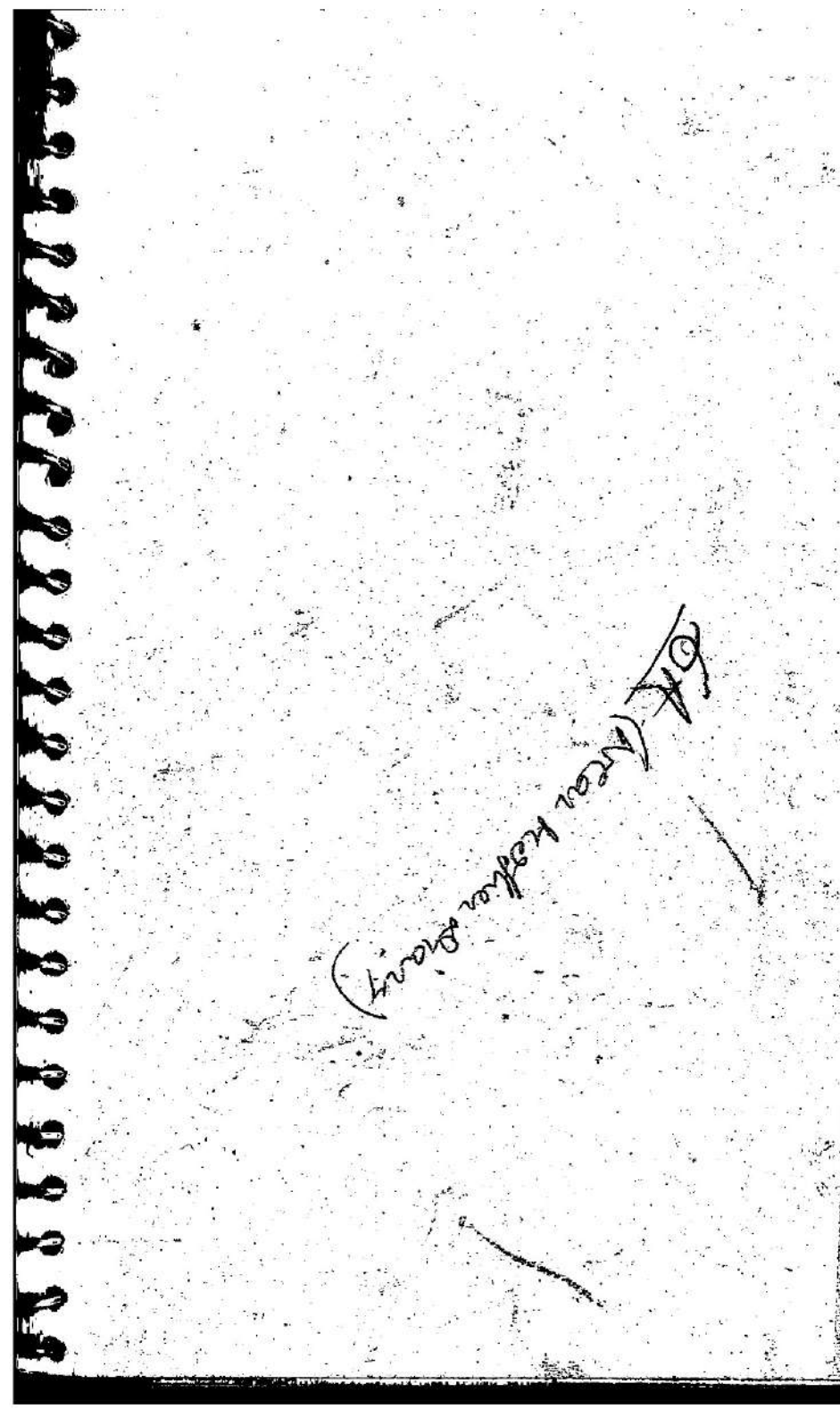
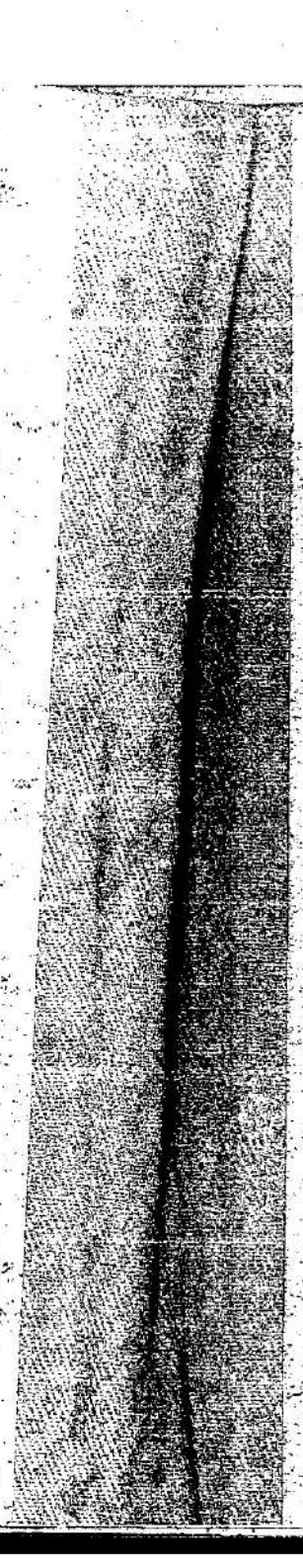




NORTHERN RAILWAY

ENGINEERING DEPARTMENT

GENERAL CONDITIONS OF CONTRACT
REGULATIONS AND INSTRUCTIONS FOR TENDERERS
AND STANDARD FORMS OF CONTRACT

(3rd Print)

(Embodying Correction Slips 1 to 16 issued upto 4-6-85)

NEW DELHI

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Price Rs. 20.00

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STANDARD GENERAL CONDITIONS OF CONTRACT FOR USE IN CONNECTION WITH CIVIL ENGINEERING WORKS

DEFINITIONS AND INTERPRETATION

1. **Definitions.**—(1) In these general conditions of contract, the following terms shall have the meaning hereby assigned to them except where the context otherwise requires :—

(*a*) "Railway" shall mean the President of the Republic of India or the Administrative Officers of the .....Railway or of the Successor Railway authorised to deal with any matters which these presents are concerned on his behalf.

(*b*) "General Manager" shall mean the officer in administrative charge of the whole of Railway and shall mean and include the General Manager of the Successor Railway.

(*c*) "Chief Engineer" shall mean the officer in charge of the Engineering Department of.....Railway and shall also include the Engineer-in-Chief, Chief Engineer (Construction), Chief Signal and Telecommunication Engineer and shall mean and include the Chief Engineer/Engineer-in-Chief , Chief Engineer (Construction) and Chief Signal and Telecommunication Engineer of the Successor Railway.

