has made arrangements with the authority concerned and has obtained the approval of the Engineer to such arrangements. The Contractor shall include in his price the cost of strengthening any such public road or bridge if he considers it would be necessary.

The Contractor shall repair any damage to the road or bear the

cost thereof due to movement of contractor's plants and equipment, vehicles etc. to the specifications and satisfaction of road authorities as well as of Engineer.

No claim whatsoever shall be entertained on this account. The transportation of certain equipments and materials and launching may not be possible during day and may have to be carried out within time schedule specified by traffic police.

No extra payment will be made for construction and maintenance of temporary haul roads if any needed including any special protection of strengthening required and all cost of such works shall be deemed to have been included in the fixed Contract price.

All garbage shall be removed from site daily or as they accumulate. All surface and sub-soil drains shall be maintained in a clean, sound and satisfactory state of performance. No extra payment shall be made on this account.

The Contractor shall take all measures necessary to ensure such security, including exercising control over all persons and vehicles which are employed or engaged on the Site or in connection with the Works or the other works comprising the Project and with the security arrangements applicable to any other site within the Project.

The Contractor, after obtaining any necessary consent from any relevant authority, shall submit to the Engineer proposals showing the layout of pedestrian routes, lighting, signs, and guarding any road opening or traffic diversion which may be required in connection with the execution of the Works and which the Contractor intends to construct. Any consent given by the Engineer to such proposals shall not relieve the Contractor of any obligation under the Contract or absolve the Contractor from any liability for or arising from such proposals or the implementation thereof.

All lights provided by the Contractor shall be so placed or screened as not to interfere with signs, signals or lights. The Contractor shall not in any way obscure or affect signs, signals or lights, in use by any relevant authority. In the event that the Contractor does so, the Contractor shall pay all costs associated with the re-siting, re-instating or provision of alternatives for any sign, signal or light, obscured or affected.

For the purposes of this Clause only, "Site" shall include off-Site places of manufacture or storage and the Contractor's Work Areas and shall include, areas provided to the Contractor by others.

The Contractor shall follow relevant Safety and Security instructions issued by the concerned Authorities from time to time and shall work in close coordination with the concerned Authorities.

13 Sub-Clauses 4.32 **DELETED**

14 Sub-Clause 5.1 **Design – General Obligations**
Drawings for Permanent works:

Preliminary Drawings showing general dimensions & details elaborating the scope of work (not based on detailed design) will be supplied along with the Tender documents.

Design, Drawings and Specifications:

The Contractor shall Design the false work, form work, staging scheme etc. required to perform their work and shall get the same and related working drawings approved by the Engineer. The Contractor would supply 6 sets of these drawings to the Engineer for the latter's use.

Shop Drawings

Based on "Good for Construction" drawings issued by Engineer the Contractor shall prepare shop / fabrication drawings to scale as directed indicating the required details. The shop drawings shall be prepared before execution of work, after taking actual site dimensions and all existing and proposed services / structures etc. The shop / fabrication drawings shall be checked by independent consultant prior to submission to the Engineer for approval.

Shop drawings submitted by the Contractor shall be in sufficient detail to indicate the type, size, arrangement, breakdown for packing and shipment, the external connections, fixing arrangements required, the dimensions required for installation and interconnections with other equipment and materials, clearances and spaces required between various portions and any other information specifically called for.

Approval of Engineer of any such proposal / drawings shall not relieve the contractor of his responsibility of sufficiency of such works.

It shall be the responsibility of the Contractor to promptly bring to the notice of the Engineer any error or discrepancy in the Contract documents and obtains his orders thereon. Only stated dimensions are to be taken and not those obtained from scaling drawings. In case any feature of the work is not fully described and set forth in the Drawings and Specifications, the Contractor shall forthwith apply to the Engineer for further instructions, Drawings or Specifications.

15 Sub Clause 6.5**Working Hours:**

Where night working is permitted by the Engineer to facilitate the Contractor's Work operations, temporary lighting equipment as per approved layout shall be provided, installed, maintained for the duration of the Contract and removed after completion of Work by and at the expense of the Contractor.

15.1 Sub Clause 6.6**Facilities for Staff and Labour:**

No staff and labour housing facilities will be allowed at the Site. The Contractor will have to make his own arrangement for the same at his own cost.

16 Clause 7.0**Quality Control**

Within 14 days of the issue of the Letter of acceptance, the Contractor shall submit to the Engineer, for his consent, his proposed Site Quality Plan based on the Outline Quality Plan and the Employer's Requirements. The quality manual should address the quality system as required by ISO 9001-1991. Any

supplement to the Site Quality Plan shall be submitted at least 14 days before commencement of the relevant work.

Upon the Engineer notifying his consent to the Site Quality Plan, or any supplement thereto, the Contractor shall, adhere to the principles and procedures contained in such document, except where the Engineer gives his consent to any amended or varied version thereof. The Contractor shall cause any sub-contractors to adhere to this Plan.

The Contractor shall appoint a suitably qualified and experienced person, not otherwise engaged in the performance of the Contract, to act as manager of the quality assurance system and shall provide such other personnel and resources as required to ensure effective operation of the quality assurance system. The said manager shall carry out audits of the application of the quality assurance system, and ensure effective quality control and delivery of quality assurance.

The Contractor shall provide all necessary access, assistance and facilities to enable the Engineer to carry out surveillance visits both on and off the Site to verify that the quality assurance system is being properly and fully implemented. No extra payment shall be made in this regard and the cost of the Work under this element shall be deemed to be included in the Contract Price.

17 Sub-Clause 8.5

Liquidated Damages for Delay

The total contract value used in the GCC sub-clause 8.5 shall for the purpose of levy of liquidated damages mean the 'Contract Price'.

18 Sub-Clause 10.1

Defects Liability

"Defects Liability Period" shall mean the defects liability period as stated in the Contract Data or as extended under sub clause 10.1 and 10.3 of GCC. After any part of the works are taken over by the Employer until the end of Defect Liability Period the Contractor shall provide, free of cost, competent and skilled personnel round the clock as required and maintain adequate stock of spares so as to promptly fulfil his obligations to remedy the defects or failure as laid down in Employer's Requirements.

In addition to Sub clause 10.1 of the General Conditions of Contract, during the Defects Liability Period, the Contractor shall provide free of cost competent and skilled supervisory personnel, including all materials and spares required for the operation and maintenance (routine and breakdown) of the Works. The operating and maintenance staff other than the supervisory staff shall be provided by the Employer.

19 Sub-Clause 11.1

The Contract Price

19.1

Taxes and Duties.

The tenderer to quote the rates inclusive of all taxes and duties as applicable at the time of tender. In addition to this the tenderer to consider waiver/exemption/concessions available in general or specific to infrastructure/Metro Rail Projects, if any.

The quoted rates in financial proposal includes all central and state taxes applicable in Kerala for the work covered in the Tender. Any variation in Tax liability applicable on contract during the Contract period shall be on account of the contractor.

The contract price shall be inclusive of all taxes, duties, cess and

any other charges leviable including tax to be deducted at source.

The Tenderer to indicate clearly and separately all taxes considered in their offer along with applicable percentage and total value of all taxes. The Tenderer to submit the annexures of statement of taxes, duties, cess and levies included in the contract price.

In addition to this, the tenderer to provide the detail of all State taxes considered on their offer.

The contractor shall maintain complete records of the custom duty, Excise duty, VAT, Work Contract Tax, Octroi/Entry Tax (if any) in the State of Kerala and other levies/Cess etc. as applicable and payable to various authorities and submit the receipts/records as and when demanded in writing by the Engineer for verification.

As per Clause 14 of the Notification No. 25/2012-Service Tax dated 20.06.2012 issued by the Ministry of Finance, Government of India, Services by way of construction, erection, commissioning or installation of original works pertaining to an airport, port or railways including mono rail or metro is exempted from the whole of service tax under Section 66B of the Service Tax Act.

(a) All composite contracts (works contract) for construction as well as erection, commissioning and installation services and turnkey projects classified under these categories are exempted from Service Tax. If any change takes place with regard to service tax during the currency of the contract period, the same shall be on account of KMRL and it will be reimbursed to the contractor against documentary proof or benefit of reduction or exemption, if any, shall be passed on to KMRL.

(b) The Service Tax shall be applicable on the services involved in the execution of a works contract.

The Contractor shall ensure full compliance with tax laws of India with regard to this contract and shall be solely responsible for the same. He shall submit copies of acknowledgement evidencing filing of returns every year and shall keep the Engineer/Employer fully indemnified against liability of tax, interest, penalty, etc. of the Contractor's in respect thereof, which may arise.

The Income Tax deducted at source shall be as per the extent of Income Tax law. However, the contractor may furnish Lower/Nil Tax deduction certificate from the Income Tax authorities for each financial year.

In case of foreign contractors, they shall also clearly state whether any permanent establishment exist in India and deduction of TDS in such cases.