(*d*) "Engineer" shall mean the Division/District Engineer or the Executive Engineer in executive charge of the works and shall include the superior officers of the Engineering Department of the..... Railway *i.e.* the Dy. Chief Engineer/Chief Engineer (Construction)/Engineer-in-Chief/Chief Signal & Tele-communication Engineer/Dy. Chief Signal & Telecommunication Engineer and shall mean and include the Engineers of the Successor Railway.

(*e*) "Engineer's representative" shall mean the Assistant Engineer in direct charge of the works and shall include any Resident Engineer or Sub-Engineer or any Inspector of the Civil Engineering/Signal & Telecommunication Engineering Department appointed by the .....Railway and shall mean and include the Engineer's Representative of the Successor Railway.

(*f*) "Contractor" shall mean the person, firm or company whether incorporated or not who enters into the contract with the Railway and shall include their executors, administrators, successors and

(*g*) "Contract" shall mean and include the Agreement or Work Order, the accepted schedule of rates or Schedule of Rates of Northern Railway modified by the tender-percentage for items of works quantified or not quantified, the general conditions of contract, the special conditions of contract, if any, the drawings, the specifications, the special specifications, if any, and tender forms, if any.

(*h*) "Works" shall mean the works to be executed in accordance with the contract.

(*i*) "Specifications" shall mean the specifications for materials and works prescribed on the Northern Railway, issued under the authority of the Chief Engineer or as amplified added to or superseded by special specifications, if any.

(*j*) "Schedule of Rates of Northern Railway" shall mean the schedule of rates issued under the authority of the Chief Engineer from time to time.

(*k*) Drawings" shall mean the maps, drawings, plans and tracing or prints thereof annexed to the contract and shall include any modification of such drawings and further drawings as may be issued by the Engineer from time to time.

(*l*) "Constructional Plant" shall mean all appliances or things of whatsoever nature required for the execution, completion or maintenance of the works or temporary works (as hereinafter defined) but does not include materials or other things intended to form or forming part of the permanent work.

(*m*) "Temporary Works" shall mean all temporary works of every kind required for the execution, completion or maintenance of the works.

(*n*) "Site" shall mean the lands and other places on, under, in or through which the works are to be carried out and any other lands or places provided by the Railway for the purposes of the contract.

(*o*) "Period of Maintenance" shall mean the specified period of maintenance from the date of completion of the works as certified by the Engineer.

(2) *Singular and Plural.*—Words importing the singular number shall also include the plural and *vice versa* where the context requires.

(3) *Headings and marginal headings.*—The headings and marginal headings in these general conditions are solely for the purpose of facilitating rerference and shall not be deemed to be part there of or be taken into consideration in the interpretation or construction thereof or of the contract.

GENERAL OBLIGATIONS

2. **Execution, corelation and intent of contract documents.**—The contract documents shall be signed in duplicate by the Railway and the Contractor. The contract documents are complementary, and what is called for by any one shall be as binding as if called for by all; the intention of the documents is to include all labour and materials, equipment and transportation necessary for the proper execution of the works. Materials or work not covered by or properly inferable from any heading or class of the specifications shall not be supplied by the Railway to the contractors unless distinctly specified in the contract documents. Materials or works described in words which so applied have a well known technical or trade meaning shall be held to refer to such recognised standards.

(*a*) If a work is transferred from the jurisdiction of one Railway to another Railway or to a Project authority or vice versa while the contract is in subsistance, the contract shall be binding on the contractor and the Successor Railway/Project in the same manner and take effect in all respects as if the contractor and the Successor Railway/Project were parties thereto from the inspection and the corresponding officer or the competent authority in the Successor Railway/Project will exercise the same powers and enjoy the same authority as conferred to the predecessor Railway/Project under the original contract/agreement entered into.

(*b*) If for administrative or other reasons the contract is transferred to the successor Railway, the contract shall not withstanding anything contained herein contrary thereto, be binding on the contractor and the Successor Railway in the same manner and take effect in all respects as if the Contractor and the Successor Railway had been parties thereto from the date of this contract.

3. **Law governing the contract.**—(*i*) The contract shall be governed by the law for the time being in force in the Republic of India.

(*ii*) Compliance to regulations and bye-laws.—The contractor shall conform to the provision of any statute relating to the works and regulations and bye-laws of any local authority and of any water and lighting companies or undertakings with whose system the work is proposed to be connected and shall before making any variation from the drawings or the specifications that may be necessiated by so conforming, give to the Engineer notice specifying the variation proposed to be made and the reason for making the variation and shall not carry out such variation untill he has received instructions from the Engineer in respect thereof. The Contractor shall be Bound to give all notices required by statute, regulations or bye-laws as aforesaid and to pay all fees and taxes payable to any authority in respect thereof.

4. **Communications to be in writing.**—All notices, communications, references and complaints made by the Railway or the Engineer or the Engineer's Representative or the Contractor inter se concerning the works shall be in writing and no notice, communication, reference or complaint not in writing shall be recognised.

5. **Service of notices on Contractor.**—The Contractor shall furnish to the Engineer the name, designation and address of his authorised agent and all complaints, notices, communications and references shall be deemed to have been duly given to the Contractor if delivered to the contractor or his authorised agent or left at or posted to the address so given and shall be deemed to have been so given in the case of posting on the day on which they would have a reached such address in the ordinary course of post or on the day on wich they were so delivered or left. In the case of contract by partners, any change in the constitution of the firm shall be forthwith notified by the Contractor to the Engineer.

6. **Occupation and use of land.**—No land belonging to or in the possession of the Railway shall be occupied by the Contractor without the permission of the Railway. The contractor shall not use, or allow to be used, the site for any purpose other than that of executing the works.

7. **Assignment or sub-letting of contract.**—The Contractor shall not assign or sub-let the contract or any part thereof or allow any person to become interested therein in any manner whatsoever without the special permission of the Railway. Any breach of this condition shall entitle the Railway to rescind the contract under Clause 62 of these conditions and also render the Contractor liable for payment to the Railway in respect of any loss or damage arising or en-suing from such cancellation. Provided always that execution of the details of the works by petty contract under the direct and personal supervision of the Contractor or his agent shall not be deemed to be sub-letting under this clause. The permitted sub-letting of work by the Contractor shall not establish any contractual relationship between the sub-contractor and the Railway and shall not relieve the Contractor of any responsibility under the contract.

8. **Stores arranged by Railway.**—Owing to difficulty in obtaining certain materials (including tools and plant) in the open market, the Railway may have agreed without any liability therefor to endeavour to obtain or assist the contractor in obtaining the required quantities of such materials as may be specified in the tender. In the event of delay or failure in obtaining the required quantities of the aforesaid materials, the Contractor shall not be deemed absolved of his own responsibility and shall keep in touch with the day to day position regarding their availability and accordingly adjust the progress of the works including the employment of labour and the Railway shall not in any way be liable for the supply of materials or for the non supply thereof for any reasons whatsoever nor for any loss or damage arising in consequence of such delay or non-supply.

9. **Railway Passes.**—No Railway pass for the conveyance of Contractor's labour by train or for the use of the Contractor or his agents shall be granted unless otherwise specified but passes will be given to the Contractor or his agents when specially called to the office of the Engineer or the Engineer's Representative.

10. **Carriage of materials.**—No forwarding orders shall be issued by the Railway for the conveyance of Contractor's materials, tools and plant by Rail

which may be required for use in the works and the Contractor shall pay full Freight Charges at public tariff rates therefor.

11. Use **of ballast trains.**—The Railway may agree to allow the Contractor the use of ballast or material trains under such conditions as shall be specially prescribed, provided that the Contractor shall pay for the use thereof charges calculated at public tariff rates on the marked carrying capacity of each vehicle subject to a specified minimum charge per day or part of day and provided further that the Contractor shall indemnify the Railway against any claims or damages arising out of the use or misuse thereof and against any liabilities under the Workmen's Compensation Act, 1923 or any statutory amendment thereto.

12. **Representation on works.**—The contractor shall, when he is not personally present on the site of the works, place and keep a responsible agent at the works during working hours who shall on receiving reasonable notice, present himself to the Engineer and orders given by the Engineer or the Engineer's Representative to the agent shall be deemed to have the same force as if they had been given to the contractor. Before absenting himself, the Contractor shall furnish the name and address of his agent for the purpose of this clause and failure on the part of the contractor to comply with this provision at any time will entitle the Railway to rescind the contract under clause 62 of these conditions.

13. **Relics.**—All gold, silver, oil and other minerals of any description and all precious stones, coins, treasure, relics, antiquities and other similar things which shall be found in or upon the site shall be the property of the Railway and the Contractor shall duly preserve the same to the satisfaction of the Railway and shall from time to time deliver the same to such person or persons as the Railway may appoint to receive the same.

14. **Excavated materials.**—The contractor shall not sell or otherwise dispose of or remove except for the purpose of this contract, the sand, stone, clay, ballast, earth, rock or other substances or materials which may be obtained from any excavation made for the purpose of the works or any building or produce upon the site at the time of delivery of the possession thereof but all such substances, materials, buildings and produce shall be the property of the Railway provided that the Contractor may, with the permission of the Engineer, use the same for the purpose of the works either free of cost or pay the cost of the same at such rates as may be determined by the Engineer.

15. **Indemnity.**—The contractor shall indemnify and save harmless the Railway from and against all actions, suits, proceedings, losses, costs, damages, charges, claims and demands of every nature and description brought or recovered against the Railway by reason of any act or omission of the Contractor, his agents or employees, in the execution of the works or in the guarding of the same. All sums payable by way of compensation under any of these conditions shall be considered as reasonable compensation to be applied to the use of the Railway

without reference to the actual loss or damage sustained, and whether or not any damage shall have been sustained.

16. **Earnest-money and security deposit.**—(1) The earnest-money deposited by the Contractor with his tender will be retained by the Railway as part of security for the due and faithful fulfilment of the contract by the Contractor. The balance to make up this security deposit which will be 10 per cent of the total value of the contract, unless otherwise specified in the special conditions, if any, may be deposited by the contractor in cash or in the form of Government Securities or may be recovered by percentage deduction from the Contractor's "on account" bills, provided also that in case of a defaulting contractor the Railway may retain any amount due for payment to the contractor on the spending 'on account bills' so that the amount or amounts so retained may not exceed 10% of the total value of the contract.

16 (2) *Interest on amounts.*—No interest will be payable upon the earnest money or the security deposit or amounts payable to the Contractor under the contract, but Government Securities deposited in terms of sub-clause (1) of this clause will be repayable with interest accrued thereon.

17. **Time limitation.**—(1) Subject to any requirement in the contract as to completion of any portion or portions of the works before completion of the whole, the Contractor shall fully and finally complete the whole of the works comprised in the contract (with such modifications as may be directed under clause 42 of these conditions) by the date entered in the contract, provided that, if any modifications have been ordered which, in the opinion of the Engineer ave materially increased the magnitude of the work, then such extension of the hontracted date of completion may be granted as shall appear to the Engineer co be reasonable in the circumstances, provided moreover that the contractor tshall be responsible for requesting such extension of the date as he may consider necessary as soon as a cause thereof shall arise and in any case not less than one month before the expiry of the original date fixed for completion of the works.

(2) *Delay and extension of time.*—If in the opinion of the Engineer the progress of work has at any time been delayed by any act or neglect of the Railway's employees or by any other contractor employed by the Railway under sub-clause (4) of clause 20 of these conditions or by strikes, lockouts fire, unusual delay in transportation, exceptionally inclement weather, unavoidable casualties or any causes beyond the contractor's control as by the reasons of proceedings taken or threatened by or dispute with adjoining or neighbouring owners or public authorities arising otherwise than through the contractors own default etc., or by delay authorised by the Engineer pending arbitration or in consequence of the contractor not having received in due time necessary instructions from the Railway for which he shall have specifically applied in writing to the Engineer or his authorised representatives or by any other cause which the Engineer shall decide to justify the delay, then the time of completion of the works may be extended for such reasonable time as the Engineer on behalf of the Railway may decide.

(3) *Extension of time on Railway Account.*—In the event of any failure or delay by the Railway to hand over to the Contractor possession of the land 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 Railway due to any other cause whatsoever, then such failure or delay shall in no way affect or vitiate the contract or alter the character there of or entitle the Contractor to damages or compensation therefor but in any such case, the Railway may grant such extension or extensions of the completion date as may be considered reasonable.

(4) *Time to be of the essence of the contract.*—The time for completing the works by the date or extended date fixed for completion shall be deemed to be of the essence of the contract and if the Contractor shall fail to complete the works within the time prescribed, the Railway shall, if satisfied that the works can be completed by the Contractor within a reasonably short time there after be entitled, without prejudice to any other right or remedy available on that behalf, to recover by way of a certained and liquidated damages a sum equivalent to one-half of one per cent of the contract value of the works for each week or part of week the Contractor is in default and allow the contractor such further extension of time as the Engineer may decide after serving on the contractor, a notice of Railway's intention to recover the said liquidated damages (Form Annexure VIII). If the Railway is not satisfied that the works can be completed by the contractor and in the event of failure on the part of the Contractor to complete the works within the further extension of time allowed as aforesaid the Railway shall be entitled, without prejudice to any other right or remedy available in that behalf, to appropriate the Contractor's security deposit and rescind the contract under Clause 62 of these conditions whether or not actual damage is caused by the such default.