The contractor may opt to quote the contract price taking into consideration the liability of VAT at the 'standard rate' of under composition scheme. The contractor shall furnish a copy of the declaration furnished to the VAT authorities for opting the composition scheme. In case the contractor opts for standard rate, then he has to furnish the certificate issued by the VAT authorities indicating the rate at which VAT has to be deducted

at source. Since the contract price is inclusive of VAT, the contractor while submitting the IPC shall indicate separately the value of work executed and VAT payable. This breakup will enable the employer to deduct VAT at the appropriate rate and to remit it to the VAT authorities.

The Contractor shall maintain complete records of Custom Duty, Excise duty, VAT, Works Contract Tax, Entry Tax (if any) and other Levies/Cess etc., as applicable and payable to various authorities and also retain the receipts/records for the Engineer/Employer's scrutiny, as and when deemed necessary. However, the contractor shall also submit in the prescribed tabular format the details of Customs Duty, Excise Duty and all State Government Taxes and levies to the Employer every quarter. The Employer may withhold payment of contractor's invoices for non-submission of the above information.19.2

Changes in cost due to legislation:

"Change in Law" means the occurrence or coming into force of the following, at any time after the latest Date of submission of tender.

- (a) any new tax which is imposed after the due date of submission of tender and which impacts the performance of the Contractor with increased cost or which results in extra financial gains to the Contractor due to decreased cost in execution of Works.
- (b) change in any law pertaining to work having the above said impact.

However, change in the rate of any existing tax will not be considered a change in Law. Any risk of change of Tax rate what so ever of Tax rate to the work lies with the Contractor.

Then such additional or reduced cost shall be certified by the Engineer after examining records provided by the Contractor and shall be paid by or credited to the Employer.

Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if:

- (a) the same shall have been reflected in the indexing of any of the inputs to the Price Adjustment Formula in accordance with the provisions of "Price Variation" of "sub Clause Special Conditions of Contract," or
- (b) the same shall have been taken into account under any other clause of the Contract, or
- (c) In case Price Variation formula based on Reserve bank of India Indices is proposed to be adopted, no addition/reduction in cost due to "Change in Law" will be allowed.

Contractor shall furnish the details of taxes and duties considered before change in any tax law and taxes & duties after change of law to KMRL. While any increase in taxes and duties due to change in law will be reimbursed by KMRL, any benefit of reduction shall be passed on to KMRL by the contractor.

19.3

Price Variation Clause: Deleted

20 Sub-Clause 11.2.1 Mobilisation advance

Mobilisation Advance Payment shall be paid in Indian Rupees up to **10%** of the Contract Price in one instalment when the

Contract becomes effective if the Contractor requests. This advance is not mandatory.

Mobilisation Advance will be paid against submission of 2 (two) separate Bank Guarantees for the like amount as per format given in schedule to SCC from an Indian Schedule bank (excluding Cooperative Banks) or from a schedule Foreign Bank as defined in Section 2(e) of RBI Act 1934 read with Second Schedule.

The Mobilisation Advance shall be paid within 30 days after receipt of the Contractor's written request by the Employer and submission of the Performance Security and Advance Payment Bank Guarantees.

21 Sub-Clause 11.2.2

Advance against Plant and Machinery: Deleted

22 Sub-Clause 11.2.3

Advance against Material: Deleted

23 Sub-Clause 11.2.5

Recovery of Advances

23.1

Mobilization Advance

a. The recovery of the Mobilization Advances shall be commenced in the 2nd month after commencement of the work and will be completed in subsequently Two monthly instalments of equal value each.

b. Bank Guarantee shall be submitted as per SCC Clause 20 corresponding to 2 (two) equal value guarantees of the Mobilization advance payments. After recovery of equal value of mobilization advance by the Employer, a corresponding Bank Guarantee shall be released to the Contractor.

Provided that if the amounts of the each interim payment requests shall not be sufficient to enable the Employer to recover the respective mobilisation advance then the Employer at his discretion shall require the refund of the insufficient amount, or be entitled to enhance the subsequent recovery amount suitably at his option, so that the outstanding amount from any sums payable or due to be payable to the Contractor so as the total of the Mobilisation Advance is recovered within the original or approved extended period of Time for Completion of the Works.

23.2

Payment and Recovery of Advance against Materials: Not Applicable

24 Sub-Clause 11.4

Payment-Interim and Final

(a) After scrutiny and certification by the Engineer, the payment of the certified interim amount (80 % of the certified value of work done) shall be made by the Employer within 7 working days from the date of issue of Interim Payment Certificate by the Engineer.

(b) Balance 20% of the certified value of work done shall be made by the Employer within 21 working days of receipt of the same from Engineer duly certified.

(c) In calculating the amount payable to the Contractor for the Rupee portion, for each item, sums of less than Fifty Paise shall be omitted and sums of Fifty Paise and more, up to one Rupee, shall be reckoned as one Rupee.

(d) In the event of Contractor submitting false measurements or bills for the first time, the Engineer will issue a written warning to him to the effect that the facility of 80% payment without detailed check will be withdrawn in future. If the contractor repeats the offence for the second time, this 80% payment facility shall be completely withdrawn in respect of this contractor for all his assignments / contracts with KMRL.

25 Sub-Clauses 12.3 and 12.4 Employer's Variation and Variation Procedure.

“Employer's Variation” means a change in the Employer's requirements which makes necessary alteration or modification of the scope of Works as described by or referred to in the Employer's Requirements

26 VARIATION IN QUANTITY OF ITEMS COVERED BY THE BILL OF QUANTITIES

26.1 The quantities of items shown in the Bill of Quantities are approximate, and liable to vary during the actual execution of the Work. The Contractor shall be bound to carry out and complete the stipulated work / group of works, irrespective of the variations in individual items or group of items, specified in the Bill of Quantities.

26.2 Such variations in quantities shall be paid for in the manner laid down below:

- a) At the accepted rates of the Contract for variation in quantities to the extent of 25% on either side i.e. increase / decrease, except in the case of foundation works. Unless otherwise specifically provided for in the Bill of Quantities or elsewhere in the Contract, the variation of $\pm 25\%$ shall be applicable to a section / group of items mentioned therein and not to individual items
- b) In case the variation in individual items or the group of items, as stipulated above, is more than 25% on either side, the rate for the excess quantity beyond 25% shall be negotiated between the Engineer and the Contractor and mutually agreed rates arrived at. Provided further that:
 - i. the limit of 25% variation shall not apply to items individually costing up to or less than 1% of the value of the original Contract Price. All variations under such items, shall be payable at the accepted rates of the Contract, notwithstanding magnitude of the variation up to an overall value of 2% of the Contract, for each such item.
 - ii. for items against which the quantity given in the Bill of Quantities is “if or as required”, their shall be no increase / decrease of rates, whatever be the quantity finally executed.
 - iii. the Contractor shall be bound to notify the Engineer at least 7 days before the necessity arises for the execution of quantities of any items or group of items, as the case may be, in excess of 25%. In case mutually agreed rate between the Engineer and the Contractor is not arrived at, before the execution of such works, the Contractor shall have no claim to be entrusted with the execution of extra quantities, and the Engineer shall be free to get such additional quantities beyond 25% executed through

any other agency. However, if the Engineer or the Employer so directs, the Contractor shall be bound to carry out any such additional quantities beyond 25% of the original quantities, and the disagreement or the difference regarding rates to be paid for the same, shall be settled in the manner laid down under the conditions for the settlement of disputes under Relevant Clause.

27 EXTRA ITEMS NOT IN THE BILL OF QUANTITIES

27.1 Operation of extra items of work

If any item of work not provided for in the accepted Bill of Quantities is to be operated, the Contractor on receipt of instructions from the Engineer, shall be bound to carry out such works at the rates to be decided as per **Sub-clause 27.2**

27.2 Derivation of rates for extra items of work

If the Item is available in **KPWD-SOR 2104-15** then item will be paid as per **KPWD-SOR 2104-15** only. If not available, then the rate of such items shall be derived, wherever possible, from rate for similar items available in the Bill of Quantities of the accepted tender. In case this is not possible, the rate may be decided on the following basis:

- a. Cost of materials at current market rates, as actually utilised in the final finished permanent work, including a reasonable percentage for wastage and transportation.
- b. Cost of temporary works if any (unless provided for separately) worked out on the above basis but with relaxed specifications minus salvage value of serviceable material released after completion of work and cost of material released as scrap.
- c. Cost of labour actually used at the site of work at rates under Payment of Minimum Wages Act for the area of work for each category of worker, further enhanced by a percentage of 30% of the aforesaid rates to account for labour not directly utilised at Site and other ancillary and incidental expenses on labour.
- d. Hire charges for Plant & Machinery, scaffolding, shuttering, forms, etc., required to be used at the site of the work. The tools used by various trades shall not be counted as Plant & Machinery for this purpose.
- e. An amount of 20% of items (a), (b), (c) and (d) above to allow for Contractor's overheads, taxes, and profits. This percentage shall also apply to estimated cost of materials supplied free to the Contractor.

27.3 Notice by Contractor

- i. In all cases where extra items of work are involved, for which there are no rates in the accepted Bill of Quantities, the Contractor shall give a notice to the Engineer, of at least 7 days before the need for their execution arises.
- ii. Such a notice shall not, however, be necessary if the Engineer has already instructed in writing to take up such an item of work. To decide the rate, the Engineer may ask the Contractor to furnish detailed analysis of the new rates on the lines mentioned in **Sub-clause 27.2** above and / or attend a meeting

with him to settle the rate. The Contractor shall be bound to furnish the requisite details and / or attend the meeting.