18. **Illegal gratification.**—Any bribe, commission, gift or advantage given, promised or offered by or on behalf of the contractor or his partner, agent or servant or any one on his or on their behalf to any officer, or employee of the Railway or to any person on his or their behalf in relation to the obtaining or the execution of this or any other contract with the Railway shall, in addition to any criminal liability which he may incur. subject the contractor to the rescission of the contract and all other contracts with the Railway and to the payment of any loss or damage resulting from such rescission, and the Railway shall be entitled to deduct the amounts so payable from any moneys due to the Contractor under the contract or any other contracts with the Railway. The Contractor shall not lend or borrow from or have or enter into any monetary dealings or transactions either directly or indirectly with any employees of the Railway and if he shall do so the Railway shall be entitled forth with to rescind the contract and all other contracts with the Railway. Any question or dispute as to the commission of any offence or compensation payable to the Railway under this clause shall be settled by the General Manager of the Railway in such manner as he shall consider fit and sufficient and his decision shall be final and conclusive.

EXECUTION OF WORKS

19. **Contractor's understanding.**—(1) It is understood and agreed that the contractor has by careful examination, satisfied himself as to the nature and location of the work, the conformation of the ground, the character, quality of the materials to be encountered, the character of equipment and facilities needed preliminary to and during the prosecution of the works, the general and local conditions, the labour conditions prevailing therein and all other matters which can in any way affect the works under the contract.

(2) *Commencement of works.*—The Contractor shall commence the works within 7 days after the receipt by him of an order in writing to this effect from the Engineer and shall proceed with the same with due expedition and without delay.

20. **Compliance to Engineers instructions.**—(1) The Engineer shall direct the order in which the several parts of the works shall be executed shall execute without delay all orders given by the Engineer from time to time but the contractor shall not be relieved thereby from responsibility for the due performance of the works in all respects.

(2) *Alterations to be authorised.*—No alterations in or additions to or omission or abandonment of any part of the works shall be deemed authorised, except under instructions from the Engineer and the Contractor shall be responsible to obtain such instructions in each and every case.

(3) *Extra Works.*—Should works over and above those included in the contract require to be executed at the site, the contractor shall have no right to be entrusted with the execution of such works which may be carried out by another contractor or contractors or by other means at the option of the Railway.

(4) *Separnte contracts in connection with works.* :—The Railway shall have the right to let other contracts in connection with the works. The contractor shall afford other contractors reasonable opportunity for the storage of their materials and the execution of their work and shall properly connect and coordinate his work with theirs. If any part of the Contractor's work depends for the proper execution or results upon the work of another Contractor, the Contractor shall inspect and promptly report to the Engineer any defects in such work that render it unsuitable for such proper execution and results. The Contractor's failure so to inspect and report shall constitute an acceptance of the other Contractor's work as fit and proper for the reception of his work, except as to defects which may develop in the other Contractor's work after the execution of his work.

21. **Instruction of Engineers Representative.**—Any instructions or approval given by the Engineer's Representative to the Contractor in connection with the works shall bind the Contractor as though it had been given by the Engineer provided always as follows :—

(a) Failure of the Engineer's Representative to disapprove any work or materials shall not prejudice the power of the Engineer thereafter to

disapprove such work or materials and to order the removal or breaking up thereof.

(*b*) If the Contractor shall be dissatisfied by reason of any decision of the Engineer's Representative he shall be entitled to refer the matter to the Engineer who shall there upon confirm or vary such decision.

22. **Adherence to specification and drawings.**—(1) The whole of the works shall be executed in perfect conformity with the specifications and drawings of the contract. If the Contractor performs any work in a manner contrary to the specificaions or drawings or any of them and without such reference to the Engineer he shall bear all the costs arising or ensuing therefrom, and shall be responsible for all loss to the Railway.

(2) *Drawings and specifications on the works.*—The Contractor shall keep one copy of Drawings and Specifications at the site, in good order, and such other contract documents as may be necessary, available to the Engineer and the Engineer's Representative.

(3) *Ownership of Drawings and Specifications.*—All darwings and specifications and copies thereof furnished by the Railway to the Contractor are deemed to be the property of the Railway, They shall not be used on other works and with the exception of the signed contract set, shall be returned by the Contractor to the Railway on completion of the works or termination of the contract.

(4) *Compliance with Contractor's request for details.*—The Engineer shall furnish with reasonable promptness after receipt, by him of the Contractor's request for the same, additional instructions by means of drawings or otherwise, necessary for the proper execution of the works or any part thereof. All such drawings and instructions shall be consistant with the contract documents and reasonably inferable there from.

(5) *Meaning and inntent of Specifications and Drawings.*—If any ambiguity arises as to the meaning and intent of any portion of the specifications and drawings or as to execution or quality of any work or material or as to the measurements of the works, the decision of the Engineer thereon shall be final subject to appeal (within seven days of such decision being intimated to the Contractors) to the Chief Engineer who shall have the power to correct any errors, ommissions, or descrepancies in the specificatoins, drawings, classification of work or materials, and whose decision in the matter in dispute or doubt shall be final and conclusive.

23. **Work during night.**—The Contractor shall not carry out any work between sun-set and sun-rise without the previous permission of the Engineer.

24. **Damage to Railway Property or private life and property.**—The Contractor shall be responsible for all risks to the works and for trespass and shall make good at his own expesne all loss or damage whether to the works themselves or to any other property of the Railway or the lives, person or property of

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

25. **Sheds, Store-houses and yards.**—The Contractor shall at his own expense provide himself with sheds stores-houses and yards in such situations and in such numbers as in the opinion of the Engineer is requisite for carrying on the works and the Contractor shall keep at each of such sheds, strore-houses and yards a sufficient quantity of materials and plant in stock as not to delay the carrying out of the works with due expedition and the Engineer and the Engineer's Representative shall have free access to the said sheds, store houses and yards at any time for the purpose of inspecting the stock of materials and plant so kept in hand, and any materials or plant which the Engineer may object to shall not be brought upon or used in the works, but shall be forthwith removed from the sheds ,store-houses or yards by the Contractor. The contractor shall at his own expense provide and maintain suitable mortar mills, soaking vats, or any other equipment necessary for the execution of the works.

26. **Provision of efficient and competent staff.**—The Contractor shall place and keep on the works at all time efficient and competent staff to give the necessary directions to his workmen and to see that they execute their work in sound and proper manner and shall employ only such supervisors, workmen and labourers in or about the execution of any of the works as are careful and skilled in their various trades and callings, The contractor shall at once remove from the works any age it, permitted sub-contractor, supervisor, workmen or labourer who shall be objected to by the Engineer and, if and whenever required by the Engineer, he shall submit a correct return showing the names of all staff and workmen employed by him. In the event of the Engineer being of the opinion that the Contractor is not employing on the works a sufficient number of staff and workmen as is necessary for the proper completion of the works within the time perscribed, the Contractor shall forthwith on receiving intimation to this effect take on the additional number of staff and labour specified by the Engineer

within seven days of being so required and failure on the part of the Contractor to comply with such instructions will entitle the Railway to rescind the contract under Clause 62 of these conditions.

27. **Workmanship and testing.**—(1) The whole of the works and/or supply of materials specified and provided in the contract or that may be necessary to be done in order to form and complete any part thereof shall be executed in the best and most substantial workmanlike manner with materials of the best and most approved quality of their respective kinds, agreably to the particulars contained in or implied by the specifications and as referred to in and represented by the drawings or in such other additional particulars, instructions and drawings may be found requisite to be given during the carrying on of the works and to the entire satisfaction of the Engineer according to the instructions and directions which the Contractor may from time to time receive from the Engineer. The materials may be subjected to tests by means of such machines, instruments and appliances as the Engineer may direct and wholly at the expense of the Contractor.

(2) *Removal of improper work and materials.*—The Engineer or the Engineer's Representative shall be entitled to order from time to time.

(*a*) the removal from the site within the time specified in the order of any materials which in his opinion are not in accordance with the specifications or drawings,

(*b*) The substitution of proper and suitable materials, and

(*c*) the removal and proper re-execution (notwithstanding any previous tests thereof or "On-Account" payments there for) of any work which in respect of materials or work manship is not in his opinion in accordance with the specifications, and in case of default on the part of the Contractor in carrying out such order, the Railway shall be entitled to rescind the contract, under clause 62 of these conditions.

28. **Facilities for inspections.**—The Contractor shall afford the Engineer and the Engineer's representative every facility for entering in and upon every portion of the work at all hours for the purpose of inspections or otherwise and shall provide all labour, materials, planks, ladders, pumps, appliances and things of every kind required for the purpose and the Engineer and the Engineer's Representative shall at all times have free access to every part of the works and to all places at which materials for the works are stored or being prepared.

29. **Examination of work before covering up.**—The Contractor shall give seven days notice to the Engineer or the Engineer's Representative whenever any work or materials are intended to the covered up in the earth, in bodies or walls or otherwise to be placed beyond the reach of measurement in order that the work may be inspected or that correct dimensions may be taken before being so covered placed beyond the reach of measure ment in default whereof the same shall at the option of the Engineer or the Engineer's Representative be uncovered and measured at the Contractor's expense or no allowance shall be made for such work or materials.

30. **Temporary works.**—All temporary works necessary for the proper execution of the works shall be provided and maintained by the Contractor and subject to the consent of the Engineer shall be removed by him and at his expense when they are no longer required and in such manner as the Engineer shall direct. In the event of failure on the part of the Contractor to remove the temporary works, the Engineer will cause them to be removed and the cost as increased by supervision and other incidental charges shall be recovered from the Contractor. If temporary huts are provided by the Contractor on the Railway land for labour engaged by him for the execution of the work, the Contractor shall arrange for handing over vacant possession of the said land after the work is completed if the Contractor's labour refuse to vacate, and have to be ejected by the Railway necessary expenses incurred by the Railway in connection there with shall be borne by the Contractor.

31. **Contractor to supply water for works.**—(1) Unless otherwise provided in the contact, the contractor shall be resposible for the arrangements to obtain supply of water necessary for the works.

(2) *Water supply from Railway System.*—The Railway may supply to the contractor part or whole of the quantity of water required for the execution of works from the Railway's existing water supply system at or near the site of works on specified terms and conditions and at such charges as shall be determined by the Railway and payable by the contractor provided that the contractor shall arrange, at his own expense, to effect the connections and lay addtional pipe lines and accessories on the site and that the Contractor shall not be entitled to any compensation for interruption or failure of the water supply.

(3) *Water supply by Railway Transport.*—In the event of the Railway arranging supply of water to the contractor at or near the site of works by travelling water tanks or other means, the freight and other charges incurred thereby, including demurrage charges that may be levied, shall be paid by the contractor in addition to the charges referred to in sub-caluse (2) of the clause provided this there contractor shall not be entitled to any compensation for interruption of failure of the water supply.

32. **Property in materials and plant.**—The materials and plant brought by the Contractor upon the site or on the land occupied by the contractor in connection with the works and intended to be used for the execution thereof shall immediately, they are brought upon the site or the said land, be deemed to be the property of the Railways, Such of them as during the progress of the works are rejected by the Engineer under clause 25 of these conditions or are declared by him not to be needed for the execution of the work or such as on the grant of the certificate of completion remain unused shall immediately on such rejection, declaration or grant cease to be deemed the property of the Railway and the contractor may then (but not before) remove them from the site or the said land. This clause shall not in any way diminish the liability of the Contractor nor shall the Railway be in any way answerable for any loss or damage which may happen to or in respect of any such materials or plant either by the same being lost, stolen, injured or destroyed by the fire, tempest or otherwise.

33. **Tools, plant and materials supplied by Railway.**—(1) The contractor shall take all reasonable care of all tools, plant and materials or other property whether of a like description or not belonging to the Railway and committed to his charge for the purpose of the works and shall be responsible for all damage or loss caused by him, his agents permitted sub-contractors or his workmen or others while they are in his charge. The contractor shall sign accountable receipts for tools, plant and materials made over to him by the Engineer and on completion of the works shall hand over, the unused balance of the same to the Engineer in good order and repair, fair wear and tear excepted, and shall be responsible for any failure to account for the same or any damage done there to.

(2) *Hire of Railway plant.*—The Railway may hire to the contractor such plant as concerete-mixers, compressors and portable engines for use during execution of the works on such terms as may be specified in the special conditions or in a separate agreement for hire of plant.

34. **Precautions during progress of works.**—(1) During the execution of works, unless otherwise specified the contractor shall at his own cost provide materials for and execute all shorting, timbering and structing work as is necessary for the stability and safety of all structures, excavations and works and shall ensure that no damage, injury or loss is caused or likely to be caused to any person or property.

(2) *Roads and water courses.*—Exisiting roads or water courses shalll not be blocked, cut through, altered, diverted or obstructed in any way by the contractor, except with the permission of the Engineer. All compensation claimed for any unauthorised closure, cutting through, alteration, diversion or obstruction to such roads or water courses by the Contractor or his agent or his staff shall be recoverable from the contractor by deduction from any sums which may become due to him in terms of the contract, or otherwise according to law.