28 Sub Clause 15.6

Professional Indemnity Insurance.

Deleted

29 Sub Clause 15.7

General requirements for insurances.

Deleted

SECTION – 6 – PART 3

SCHEDULES TO CONDITIONS OF CONTRACT

SINo	DESCRIPTION	Page No
1	Schedule 1 – Contract Agreement	2
2	Schedule 2 – Performance Guarantee	7
3	Schedule 3 – Form of Bank Guarantee for Retention Money	10
4	Schedule 4- Letter of Acceptance	13
5	Schedule 5- Notice to Proceed	14

Note: - The Schedules as above may be modified as considered necessary at the time of finalization of the contract.

SCHEDULE -1
CONTRACT AGREEMENT
CONTRACT

(Refer Sub – Clause 1.4 of GCC)

This Contract Agreement (hereinafter called the “Contract”) is made at Kochi onday ofby and between:

Kochi Metro Rail Limited, a company incorporated under companies act 1956 represented by the Managing Director, with office located at Regd. Office.8th Floor, Revenue Tower, Park Avenue Kochi. 682011 Kerala , India, hereinafter referred to as the “KMRL” or the “Employer”, as the case may be, which expression shall unless excluded by or repugnant to the context or meaning thereof be deemed to include its successors and assigns of the one part, and;

..... [Note 1] comprising:

a), a company registered and existing under the laws of, with head office located at, represented by Mr. and Mr. authorised to sign and bind the company, under the Power of Attorney dated..... and the Board Resolution dated..... [Note 5]

b), a company registered and existing under the laws of, with head office located at, represented by Mr. and Mr. authorised to sign and bind the company, under the Power of Attorney dated..... and the Board Resolution dated..... [Note 5]

c), a company registered and existing under the laws of, with head office located at, represented by Mr. and Mr. authorised to sign and bind the company, under the Power of Attorney dated..... and the Board Resolution dated..... [Note 5]

[Note 2] who each of which shall be jointly and severally responsible to the Employer under the Contract for the Kochi Metro Rail Project as per conditions agreed to by the Employer; Hereinafter [Note 3] collectively referred to as the “Contractor” of the other part.

WHEREAS the Contractor has established a[Note 4] in accordance with Indian law and offered a tender for the construction of a rail based mass rapid transport system by execution and completion, and remedying any defects in the Works of “Supply and Installation Works

(Including Fabrication) of Signage and Graphics including all transportation, loading and unloading, etc. for **Six Elevated Metro Stations viz. Muttom, Kalamassery, CUSAT, Pathadipalam, Edapally, Changampuzha Park,**

Tender Notification No: KMRL/PRJ/STN SIGN/235/2015/TEN 01-16 and agrees to undertake performance of the Work under the terms and conditions set forth in this Contract.

WHEREAS the Employer agrees to hire and the Contractor agrees to be hired to implement the *Supply and Installation Works (Including Fabrication) of Signage and Graphics including all transportation, loading and unloading, etc. for Six Elevated Metro Stations viz. Muttom, Kalamassery, CUSAT, Pathadipalam, Edapally, Changampuzha Park, of Kochi Metro Rail Project*

Tender Notification No: KMRL/PRJ/STN SIGN/235/2015/TEN 01-16, under the terms and conditions specified in this Contract Agreement and the other Contract Documents.

Now THEREFORE the parties hereby agree as follows:

Clause 1 Words and Expression

In this Contract all the words and expressions shall have the same meanings as are respectively assigned to them in the conditions of contract hereinafter referred to,

Clause 2 The Contract Documents,

The following shall deemed to form and be read and construed as a part of the agreement.

1. The Contract Agreement.
2. The Letter of Acceptance.
3. Clarifications, addenda, corrigenda issued to the Tender document.
4. Tender Price/Bill of Quantities.
5. Employer's Requirement- Scope of work.
 - (i) Technical Specifications.
 - (ii) General requirements
6. The Conditions of Contract including Schedules.
7. Contractor's Proposal/Submittal.
8. Any other document forming part of the Contract.

All of the foregoing documents, together with this Contract Agreement, are referred to herein as the Contract. Also incorporated into the Contract, and made part hereof, are all codes, standard specifications, and similar requirements that are referred to therein.

Clause 3 Obligations of the Contractor:

The mutual rights and Obligations of the Employer and the Contractor shall be as set forth in the contract and in particular: -

The Contractor agrees, subject to the terms and conditions of the Contract, to perform efficiently and faithfully all of the work and to Construction WHEREAS the Employer agrees to hire and the Contractor agrees to be hired to implement the *Supply and Installation Works (Including Fabrication) of Signage and Graphics including all transportation, loading and unloading, etc. for Six Elevated Metro Stations viz. Muttom, Kalamassery, CUSAT, Pathadipalam, Edapally, Changampuzha Park, of Kochi Metro Rail Project*

. Tender Notification No: KMRL/TENDER/S&G/1 and other facilities requisite for or incidental to the successful completion of the Works and in carrying out all duties and obligations imposed by the

Contract.

Clause 4 Obligations of the Employer:

The Employer agrees, subject to the terms and conditions of the Contract, to pay the Contractor the amount specified, and at the rates and terms and in the manner set forth in the Contract.

Clause 5 Contract Price and Completion Time:

The Employer agrees to pay for the total cost of the Works and the Contractor agrees to accept the sums mentioned below in the following currencies, to be the total cost for the Work carried out by him as part of his obligations, responsibilities and liabilities under and according to the provisions and obligations imposed on him by the Contract.

Total Amount for Priced Bill of Quantities in all sections: -

- (i) Indian Rupees (..... Rs); and
- (ii) in the foreign currency of: ... (Not applicable) (.....);

The above Contract Price is inclusive of all taxes, duties, levies, cess and any other charges leviable. The Contractor shall complete whole of the Works within..... (.....) months from the Commencement Date stipulated in the Letter of Acceptance/Notice to Proceed issued by the Employer. The Defect Liability Period is 12 months from the date mentioned in the Taking Over Certificate for whole of the Works.

The total Contract Price will be increased/decreased during the period of performance of the contract as specifically provided, if any, in the Special Conditions of Contract under Price Variation Clause accordingly and no additional amount for any other account whatsoever shall be payable to the Contractor.

Clause 6 Integration

The Employer and the Contractor agree that this Contract Agreement, together with the other Contract Documents, expresses all of the agreements, understandings, promises, and covenants of the parties, and integrates, combines, and supersedes all prior and contemporaneous negotiations, understandings, and agreements, whether written or oral and no modification or alteration of the Contract Documents shall be valid or binding on either party, unless expressed in writing and executed with the same formality as this Contract Agreement, except as may otherwise be specifically provided in the Contract Documents.

Clause 7 Governing Law

This Contract is enforceable and construed under the applicable laws of the Republic of India.

Clause 8 Language

This Contract Agreement and the other Contract Documents are made in the English language.

Clause 9 Jurisdiction of Court

The Court at **Kochi** shall have the exclusive jurisdiction to all the disputes arising out of this Agreement between the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written

KMRL, The Employer
 Kochi Metro Rail
 Corporation Limited

[Note 6], **The Contractor**
 (a)

 ()

 WITNESS

 ()

 (b)
 ()

 (c)

 ()
 WITNESS
 ()

- Notes: (for preparation of but not for inclusion in the engrossment of the Contract Agreement)
1. If the Contractor comprises a partnership, consortium or joint venture, liability will be joint and several, and each member thereof must be identified.
 2. In the case that the Contractor comprises a single company, this line should be deleted entirely, as also should be paragraphs (b) and (c) above.
 3. In the case that the Contractor comprises a single company, the word “collectively” should be deleted from this line.
 4. Enter the appropriate nature of the Contractor; company, partnership, consortium or joint venture as the case may be.
 5. Enter the date of the appropriate resolution.
 6. If the Contractor comprises a partnership, consortium or joint venture, each member thereof must execute.

SCHEDULE -2
BANK GURANTEE FOR PERFORMANCE OF CONTRACT

To
KOCHI METRO RAIL CORPORATION LIMITED (KMRL)
Regd. Office.
8th Floor, Revenue Tower, Park Avenue
Kochi. 682011 Kerala, India.

1. **WHEREAS** _____ (Name and Address of the Contractor hereinafter called the “Contractor”) has undertaken for due performance of contract, in pursuance of contract No. _____ (description of the contract work of Kochi Metro Rail Project to be specified) (hereinafter called “the Contract”)

2. **AND WHEREAS** it has been stipulated by you KMRL in the concerned contract of the contractor that the contractor shall furnish to EMPLOYER/KMRL with a Bank Guarantee for due performance of Contract from an Indian scheduled Bank (excluding Cooperative Bank) or from a schedule Foreign Bank as defined in Section 2(e) of RBI Act 1934 r/w second schedule for, the sum specified herein below as security for compliance of the obligation and performance of the contractor, in accordance with the concerned contract.