(3) *Provision of access to premises.*—During progress of work in any street or thoroughfare, the contractor shall make adequate provision for the passage of traffic, for securing safe access to all premises approached from such street or thorough fare and for any drainage, water supply or means of lighting which may be interrupted by reason of the execution of the works and shall erect and maintain at his own cost barriers lights and other safeguards as prescribed by the Engineer for the regulation of the traffic, and provide watchmen necessary to prevent accidents. The work shall in such cases be prosecuted night and day if so ordered by the Engineer and with such vigour so that the traffic way be impeded for as short a time as possible.

(4) *Safety of public.*—The Contractor shall be responsible to take all precautions to ensure the safety of the public whether on public or railway property and shall post such lookout men as may in the opinion of the Engineer be required to comply with the regulations appertaining to the work.

35. **Use of explosives.**—Explosives shall not be used on the works or on the site by the Contractor without the permission of the Engineer and then only in

are required for the works, they shall be stored in a special magazine to be provided by and at the cost of the Contractor in accordance with the Explosive Rules. The Contractor shall obtain the necessary licence for the storage and the use of explosives and all operations in which or for which explosive are employed shall be at the sole risk and responsibility of the Contarctor and the Contractor shall indemnify the railway in respect thereof.

36. **Suspension of work.**—(1) The contractor shall on the order of the Engineer suspend the progress of the works or any part there of for such time or times and in such manner as the Engineer may consider necessary and shall during such suspension properly protect and secure the work so far as is necessry in the opinion of the Engineer. If such suspension is :—

(*a*) Provided for in the contract, or

(*b*) necessary for the proper execution of the works or by reason of whether conditions or by some default on the part of the contractor, or

(*c*) necessary for the safety of the works or any part thereof, the contractor shall not be entitled to the extra costs (if any) incurred by him during the period of suspension of the works, but in the event of any suspension ordered by the Engineer for reasons other than aforementioned and when each such period of suspension exceeds 14 days the Contractor shall be entitled to such extension of time for completion of the works as the Engineer may consider proper having regard to the period or periods of such suspensions and to such compensation as the Engineer may consider reasonable in respect of salaries or wages paid by the Contractor to his employees during the periods of each suspensions.

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

37. **Rates for items of works.**—The rates entered in the accepted schedule of rates of the contract are intended to provide for works duly and properly completed in accordance with the general and special (if any) conditions of contract and the specification and drawings together with such enlargements, extensions, diminutions, reductions, atlerations, or additions as may be ordered in terms of clause 42 of these conditions and without prejudice to the generality there of and shall be deemed to include and cover superintendence and labour.

Supply, including full freight, of materials, of stores, patterns, profiles, moulds, fittings, centerings, scaffoldings, shoring props, timber,

machinery, derricks, tackle, ropes, pegs, posts, tools and all apparatus and plant required on the works, except such tools, plant or materials as may be specified in the contarct to be supplied to the Contractor by the Railway, the erections, maintenance and removal of all temporary works and buildings,

All watching, lighting, balling, pumping and draining,

all prevention of or compensation for trespass,

all barriers and arrangements for the safety of the public or of employees during the execution of works,

all sanitary and medical arrangements for labour camps as may be prescribed by the Railway the setting of all work and of the construction, repair and unkeep of all centre lines, bench marks and level pegs thereon, site clearance.

all fees, duties, royalties, rent and compensation to owners for surface damage or taxes and impositions payable to local authorities in respect of land, structures and all materials supplied for the work or other duties or expenses for which the Contractor may become liable or may be put to under any provision of law for the purpose of or in connection with the execution of the contract, and all such other incidental charges or contingencies as may have been specially provided for in the specifications.

38. **Demurrage and wharfage dues.**—Demurrage charges calculated in accordance with the scales in force for the time being on the Railway and incurred by the contractor failing to load or unload any goods or materials within the time allowed by the Railway for loading or unloadings as also wharfage charges on materials not removed in time as also charges due on consignments booked by or to him shall be paid by the Contractor, failing which such charges shall be debited to the Contractor's account in the hands of the Railway and shall be deducted from any such which may become due to him in ters of the contract.

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

2. Provided that if the Contractor commences work or incurs any expenditure in regard thereto before the rates are determined and agreed upon as lastly hereon-to-fore mentioned, then and in such a case the Contractor shall only entitled to be paid in respect of the work carried out or expenditure incurred by him prior to the date of determination of the rates as aforesaid according to the rates as shall be fixed by the Engineer, However, if the contractor is not satisfied with the decision of the Engineer in this respect he may appeal to the Chief Engineer within 30 days of getting the decision of the Engineer, supported by analysis of the rates claimed. The Chief Engineer's decision after hearing both the parties in the matter would be final and binding on the contractor and the Railways.

40. **Handing over of works.**—(1) The Contractor shall be bound to hand over the works executed under the contract to the Railway complete in all respect to the satisfaction of the Engineer. The Engineer shall determine the date on which work is considered to have been completed in support of which his certificate shall be regarded as sufficient evidence for all purposes. The Engineer shall determine, from time to time, the date on which any particular section of the work shall have been completed and the Contractor shall be bound to observe any such determination of the Engineer.

(2) *Clearnace of site on completion.*—On the completion of the works the Contractor shall clear away and remove from site all constructional plant, surplus materials, rubbish and temporary works of every kind and leave the whole of the site and works clean and in a workman like condition to the satisfaction of the Engineer. No final payment in settlement of accounts for the work shall be paid, held to be due or shall be made to the Contractor till, in addition to any other condition necessary for such final payment, site clearance shall have been affected by him, and such clearance may be made by the Engineer at the expense of the Contractor in the event of his failure to comply with this provision within seven days after receiving notice to that effect. Should it become necessary for the Engineer to have the site cleared at the expense of the contractor, the Railway shall not be held liable for any loss or damage to such of the Contractor's property as may be on the site and due to such removal therefrom, which removal may be affected by means of public sale of such material and property or in such a way as deemed fit and convenient to the Engineer.

VARIATION IN EXTENT OF CONTRACT

41. **Modifications 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 Railway and the Contractor, and no work shall proceed under such modifications untill this has been done. Any verbal or written arrangement abandoning, modifying, extending, reducing or supplementing the contract or any of the terms thereof shall be deemed conditional and shall not be binding on the Railway [illegible] is incorporated in a formal instrument and signed

42. (1) **Power of modifications to contracts.**—The Engineer on behalf of the Railway shall be entitled by order in writing to enlarge or extend, diminish or reduce the works or made any alterations in their design, character, position, site, quantities, dimensions or in the method of their execution or in the combination and use of materials for the execution thereof and to order any additional works to be done or any works not to be done and the Contractor will not be entitled to any compensation for any increase/reduction in the quantities of work but will be paid only for the actual amount of work done and for approved materials supplied against a specific order.

(2) (*i*) Unless otherwise specified in the special conditions of the contract, the accepted variation in quantity for each individual item of the contract would be upto 25% of the quantity originally contracted, except in case of foundation work. The contractor shall be bound to carry out the work at the agreed rates and shall not be entitled to any claim or any compensation whatsoever upto the limit of 25% variation in quantity of individual items of works.

(*ii*) In case of earthwork the variation limit of 25% shall apply to the gross quantity of earthwork and variation in the quantities of individual classifications of soil shall not be subject to this limit.

(*iii*) In case of foundation work no variation limit shall apply and the work shall be carried out by the contractor on agreed rates irrespective of any variation.

**Valuation of variations.

**(3) The enlargements, extensions, diminutions, reductions, alterations or additions referred to in sub-clause (2) of this clause shall in no degree affect the validity of the contract but shall be performed by the Contractor as provided therein and be subject to the same conditions stipulations and obligations as if they had been originally and expressly included and provided for in the specifications and drawings and the amounts to be paid therefore shall be calculated in accordance with the accepted schedule of rates. Any extra items/quantities of work falling outside the perview of the provisions of sub-clause (2) above shall be paid for at the rates determined under clause 39 of these conditions.

CLAIMS

43. **Monthly statement of claims.**—(1) The Contractor shall prepare and furnish to the Engineer once in every month anaccount giving full and detailed particulars of all claims for any additional expense to which the Contractor may consider himself entitled and of all extra or additional works ordered by the Engineer which he has executed during the preceding month and no claim for payment for any such work will be considered which has not been included in such particulars.

(2) *Signing of' No claim' Certificate.*—The Contractor shall not be entitled to make any claim whatsoever against the Railway under or by virtue of arising

out of this contract, nor shall the Railway entertain or consider any such claim. if made by the Contractor, after he shall have signed a 'No claim' certificate in favour of the Railway in such form as shall be required by the Railway, after the works are finally measured up. The contractor shall be debarred from disputing the correctness of the items covered by the 'No claim' certificate or demanding a reference to arbitration in respect thereof.

MEASUREMENTS, CERTIFICATES AND PAYMENTS

44. **Quantities in schedule annexed to contract.**—The quantities set out in the accepted schedule of rates with items of work quantified are the estimated quantities of the works and they shall not be taken as the actual and correct quantities of the works to be executed by the Contractor in fulfilment of his obligations under the contract.

45. **Measurements of Works.**—The contractor shall be paid for the works at the rates in the accepted schedule of rates and for extra works at rates determined under Clause 39 of these conditions on the measurements taken by the Engineer or the Engineer's Representative in accordance with the rules prescribed for the purpose by the Railway. The quantities for items the unit of which in the accepted schedule of rates is 100 or 1000 shall be calculated to the nearest whole number, any faction below half being dropped and half and above being taken as one, for items the unit of which in the accepted schedule rates is single, the quantities shall be calculated to two places of decimals. Such measurements will be taken of the work in progress from time to time and at such intervals as in the opinion of the Engineer shall be proper having regard to the progress of the works. The date and time on which 'on account' or final measurements are to be made shall be communicated to the Contractor who shall be present at the site and shall sign the results of the measurements (which shall also be signed by the Engineer or the Engineer's representative) recorded in the official measurement book as an acknowledgement of his acceptance of the accuracy of the measurement. Failing the Contractor's attendance, the work may be measured up in his absence and such measurements shall, not withstanding such absence, be binding upon the Contractor whether or not he shall have signed the measurement book; provided always that any objection made by him to any measurement shall be duly investigated and considered in the manner set out below :—

(*a*) It shall be open to the Contractor to take specific objection to any recorded measurement or classification on any ground within seven days of the date of such measurements. Any re-measurements taken by the Engineer or the Engineer's representative in the presence of the Contractor or in his absence after due notice has been given to him in consequence of objection made by the contractor shall be final and binding on the contractor and no claim whatsoever shall thereafter be entertained regarding the accuracy and classification of the measurement.

(*b*) If an objection raised by the contractor is found by the Engineer to be incorrect the contractor shall be liable to pay the actual expenses incurred in measurements.

46. **"On-account" payments.**—(1) The contractor shall be entitled to be paid from time to time by way of "On-account" payments only for such works as in the opinion of the Engineer he has executed in terms of representative's certificates of measurements shall be subject to any deductions which may be made under these presents and shall further be subject to, unless otherwise required by Clause 16 of these conditions, a retention of ten per cent by way of security deposit, until the amount of security deposit by way of retained earnest-money and such retentions shall amount to 10 per cent of the total value of the contract; provided always that the Engineer may be any certificate make any correction or modification in any previous certificate which shall have been issued by him and that the Engineer may withhold any certificate if the works or any part thereof are not being carried out to his satisfaction.

(2) *Rounding-off amounts.*—In calculating the amount of each item due to the contractor in every certificate prepared for payments, sums of less than three paise shall be omitted and sums of three paise and more upto five paise shall be reckoned as five paise, and the total amount on each certificate shall be rounded of to the nearest rupee, *i.e.* sums of less than fifty paise shall be omitted and sums of fifty paise and more upto one rupee shall be reckoned as one rupee.

(3) *"On account" payments not prejudicial to final settlement.*—"On account" payments made to the Contractor shall be without prejudice to the final making up of the accounts (except where measurements are specifically noted in the Measurement Book as "Final measurements" and as such have been signed by the contractor) and shall in no respect be considered or used as evidence of any facts stated in or to be inferred from such accounts not of any particular quantity of work having been executed not of the manner of its execution being satisfactory.

(4) *Manner of payment.*—Unless otherwise specified payment to the contractor will be made by cheque but no cheque will be issued for an amount less than 10 rupee.

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

48. **Certificate of completion of Works.**—(1) As soon as in the opinion of the Engineer the works shall have been substantially completed and shall have satisfactorily passed any final test or tests that may be prescribed the Engineer shall issue a certificate of completion in respect of the works and the period of maintenance of the works shall commence from the date of such certificate; provided that the Engineer may issue such a certificate with respect to any part of the works before the completion of the whole of the works or with respect to any substantial part of the works which has been both completed to the satisfaction of the Engineer and occupied or used by the Railway and when any such certificate is given in respect of a part of the works such part shall be considered as completed and the period of maintenance of such part shall commence from the date of such certificate.