3. **AND WHEREAS** we _____ (the name and full address of the Bank including Email address) having registered office at _____ (hereinafter referred to as the issuing Bank) which expression shall unless repugnant to the context of the meaning thereof, include its successors, administrators, executors and assignees, do hereby agree to give the contractor such a Bank Guarantee, drawn and payable at Kochi _____ through Kochi _____ Branch.

4. **NOW** therefore, we hereby affirm that we are the guarantor and responsible to your EMPLOYER/KMRL and your successor, on behalf the contractor up to a total sum of Indian Rupees of Rs. _____ (amount of Guarantee to be specified in figure and words), such sum being payable in the types and proportions of currencies in which the contract price is payable and we hereby further unconditionally, irrevocably and without demur undertake to immediately pay you, upon your first written demand and without cavil, or arguments any sum or sums within the limits of Indian Rupee _____ (Bank guarantee amount to be specified) as aforesaid without your needing to prove or to show grounds or reasons for your demand, by depositing/crediting to the SB/Current A/c. of KMRL for the sums specified therein.

5. After the Contractor has signed the aforementioned Contract with KMRL, the Bank is engaged to pay the KMRL, any amount up to and inclusive of the aforementioned full amount upon written order from the KMRL to indemnify the KMRL for any liability of damage resulting from any

defects and/or shortcomings of the Contractor and/or the debts the contractor may have incurred to KMRL and/or any parties involved in the Works under the Contract mentioned above, whether these defects and/or shortcomings and/or debts are actual and/or estimated and/or expected. The Bank will deliver the money required by the KMRL immediately on demand without delay without reference to the Contractor and without the necessity of a previous notice or of judicial or administrative procedures and without it being necessary to prove to the Bank the liability or damages resulting from any defects or shortcomings or debts of the Contractor.

6. KMRL shall have full rights whatever to encash this bank guarantee at any time during the guarantee and the contractor shall have no right or claim whatsoever in the matter of encashment of the Bank guarantee amount by you and any disputes/claims whatsoever in this regard shall only be settled by means of conciliation/arbitration as provided for in the contract and your decision, as to what amount is due to you from the Bank against the guarantee and the contractor has committed breach of contract or not, shall be final and unquestionable by the Bank and binding on the Guarantor Bank and the contractor shall have no right to interfere with the same except to agitate, claim dispute before the Arbitration and, the Bank shall have full right in terms of the guarantee and obligation, to make immediate payment to your EMPLOYER/KMRL, without the consent of the contractor and without referring the matter to the contractor.

7. Courts at Kochi, India shall have exclusive jurisdiction for contesting legal cases arising out of encashment of the Guarantee, and we the said Bank lastly undertakes not to revoke this Guarantee during its currency, except with the previous consent of the Company in writing and agree that any change in the constitution of the Bank shall not discharge our liability hereunder.

8. This Bank Guarantee will not be discharged due to the change in the constitution of the contractor or change in the constitution of the issuing bank

9. We, the said Bank undertakes not to revoke this guarantee during its currency, except with the previous consent of the company in writing and agree that any change in the constitution of the Bank shall not discharge our liability hereunder.

10. This guarantee is issued by Shri _____ who is/or authorized by the Bank for issuing the guarantee in this behalf and his ID No. and Email address being-----.

11. The Banks liability under this Guarantee shall not exceed Rs._____(in words_____)

12. This Bank Guarantee shall be encashed if not renewed on due date for further period at the request of KMRL unless issue of any instructions contrary

to it

3

13. This guarantee shall be valid for (period to be specified) till _____
(Period to be mentioned).

14. The pendency of any dispute or arbitration or other proceedings shall not affect this guarantee in any manner.

15. This Bank Guarantee is payable or extendable at our designated Branch as mentioned below:

Name of the Bank, Branch and contact details in Kochi

Address

Telephone no: & Fax No:

E-mail Address

Branch manager name& mobile No:

Bank Zonal Office Address, Telephone No: Fax Number,

E-mail Address

16. It is hereby agreed that the liability of the Bank under this guarantee shall cease on whichever of the following events first occurs.

a) Payment by the Bank of the Guaranteed sum in full to the Employer/KMRL or

b) Receipt of written notification from the Employer that Contract work for Metro Corridor have been performed to the satisfaction of the Employer/KMRL and taking over certificate have been issued to the Contractor.

Date
GUARANTOR

SIGNATURE AND SEAL OF THE

NAME OF THE BANK _____

ADDRESS _____

SCHEDULE 3

BANK GUARANTEE FOR PAYMENT OF RETENTION MONEY

To
KOCHI METRO RAIL CORPORATION LIMITED (KMRL)
Regd. Office.
8th Floor, Revenue Tower, Park Avenue
Kochi. 682011 Kerala, India.

1. **WHEREAS** _____ (Name and Address of the Contractor hereinafter called the “Contractor”) has undertaken for due performance of contract, in pursuance of contract No. _____ (description of the contract work of Kochi Metro Rail Project to be specified) (hereinafter called “the Contract”)

2. **AND WHEREAS**, it has been stipulated by your EMPLOYER/KMRL in the concerned contract of the contractor that the contractor shall furnish to KMRL with a Bank Guarantee In lieu of Retention Money from an Indian Scheduled Bank (excluding Cooperative Bank) or from a schedule Foreign Bank as defined in Section 2(e) of RBI Act 1934 r/w second schedule for the sum specified herein as security for payment of retention money equal to 10% of the amount due to the contractor from time to time.

AND WHEREAS it has been further stipulated that the employer agrees to exchange the retention money held by the EMPLOYER/KMRL on furnishing by the contractor, Bank Guarantee to be issued by Indian Scheduled Bank (excluding cooperative Bank) or by a schedule Foreign Bank as defined in section 2(e) of RBI Act 1934 r/w second schedule.

3. **AND WHEREAS** we _____ (the name and full address of the Bank including Email address) having registered office at _____ (hereinafter referred to as the issuing Bank) which expression shall unless repugnant to the context of the meaning thereof, include its successors, administrators, executors and assignees, do hereby agree to give the contractor such a Bank Guarantee, drawn and payable at Kochi _____ through Kochi _____ Branch.

4. **NOW therefore**, we hereby affirm that we are the guarantor and responsible to your EMPLOYER/KMRL and your successor, on behalf the contractor up to a total sum of Indian Rupees of Rs. _____ (amount of Guarantee to be specified in figure and words), such sum being payable in the types and proportions of currencies in which the contract price is payable and we hereby further unconditionally, irrevocably and without demur undertake to immediately pay you, upon your first written demand and without cavil, or arguments any sum or sums within the limits of Indian Rupee _____ (Bank guarantee amount to be specified) as aforesaid without your needing to prove or to show grounds or reasons for your demand, by depositing/crediting to the SB/Current A/c. of KMRL for the sums specified therein.

5. After the Contractor has signed the aforementioned Contract with KMRL,

the Bank is engaged to pay the KMRL, any amount up to and inclusive of the aforementioned full amount upon written order from the KMRL to indemnify the KMRL for any liability of damage resulting from any defects and/or shortcomings of the Contractor and/or the debts the contractor may have incurred to KMRL and/or any parties involved in the Works under the Contract mentioned above, whether these defects and/or shortcomings and/or debts are actual and/or estimated and/or expected. The Bank will deliver the money required by the KMRL immediately on demand without delay without reference to the Contractor and without the necessity of a previous notice or of judicial or administrative procedures and without it being necessary to prove to the Bank the liability or damages resulting from any defects or shortcomings or debts of the Contractor.

6. KMRL shall have full rights whatever to encash this bank guarantee at any time during the guarantee and the contractor shall have no right or claim whatsoever in the matter of encashment of the Bank guarantee amount by you and any disputes/claims whatsoever in this regard shall only be settled by means of conciliation/arbitration as provided for in the contract and your decision, as to what amount is due to you from the Bank against the guarantee and the contractor has committed breach of contract or not, shall be final and unquestionable by the Bank and binding on the Guarantor Bank and the contractor shall have no right to interfere with the same except to agitate, claim dispute before the Arbitration and, the Bank shall have full right in terms of the guarantee and obligation, to make immediate payment to your EMPLOYER/KMRL, without the consent of the contractor and without referring the matter to the contractor.

7. Courts at Kochi, KERALA, India shall have exclusive jurisdiction for contesting legal cases arising out of encashment of the Guarantee, and we the said Bank lastly undertakes not to revoke this Guarantee during its currency, except with the previous consent of the Company in writing and agree that any change in the constitution of the Bank shall not discharge our liability hereunder.

8. This Bank Guarantee will not be discharged due to the change in the constitution of the contractor or change in the constitution of the issuing bank.

9. We, the said Bank undertakes not to revoke this guarantee during its currency, except with the previous consent of the company in writing and agree that any change in the constitution of the Bank shall not discharge our liability hereunder.

10. This guarantee is issued by Shri _____ who is/or authorized by the Bank for issuing the guarantee in this behalf and his ID No. and Email address being-----.

11. The Banks liability under this Guarantee shall not exceed Rs. _____ (in words_____)

12. This Bank Guarantee shall be encashed if not renewed on due date for further period at the request of KMRL unless issue of any instructions contrary to it.

13. This guarantee shall be valid for (period to be specified) till _____

(Period to be mentioned).

14. The pendency of any dispute or arbitration or other proceedings shall not affect this guarantee in any manner.

15. This Bank Guarantee is payable or extendable at our designated Branch as mentioned below:

Name of the Bank, Branch and contact details in Kochi

Address

Telephone no: & Fax No:

E-mail Address

Branch manager name & mobile No:

Bank Zonal Office Address, Telephone No: Fax Number,

E-mail Address

16. It is hereby agreed that the liability of the Bank under this guarantee shall cease on whichever of the following events first occurs.

a) Payment by the Bank of the Guaranteed sum in full to the Employer/KMRL or

b) Receipt of written notification from the Employer that Contract work for Metro Corridor have been performed to the satisfaction of the Employer/KMRL and taking over certificate have been issued to the Contractor.

Date

SIGNATURE AND SEAL OF THE

GUARANTOR

NAME OF THE BANK _____

ADDRESS _____

Note: -

1. The stamp papers of appropriate value shall be purchased in the name of the Bank, who issue the 'Bank Guarantee'
2. All bank Guarantees should be payable in Kochi at the designated branch.

**SCHEDULE -4
LETTER OF ACCEPTANCE
(LETTER HEAD PAPER OF THE EMPLOYER)**

_____ [date]

To:

[name and address of the Contractor]

Dear Sirs,

This is to notify you that your Tender dated _____ for execution of the _____ [name of the contract and identification number, as given in the Instructions to Tenderers] for the Contract Price (sum of quoted price as per SUMMARY SHEET of price bid) of Rupees _____ (_____) [amount in words and figures], as corrected and modified in accordance with the Instructions to Tenderers is hereby accepted.

You are hereby requested to furnish performance Security deposit for an amount of Rs ----- plus additional security for unbalanced tenders for an amount of Rs ----- in terms of Clause 31.1 of ITT, totalling an amount of Rs. _____ within 15 days of the receipt of this letter of acceptance valid up to 90 days from the date of completion of work, Period i.e. up to and sign the contract, failing which action as stated in Para 31.3 of ITT will be taken. A separate NOTICE TO PROCEED will be issued.

Yours faithfully,

Authorized Signature
Name and Title of Signatory

SCHEDULE – 5
NOTICE TO PROCEED

Ref No:

Date: / /2016

To:

Dear Sir,

Sub: *Supply and Installation Works (Including Fabrication) of Signage and Graphics including all transportation, loading and unloading, etc. for Six Elevated Metro Stations viz. Muttom, Kalamassery, CUSAT, Pathadipalam, Edapally, Changampuzha Park, of Kochi Metro Rail Limited Project.*

Ref: 1. Tender No:
2. LOA No:

With Reference to LOA No: Dated: / /2016, it is to inform you that “*Supply and Installation Works (Including Fabrication) of Signage and Graphics including all transportation, loading and unloading, etc. for Six Elevated Metro Stations viz. Muttom, Kalamassery, CUSAT, Pathadipalam, Edapally, Changampuzha Park, of Kochi Metro Rail Limited Project.*” work may please be started from / /2016. The completion period for the said work is Nine Months and will start from / /2016. It is requested to arrange adequate manpower and machinery complete the work as per schedule and specifications.

Thanking you,

Yours faithfully,

For Kochi Metro Rail Corporation Ltd.

SAFETY, HEALTH & ENVIRONMENT

1.0 GENERAL

- 1.1 This document defines the principal requirements of the Employer on Safety, Health and Environment (SHE) associated with the contractor / sub-contractor and any other agency to be practiced at construction worksites at all time. The Environmental Quality Management Manual (EQM) forms an essential part of the overall Environmental protection system employed by KMRL for the construction of KOCHI Metro project. The contractor shall abide by but not limited to the following:
- (a) Comply with all applicable safety regulations.
 - (b) Take precautions for the safety of all persons entitled to be on site. Provide Personal Protective Equipment to all workers involved.
 - (c) Keep the site and works clear of unnecessary obstructions so as to avoid dangers to persons.
 - (d) The contractors shall take all reasonable steps to protect the environment (both on and off the site) and to limit the damage and nuisance to the people and property resulting from pollution, noise and other result of the operations.
 - (e) The contractors shall be responsible for keeping unauthorized person off the site and authorized person shall be limited to the contractor's personnel's and KMRL personnel's and to any other personnel's notified to the contractors by the KMRL. The contractor's shall take all necessary precautions to keep contractor's equipment and contractor's personnel's within the site.
 - (f) The Contractor shall comply with all the relevant labor laws applicable to the contractor's personnel, including laws relating to their employment, health, safety, welfare, and shall allow them all their legal rights. The Contractor shall require his employees to obey all applicable laws, including those concerning safety at work.
 - (g) The Contractor shall at all times take all reasonable precautions to maintain the health and safety of the Contractor's Personnel. In collaboration with local health authorities, the Contractor shall ensure that medical and first aid facilities are available at all times at the site.
- 1.2 Contractor shall develop thorough understanding about Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act 1996, Central Rules 1998, the building & other construction workers welfare cess act 1996 and central welfare rules 1998, Building and Other Construction Workers [RE&C] KERALA Rules, 2006, Building and Other Construction Workers Welfare Cess act 1996 and Central Rules 1998, Notification [Central & State] – Collection of Cess, not only to satisfy the Inspectors' perspective but the use of legislation as the strong tool for effective SHE management at construction worksites. Contractor is strongly advised to practice the principle of voluntary compliance.
- 1.3 A Memorandum of Understanding placed at **Appendix No.: 1** shall be executed before the award of contract by the contractor with regard to various provisions on Safety, Health and Environment to be practiced during the construction work.
- 1.4 In order to facilitate the contractor for better understanding on the various provisions of the above Act and Rules, a tabulated information highlighting the Sections/Rules referring to the corresponding registration of contractors, maintenance of registers and records, hours of work and wages, cess & welfare, medical facilities and safety requirements are given in **Appendix No.: 2**. It is an indicative one and not a limiting list.
- 1.5 In addition, the construction works shall be undertaken in accordance with all applicable legislation and Indian statutory requirements listed below but not limiting to:
- a) Indian Electricity Act 2003 and Rules 1956
 - b) National Building Code, 2005
 - c) Motor Vehicles Act as amended in 1994 and The Central Motor Vehicles Rules, 1989.

- d) Indian Road Congress Code IRC: SP: 55-2001 'Guidelines on Safety In Road Construction Zones.
 - e) The Petroleum Act, 1934 and Rules 1976
 - f) Gas Cylinder Rules, 2003
 - g) Indian Explosives Act. 1884, along with the Explosives Substance Act 1908 and the Explosives Rules 1983
 - h) The (Indian) Boilers Act, 1923
 - i) The Public Liability Insurance Act 1991 and Rules 1991
 - j) Minimum Wages Act, 1948 and Rules 1950
 - k) Contract Labour Act, 1970 and Rules 1971
 - l) Child Labour (Prohibitions & Regulations) Act, 1986 and Rules 1950
 - m) Environment Protection Act, 1986 and Rules 1986
 - n) Air (Prevention and control of Pollution) Act, 1981
 - o) Water (Prevention and Control of Pollution) Act, 1974
 - p) The Noise Pollution (Regulation & Control) Rules, 2000
 - q) Notification on Control of Noise from Diesel Generator (DG) sets, 2002
 - r) Recycled Plastic Usage Rules, 1998
 - s) Notification, Central Ground Water Board, Act January 1997
 - t) Manufacture, Storage & Import of Hazardous Chemicals Rules, 1989
 - u) The Hazardous Waste (Management & Handling) Rules, 1989
 - v) Hazardous Waste Management Rules 1989 (as amended in 1999)
 - w) KERALA Preservation of Trees act, 1976 & rules, Batteries (Management and Handling) Rules
 - x) Fly ash utilization notification, Sept 1999 as amended in August 2003
 - y) Guidelines of KERALA Urban Arts Commission
 - z) Mysore Tramway Act.
- 1.6 The works should be undertaken in accordance with the applicable international guidelines, standards and specifications on SHE and every contract shall aim to achieve ISO certifications listed below during the currency of the contract:
OHSAS 18001-1999 : Occupational Health and Safety Management System.
ISO 14001-2004 : Environmental Management Systems.
- 1.7 **The contractor shall ensure that all his employees / workmen are covered under 'Workmen Compensation Act 1923' and shall pay compensation to his workmen as and when the eventuality for the same arises.**
- 1.8 The contractor shall appoint the SHE Engineer at the site who will be responsible for all the facets of **Safety, Health & Environmental** aspects in accordance with prevailing rules and procedures. He should also be well versed in **labour welfare legislations** and will also function as full time Labour Welfare Officer.
- 1.9 The SHE targets, goals and aim for the Works are to achieve:
- i) Zero total recordable injuries.
 - ii) Zero reportable environmental incidents
 - iii) All personnel inducted in accordance with the approved contractor SHE plan
 - iv) Total compliance of conducting inspections and audits as per approved SHE plan
 - v) 100% incident recording and reporting
 - vi) 100% adherence of usage of appropriate PPEs at work.
 - vii) Executing construction work with least disturbance to the environment, adjoining road users and traffic.
- 1.10 Within 4 weeks of the notification of acceptance of the tender, the Contractor shall submit a detailed and comprehensive Contract specific SHE Plan. The SHE Plan shall include detailed policies, procedures and regulations which, when implemented, will ensure compliance of the contract provisions. The SHE Plan shall include the following but not be restricted to:
- i) A statement of the Contractor's policy, organisation and arrangements for SHE

- ii) The name(s) and experience of person(s) within the Contractor's proposed management who shall be responsible for co-ordinating and monitoring the Contractor's SHE performance;
 - iii) The number of SHE staff who shall be employed on the Works, their responsibilities, authority and line of communication with the proposed Contractor's agent;
 - iv) A statement of the Contractor's policy and procedures for identifying and estimating hazards, and the measures for addressing the same;
 - v) A list of SHE hazards anticipated for this Contract and sufficient information to demonstrate the Contractor's proposals for achieving effective and efficient health and safety procedures;
 - vi) A description of the SHE training courses and emergency drills which shall be provided by the Contractor, with an outline of the syllabus to be followed;
 - vii) Details of the safety equipment which shall be provided by the Contractor, including personal protective equipment;
 - viii) A statement of the Contractor's policy and procedures for ensuring that Contractor's Equipment used on the Project Site are maintained in a safe condition and are operated in a safe manner;
 - ix) A statement of the Contractor's policy and procedures for ensuring that sub-contractors comply with the Contractor's safety plan;
 - x) A statement of the Contractor's disciplinary procedures with respect to SHE related matters, and
 - xi) A statement of the Contractor's procedure for reporting and investigating accidents, dangerous occurrences or occupational illnesses
- 1.11 If at any time the SHE plan is, in the Employer's opinion, insufficient or requires revision or modification to ensure the security of the Works and the safety of all workmen upon and visitors to the Site, the Employer may instruct the Contractor to revise the SHE plan and the Contractor shall within 7 days submit the revised plan to the Employer for review.
- 1.12 Any omissions, inconsistencies and errors in the SHE Plan or the Employer's acceptance or rejection of the SHE Plan and/or supplements thereto shall be without prejudice to the Contractor's obligations with respect to site safety, industrial health and environment and shall not excuse any failure by the contractor to adopt proper and recognised safety practices throughout the execution of the Work.

2.0 Accident Reporting and Investigation

- 2.1 **All accidents and dangerous occurrences shall immediately be informed verbally to the Employer. This will enable the Employer to reach to the scene of accident / dangerous occurrences to monitor/assist any rescue work and/or start conducting the investigation process so that the evidences are not lost.**
- 2.2 Reports of all accidents (fatal / injury) and dangerous occurrences shall also be sent within 24 hours.
- 2.3 In addition to the above verbal and written reporting to the Employer, as per Rule 210 of BOCWR, notice of any accident to a worker at the building or construction site that:
- a) causes loss of life; or
 - b) disables a worker from working for a period of 48 hours or more immediately following the accident;
 - c) shall forthwith be sent by telegram, telephone, fax, or similar other means including special messenger within four hours in case of fatal accidents and 72 hours in case of other accidents, to:
 - i) the Regional Labour Commissioner, wherein the contractor has registered the firm/work
 - ii) the board with which the worker involved was registered as a beneficiary.

- iii) the next of kin or other relative of the worker involved in the accident.
- 2.4 Further, notice of accident shall be sent in respect of an accident which
 - a) causes loss of life; or
 - b) disables the injured worker from work for more than 10 days to
 - i) the officer-in-charge of the nearest police station;
 - ii) the District Magistrate or, if the District Magistrate by order so desires to
 - iii) the Sub-Divisional Magistrate
- 2.5 In case of an accident causing minor injury, first-aid shall be administered and the injured worker shall be immediately transferred to a hospital or other place for medical treatment.
- 2.6 The following classes of dangerous occurrences shall be reported to the Inspector having jurisdiction, whether or not any disablement or death caused to the worker, namely:
 - a) collapse or failure of lifting appliances, or hoist, or conveyors, or similar equipment for handling of building or construction material or breakage or failure of rope, chain or loose gears; or overturning of cranes used in construction work;
 - b) falling of objects from height;
 - c) collapse or subsidence of soil, pipe lines, any wall, floor, gallery, platform, staging, scaffolding or means of access including formwork;
 - d) fire and explosion causing damage to any place on construction site where building workers are employed;
 - e) collapse, capsizing, toppling or collision of transport equipment;
- 2.7 In case of failure of lifting appliance, loose gear, hoist or building and other construction work, machinery and transport equipment at a construction site, such appliances, gear, hoist, machinery or equipment and the site of such occurrence shall, as far as practicable, be kept undisturbed until inspected by the Authorities.
- 2.8 Every notice given for fatal accidents or dangerous occurrences shall be followed by a written report to the concerned Authorities.
- 2.9 Investigations should be conducted in an open and positive atmosphere that encourages the witnesses to talk freely. The primary objective is to ascertain the facts with a view to prevent future and possibly more serious occurrences
- 2.10 Accidents and Dangerous Occurrences which result in death, serious injury or serious damage must be investigated by the Contractor immediately to find out the cause of the accident/occurrence so that measures can be formulated to prevent any recurrence.
- 2.11 Near misses and minor accidents should also be investigated by the Contractor as soon as possible as they are signals that there are inadequacies in the safety management system.

3.0 Working at Heights

- 3.1 The contractor shall ensure that work at height (any height above or below ground level) is:
 - i) properly planned for any emergencies and rescue
 - ii) appropriately supervised; and
 - iii) carried out in a manner, which is reasonably practicable safe.
- 3.2 The contractor shall ensure that work at height is carried out only when the conditions do not jeopardise the safety of persons involved in the work. The contractor shall ensure that no person engages in any activity, including organization, planning and supervision, in relation to work at height or work equipment for use in such work unless he is competent to do so or, if being trained, is being supervised by a competent

person. The contractor shall ensure that work is not carried out at height where it is reasonably practicable to carry out the work safely otherwise than at height.

- 3.3 Where work is carried out at height, the contractor shall take suitable and sufficient measures to prevent any accident or occurrences. Contractor shall ensure that a ladder is used for work at height only if a risk assessment has demonstrated that the use of more suitable work equipment is not justified because of the low risk. Only metal ladders shall be allowed. Bamboo ladders are prohibited. Any surface upon which a ladder rests shall be stable, firm, of sufficient strength and of suitable composition safely to support the ladder so that its rungs or steps remain horizontal, and any loading intended to be placed on it. A suspended ladder shall be attached in a secure manner and so that, with the exception of a flexible ladder, it cannot be displaced and swinging is prevented. A portable ladder shall be prevented from slipping during use by securing the stiles at or near their upper or lower ends or using an effective anti-slip or other effective stability device or any other arrangement of equivalent effectiveness. A ladder used for access shall be long enough to protrude sufficiently above the place of landing to which it provides access. No interlocking or extension ladder shall be used unless its sections are prevented from moving relative to each other while in use.

4.0 Lifting Appliances and Gear

- 4.1 Lifting appliances means a crane, hoist machinery, derrick, winch, gin pole, sheer legs, jack, hoist drum, slewing machinery, slewing bearing fasteners, luffing machinery sheaves, pulley blocks, hooks or other equipment used for lifting materials, objects or building workers and lifting gears means ropes, chain slings, shackles, hooks, lifting lugs, wire ropes, lifting eyebolts and eye nuts and other accessories of a lifting appliance.
- 4.2 The contractor shall ensure that a valid certificate of fitness is available for all lifting appliances. All lifting appliances and loose gears shall be clearly marked for its safe working load and identification by stamping or other suitable means.

5.0 Site Electricity

- 5.1 The contractor shall employ qualified and competent electrical personnel. The contractor shall also submit electrical single line diagram, schematic diagram and the details of the equipment for all temporary electrical installation and these diagrams together with the temporary electrical equipment shall be submitted to the Employer's for necessary approval. No electrical equipment shall be put into use where its strength and capability may be exceeded in such a way as may give rise to danger. The contractor shall provide sufficient site lighting, of the right type and at the right place for it to be properly effective. Lighting ought not to introduce the risk of electric shock. Therefore, 230V supplies should be used for those fittings, which are robustly installed, and well out of reach e.g. flood lighting or high-pressure discharge lamps.

6.0 Fire Prevention, Protection and Fighting System

- 6.1 The contractor shall ensure that construction site is provided with fire extinguishing equipment sufficient to extinguish any probable fire at construction site. An adequate water supply is provided at ample pressure as per national standard.

7.0 Personal Protective Equipments

- 7.1 In addition to general principals to be follow as explained above the contractor has to provide the following Personal Protective Equipments (PPE):
- (a) Steel Helmets / Safety helmets for overhead impact or electrical hazards.
 - (b) Safety Belts and safety jackets.

- (c) Eye protection with side shields.
- (d) Gloves chosen for job hazards expected.
- (e) Approved protective footwear.
- (f) Respiratory protection as necessary—filtering face pieces may be used for nuisance dusts (e.g., dried mud, dirt and silt).
- (g) Ear protection with ear plugs/ear muffs.

8.0 Additional Measures

- i. Remove or secure objects (glass, structural members) that may fall while employees work under them
- ii. Use debris netting, sidewalk sheds, canopies, or catch platforms to reduce hazards from falling objects.
- iii. Have a competent person inspect scaffolds before use. Ensure that the scaffold is plumb, and braced and guyed to prevent tipping, swaying, and displacement. Ensure that the scaffold is built on base plates. Fully plank each scaffold on all working levels. Provide guardrails or fall protection systems on platforms 3.3m or higher
- iv. Provide hearing protection for noise hazard.
- v. When working from an aerial lift, use a body harness that is properly attached (or body belt for tethering or restraint use only) for fall protection.
- vi. Provide harnesses, lanyards, lifelines, connectors, anchorages, and anchor points (as needed).
- vii. Assume that electrical lines are energized until proven otherwise.
- viii. Inspect the work area for downed conductors and do not go near, drive over, or otherwise come in contact with them.
- ix. Use ground-fault circuit interrupters (GFCIs) or double insulated power tools, or implement an assured equipment grounding program. Inspect power tool condition (including any cords) and verify operation of safety features before use. Do not use equipment that is defective, such as equipment with inoperable safety switches, missing guards, frayed/cut cords, etc. Ground power tools properly. Avoid standing in wet areas when using portable power tools.
- x. Never attach a generator directly to the electrical system of a structure unless a qualified electrician has installed a transfer switch for the generator.
- xi. Do not overload a generator. Keep the generator dry. Never use a generator indoors or in enclosed spaces.
- xii. Do not perform "hot work" such as welding, cutting, or burning in areas where flammable, combustible, corrosive, or toxic substances are being used, stored, or may otherwise be present. Remove flammable and combustible materials from the area. Maintain a fire watch during all hot work until material has cooled. Ensure fire extinguishers and extinguishing agents are available in the immediate area. Provide natural, exhaust, or forced ventilation to control exposure to the metal fumes and other contaminants being generated (e.g., generator exhaust)

9.0 SHE Submittals to the Employer

- 9.1 The contractor's SHE management should send the following reports to the Employer periodically:
 - i) Daily Reporting of total no of workmen
 - ii) Monthly SHE Report / SHE Inspection Reports
 - iii) Air and Noise Quality monitoring report - Monthly

10.0 Stoppage of work

- 10.1 The Employer shall have the right to stop the work at his sole discretion, if in his opinion the work is being carried out in such a way that it may cause accidents and endanger the

safety of the persons and / or property, and / or equipment. In such cases, the contractor shall be informed in writing about the nature of hazards and possible injury / accident. The contractor shall not proceed with the work until he has complied with each direction to the satisfaction of Employer. The Contractor shall not be entitled for any damages / compensation for stoppage of work, due to safety reasons and the period of such stoppage of work shall not be taken as an extension of time for Completion of the Facilities and will not be the ground for waiver of levy of liquidated damages. The Employer will carry out regular inspection of the contractor's SHE compliance methods and issue warnings if any wrong practices are followed.

11.0 PENALTY

11.1 KMRL has built an image of safety conscious organisation meticulously over a period of seven years. Any reportable accident (fatality / injury) results in loss of life and/or property damage. These accidents not only result in loss of life but also damage the reputation of KMRL. Most of the accidents are avoidable and caused preliminary due to contractors' negligence. Hence KMRL shall recover the cost of damages from the contractors for every reportable incident (fatality / injury).

11.2 The following table indicates the Safety, Health and Environment violation (unsafe act / unsafe condition) and charges to be recovered from contractors.

SL. NO	TOPIC	UNSAFE ACT/UNSAFE CONDITION	DEDUCTIBLE AMOUNT
1.	SHE Policy & Plan	i) SHE policy a) Non compliance of approved SHE Policy	Rs.5,000 per single violation, compounded to a maximum of Rs.25,000 at any single instance.
		ii) SHE plan: a) Not as per Employers' content and coverage b) Delay in submission c) Not updated as per employer's instruction d) Copies not provided to all required supervisors / engineers	Rs.10,000 per single violation, compounded to a maximum of Rs. 20,000 at any single instance.
2.	ID card	i) Personnel working without ID Card	Rs.1,000 for first violation and Rs.5,000 for subsequent violations
3.	SHE Training	Not complying to the requirements as mentioned in conditions of contract on SHE and project SHE manual with regard to: a) Induction training not given b) Supervisor/engineer/manager training not conducted c) Tool-box talk not conducted d) Daily Safety Oath not conducted e) Top management behaviour based SHE training conducted	Rs.5000 for first violation on and Rs.10,000 for subsequent violations
4.	SHE Submittals	i) Noncompliance of clause 9.1 ii) Noncompliance of clause 9.2 iii) Noncompliance of clause 9.3	Rs.5,000 for first violation and Rs.10,000 for subsequent violations
5.	Injury and Incidence reporting	i) Fatal accidents ii) Injury accident iii) Abnormal delay in reporting accidents or wilful suppression of information about any	i)Rs.50,000 for first fatality and Rs.1,00,000 for every subsequent fatality.

		accidents / dangerous occurrence	ii)Rs.10,000 for first grievously injured person and Rs.20,000 for every subsequent grievously injured person (Grievous Injury as defined by Workmen Compensation Act) iii)Rs.10,000 for first violation and Rs.20,000 for subsequent violations For items iv) and v) iv)Rs.5,000 for first violation and Rs.10,000 for subsequent violations
6.	Housekeeping	i) Improper Housekeeping maintenance register not properly maintained up to date ii) Office, stores, toilet / urinals not properly cleaned and maintained. iii) Required dustbins at appropriate places not provided / not cleaned. iv) Vehicles/equipments parked / placed on roads obstructing free flow of traffic v) Unused surplus cables / steel scraps lying scattered vi) Water stagnation leading to mosquito breeding	Rs.1,000 per single violation Compounded to a maximum of Rs.10,000 at any single instance
7.	Working at Height / Ladders and Scaffolds	i) Not using or anchoring Safety Belt ii) Not using Safety Net iii) Absence of life line or anchorage point to anchor safety belt iv) Using Bamboo ladders v) Painting of ladders vi) Improper usage (less than 1m extension above landing point, not maintaining 1:4 ratio) vii) Aluminium ladders without base rubber bush viii) Usage of broken / weak ladders ix) Usage of re-bar welded ladders x) Improper working platform xi) Working at unprotected fragile surface xii) Working at unprotected edges	Rs.1,000 per single violation Compounded to a maximum of Rs.10,000 at any single instance
8.	Lifting appliances and gear	i) Non availability of fitness certificate ii) Documents not displayed on the machine or not available with the operator iii) Maximum Safe Working Load not written on the machine iv) Automatic safe load indicator not provided or not in working condition v) Age of the operator less than 21 years or without any licence vi) Failure to submit method statement in case of all critical lifting vii) Person riding on crane.	Rs.1,000 per single violation Compounded to a maximum of Rs.10,000 at any single instance

		viii) Creating more noise and smoke ix) Absence of portable fire extinguisher in driver cabin	
9.	Site Electrical safety	i) Exposed electric lines (fermentative damage) and circuits in the workplace. ii) Inserting of wires directly into the socket iii) Improper grounding for the electrical appliances iv) Electrical cables running on the ground	Rs.1,000 per single violation Compounded to a maximum of Rs.10,000 at any single instance
10.	Welding	i) Voltmeter and Ammeter not working ii) Improper grounding and return path. iii) Damaged and bare openings in the welding cable iv) Damaged holder v) Fire extinguisher not placed in the vicinity during operation	Rs.1,000 per single violation Compounded to a maximum of Rs.5,000 at any single instance
11.	Fire precaution	i) Smoking and open flames in fire prone area ii) Absence of fire extinguishers. iii) Fire extinguisher placed in a not easily accessible location	Rs.500 per single violation Compounded to a maximum of Rs.5,000 at any single instance.
12.	PPE	i) Not having ii) Not wearing (or) using and kept it elsewhere iii) Using damaged one iv) Using wrong type v) Using wrong colour helmet or helmet without logo vi) Using for other operation (e.g. Using safety helmet for storing materials or carrying water from one place to other) vii) Not conforming to BIS standard	From item i) to vi). Rs.200 per single violation For item vii) Rs.1,000 for first violation and Rs.5,000 for subsequent violations
13.	Environmental Management	i) Air monitoring not practiced ii) Noise monitoring not practiced iii) The values of air monitoring and noise monitoring not within acceptable limits iv) Dust control measures at sites not practiced v) Improper disposal of debris / residues	Rs.1,000 per single violation Compounded to a maximum of Rs.5,000 at any single instance

APPENDIX NO.: 1

Memorandum of Understanding between KOCHI Metro Rail (KMRL) and the Contractor for safe execution of contract work

This Memorandum of Understanding is made and executed by and between KOCHI Metro Rail Ltd. (KMRL), a Company registered under the Companies Act 1956 and having its registered office at Regd. Office, 8th Floor, Revenue Tower, Park Avenue<Kochi. 82011 Kerala, India. or their authorized representative(s), hereinafter referred to as "EMPLOYER" (which expression shall wherever the context so requires or admits be deemed to mean and include its successors in business and assigns) of the one party

AND

M/s _____ having its registered office at _____ hereinafter referred to as the "CONTRACTOR" (which expression shall wherever the context so requires or admits be deemed to mean and include its successors in business and assigns) of the other party

WITNESSETH THAT

WHEREAS the EMPLOYER gives highest importance to the occupational safety, health and environment during execution of work, seeks cooperation from the CONTRACTOR in this endeavour.

Thus, this Memorandum of Understanding is for promoting the safety, health and environment aspects required to be followed at workplace/site and will be applicable to any site job to be done by the CONTRACTOR

AND

WHEREAS the CONTRACTOR has read all the terms and conditions of the EMPLOYER and whereas the CONTRACTOR has studied the following documents:

- (a) Tender Documents, including Notice Inviting Tender, General Conditions, Special Conditions,
- (b) Conditions of Contract on Safety, Health and Environment and Project Safety, Health and Environment Manual.
- (c) Building and Other Construction Workers (Regulations of Employment and Conditions of Service) Act 1996, Central Rules 1998 and subsequent KERALA Government Rules 2006, Building and Other Construction Workers Welfare Cess Act 1996 and Rules 1998 and notification [Central & State] Collection of cess.
- (d) Indian Electricity Act 2003 and Rules 1956.
- (e) Corresponding International / Bureau of Indian Standard Codes.

The amendments to any of the above rules and any other rules & regulations or procedures, circulars, notices & advices laid down by the EMPLOYER from time to time.

Now it is hereby AGREED AND DECLARED by and between the EMPLOYER and the CONTRACTOR as follows:

- Clause - I The CONTRACTOR shall abide by the terms and conditions stipulated in Condition of Contract on Safety, Health & Environment and Project Safety, Health & Environment Manual.
- Clause - II The CONTRACTOR shall undertake full responsibility for safe execution of job at work place/site and safety of his personnel and adjoining road users during work.
- Clause - III Without giving any prior notice, the EMPLOYER shall from time to time be entitled to add/or amend any or all terms and conditions with a view to improving safety and occupational health of personnel and safety of work, with immediate effect and the same shall be binding on the CONTRACTOR. The contractor agrees to implement all such amendments, which shall be laid down by the EMPLOYER.
- Clause - IV Besides following the guidelines, safety rules and regulations, safety codes given in various safety procedures/documents mentioned above, the CONTRACTOR shall also prepare detailed method statement which includes job safety analysis

wherever there are complicated and hazardous/high risk working involved and get it approved from Employer before execution of work.

Clause - V Any negligence or violation in implementing any of the provision of the conditions of contract on Safety, Health & Environment and KMRL project Safety, Health & Environment Manual shall be viewed seriously and the contractor is liable to compensate the employer for the loss of reputation. The cost of damage shall be fixed on case-to-case basis.

In witness thereof the Parties hereto by representatives duly authorised have executed this Memorandum of Understanding on _____ day of _____ 20_____.

Signed on

Signed on

For and on behalf of KMRL

For and on behalf of (Contractor)

Signature:

Signature:

Name:

Name:

Title:

Title:

APPENDIX NO.: 2

Safety, Welfare and Occupational Health requirements as per BOCW Act 1996 and Rules 1998 and BOCWKR Rules 2006.

(This list has been prepared in chronological order with primary importance to Section of Act and secondary importance to Rules)

- S** - Refers relevant Sections in BOCWA
R - Refers relevant Rules in BOCWR
C - Refers relevant Chapter No. in BOCWR
P - Refers to relevant rules in BOCWWCR 1998
K - Refers to relevant rules in BOCWKR 2006

Sl. No.	Items	Relevant Sections / Rules in BOCWA and BOCWR and BOCWKR 2006
1.	Registration of establishment	S – 7, R – 23 to 27
2.	Display of registration certification workplace	R – 26 (5)
3.	Hours of work	S – 28 R – 234 to 237
4.	Register of overtime	S – 28; S – 29 R – 241(1) Form XXII
5.	Weekly rest and payment at rest	R – 235
6.	Night shift	R – 236
7.	Maintenance of workers registers records	S – 30 R – 238
8.	Notice of commencement and completion	S – 46 R – 239
9.	Register of persons employed as building workers	R – 240
10.	Muster roll and wages register	R – 241(1) (a); Form XVI and XVII
11.	Payment of wages	R – 248
12.	Display of notice of wages regarding	R – 249
13.	Register of damage or loss	R – 241(1)(a); Form XIX, XX, XXI
14.	Issue of wages book	R – 241(2)(a); Form XXIII
15.	Service certificate for each workers	R – 241(2)(b); Form XXIV
16.	Display an abstract of BOCWA BOCWR	R – 241(5)
17.	Deduction of welfare cess by government agencies	P – 4(3)
18.	Annual return	R – 242; Form XXV
19.	Drinking water	S – 32
20.	Latrines and Urinals	S – 33 R – 243
21.	Accommodation	S – 34
22.	Creches	S – 35
23.	First-aid boxes	S – 36 R – 231 and Schedule III
24.	Canteens	S – 37 R – 244
25.	Food stuff and other items served in canteens	R – 245
26.	Supply of tea and snacks in work place	R – 246
27.	Food charges on no loss no profit basis	R – 247
28.	BOCWKR 2006 welfare Board Rules	K – 261 to 267

29.	Safety committee	S – 38 R – 208
30.	Safety officer	S – 38 R – 209 and Schedule VII
31.	Reporting of accidents and dangerous occurrences	S – 39 R – 210
32.	Procedure for inquiry in to the cause of accidents	R – 211
33.	Responsibility of employer	S - 44 R – 5
34.	Responsibility of Architects, Professional engineer and Designers	R – 6
35.	Responsibility of workmen	R – 8
36.	Responsibility for payment of wages and compensation	S – 45
37.	Penalties and Procedures	S – 47; S – 55
38.	Excessive noise, vibration etc	R – 34
39.	Fire Protection	R – 35
40.	Emergency action plan	R – 36
41.	Fencing of motors	R – 37
42.	Lifting of carrying of excessive weight	R – 38
43.	Health, Safety and Environmental Policy	R – 39
44.	Dangerous and Harmful Environment	R – 40
45.	Overhead protection	R – 41
46.	Slipping, Tripping, Cutting, Drowning and Falling Hazards	R – 42
47.	Dust, Gases, Fumes, etc	R – 43
48.	Corrosive substance	R – 49
49.	Eye Protection	R – 45
50.	Head Protection and other protective apparel	R – 46; R – 54
51.	Electrical Hazards	R – 47
52.	Vehicular traffic	R – 48
53.	Stability of structure	R – 49
54.	Illumination	R – 50; R – 124
55.	Stacking of materials	R – 51
56.	Disposal of debris	R – 52
57.	Numbering and marking of floors	R – 53
58.	Lifting appliances and gears	C – VII; R – 55 to 81
59.	Runways and Ramps	C – VIII; R – 82 to 85
60.	Working on or adjacent to water	C – IX; R – 86 & 87
61.	Transport and earthmoving equipments	C – X; R – 88 to 95
62.	Concrete work	C – XI; R – 96 to 107
63.	Demolition	C – XII; R – 108 to 118
64.	Excavation and Tunnelling works	C – XIII; R – 119 to 168
65.	Ventilation	R – 153
66.	Construction, repair and maintenance of step roof	C – XIV; R – 169 to 171
67.	Ladders and Step ladders	C – XV; R – 172 to 174
68.	Catch platform and hoardings, chutes, safety belts and nets	C – XVI; R – 175 to 180
69.	Structural frame and formworks	C – XVII; R – 181 to 185
70.	Stacking and unstacking	C – XVIII; R – 186 & 187
71.	Scaffold	C – XIX; R – 188 to 205
72.	Cofferdams and Caissons	C – XX; R – 206 to 211
73.	Explosives	C – XXI; R – 212 & 213
74.	Piling	C – XXII; R – 214 to 222
75.	Medical Examination for building and other workers	R – 81; R – 223(a)(iii) and

	construction worker, Crane operator Transport vehicle drivers	Schedule XII
76.	Medical examination for occupational health hazards	R – 223(a)(iv)
77.	Charging of workers for Medical Examination	R – 223(b)
78.	Occupational health centres and Medical officers	R – 225 and Schedule X & XI
79.	Ambulance van & room	R – 226 & 227 and Schedule IV & V
80.	Stretchers	R – 228
81.	Occupational health service for building workers	R – 229
82.	Medical examination for occupational health hazards	R – 223(a)(iv)
83.	Emergency care services and emergency treatment	R – 232
84.	Panel of experts and agencies	Central Rule 250
85.	Power of inspectors	Central rule 251 KERALA Rules 268