(2) *Contractor not absolved by completion Certificate.*—The certificate of completion in respect of the works referred to in sub clause (1) of this clause shall not absolve the Contractor from his liability to make good any defects, imperfections shrinkages or faults which may appear during the period of maintenance specified in the tender arising in the opinion of the Engineer from materials or workmanship not in accordance with the drawings or specifications or instructions of the Engineer which defects, imperfections shrinkages or faults shall upon the directions in writing of the Engineer be amended and made good by the Contractor at his own cost; and in case of default on the part of the Contractor the Engineer may employee labour and material,or appont another Contractor to amend and make good such defects, imperfections, shrin- kages and faults and all expenses consequent the reon and incidental there-to shall be sborne by the Contractor and shall be recoverable from any moneys due to him under the contract.

49. **Approval only by Maintenance Certificate.**—No certificate other than the Maintenance certificate referred to in Clause 50 of these conditions shall be deemed to constitute approval of any work or other matter in respect of which it is issued or shall be taken as an admission of the due performance of the contract or any part there of or of the accuracy of any claim or demand made by the Contractor or of additional or varied work having been ordered by the Engineer nor shall any other certificate conclude or prejudice any of the powers of the Engineer.

50. **Maintenance Certificate.**—(1) The contract shall not be considered as completed until a Maintenance Certificate shall have been signed by the Engineer stating that the works have been completed and maintained to his satisfaction. The Maintenance Certificate shall be given by the Engineer upon the expiration of the period of maintenance or as soon there after as any works ordered during such period pursuant to sub clause (2) of Clause 48 of these conditions shall have been completed to the satisfaction of the Engineer and full affect shall be given to this clause notwithstanding the taking possessions of or using the works or any part thereof by the Railway.

(2) *Cessation of Railway's Liability.*—The Railway shall not be liable to the Contractor for any matter arising out of or in connection with the contract or the execution of the works unless the Contractor shall have made a claim in writing in

(3) *Unfulfilled obligations.*—Notwithstanding the issue of the Maintenance Certificate the Contractor and (subject to sub-clause (2) of this clause) the Railway shall remain liable for the fulfilment of any obligation incurred under the provisions of the contract prior to the issue of the Maintenance Certificate which remains unperformed at the time such certificate is issued and for the purposes of determining the nature and extent of any such obligation the contract shall be deemed to remain in force between the parties hereto.

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

(2) *Post Payment Audit.*—It is an agreed term of the contract that the Railway reserves to itself the right to carry out a post-payment audit and/or technical examination of the works and the final bill, including all supporting vouchers, abstracts etc., and to make a claim on the contractor for the refund 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 him under the contract.

(3) *Repayment of security deposit.*—The total security deposit shall become due and shall be paid to the Contractor after the expiration of the period of maintenance, specified in the tender reckoned from the date on which the Engineer shall have passed the certificate of completion comprising the whole of the works to be done under the provisions of the contract, or any other earlier date subsequent to the completion of the whole of such works that may be fixed by the Railway in this behalf, provided that all the stipulations of this clause have been fulfilled by the Contractor and all claims and demands made against the Railway for and in respect of damage or loss by, from or in consequence of the works have been finally satisfied; provided further that in the event of different maintenance periods having become applicable to different parts of the works pursuant to sub-clause (1) of clause 48 of these conditions, the expression "expir-

ation of the period of maintenance" shall for the purposes of this clause be deemed to mean the expiry of the latest of such periods.

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

(*ii*) If any portion of the work in a contract of value more than one crore of rupees be carried out by a sub contractor or any subsidiary or allied firm or company (as per Clause 7 of the General Conditions of contract), the Engineer shall have power to secure the books of such sub-contractor or any subsidiary or allied firm or company, through the contractor, and such books shall be open to his inspection.

(*iii*) The obligations imposed by sub-clause (i) & (ii) above is without prejudice to the obligations of the contractor under any state, rules or orders binding on the contractor.

52. **With-Holding and lien in respect of sums claimed.**—Whenever any claim or claims for payment of a sum of money arises out of or under the contract against the contractor, the Railway shall be entitled to withhold and also have a lien to retain such sum or sums in whole or in part from the security if any, deposited by the contractor and for the purpose aforesaid, the Railway shall be entitled to withhold the said cash security deposit or the security, if any, furnished as the case may be and also have a lien over the same pending finalisation or adjudication of any such claim. In the event of the security being insufficient to cover the claimed amount or amounts or if no security has been taken from the contractor the Railway shall be entitled to withhold and have lien to retain to the extent of the such claimed amount or amounts referred to supra, from any sum or sums found payable or which at any time there after may become payable to the contractor under the same contract or any other contract with this or any other Railway or any other Department of the Central Government pending finalisation or adjudication of any such claim.

It is an agreed term of the contract that the sum of money or monies so withheld or retained under the lien referred to above by the Railway will be kept withheld or retained as such by the Railway till the claim arising out of or under the contract is determined by the arbitrator (if the contract is governed by the arbitration clause) or by the competent court as the case may be and that the contractor will have no claim for interest or damages whatsoever on any account

in respect of such withholding or retention under the lien referred to supra and duly notified as such to the contractor. For the purpose of this clause, where the contractor is a partnership firm or a limited company, the Railway shall be entitled to withhold and also have a lien to retain towards such claimed amount or amounts in while or in part from any sum found payable to any partner/limited company, as the case may be, whether in his individual capacity or otherwise.

A. **Lien in respect of claims in other contracts.**—Any sum of money due and payable to the contractor (including the security deposit returnable to him) under the contract may be withheld or retained by way of lien by the Railway against any claim of this or any other Railway or any other Department of the Central Government in respect of payment of a sum of money arising out of or under any other contract made by the contractor with this or any other Railway or any other Department of the Central Government.

It is an agreed term of the contract that the sum of money so withheld or retained under this clause by the Railway will be kept withheld or retained as such by the Railway till the claim arising out of or under any other contract is either mutually settled or determined by the arbitrator, if the other contract is governed by arbitration clause or by the competent court as the case may be, and that the contractor shall have no claim for interest or damages whatsoever on this account or on any other ground in respect of any sum of money withheld or retained under this clause and duly notified as to the contractor.

53. **Signature on receipts for amounts.**—Every receipt for moneys which may become payable or for any security which may become transferable to the Contractor under these presents, shall if signed in the partnership name by any one of the partners of a Contractor firm be a good and sufficient discharge to the Railway in respect of the moneys or security purported to be acknowledged thereby and in the event of death of any of the contractor partners during the pendency of the contract it is hereby expressly agreed that every receipt by any one of the surviving Contractor partners shall if so signed as aforesaid, be a good and sufficient discharge as aforesaid, provided that nothing in this clause contained shall be deemed to prejudice or effect any claim which the Railway may hereafter have against the legal representatives of any Contractor partner so dying for or in respect of any breach of any of the Conditions of the contract, provided also that nothing in this clause contained shall be deemed to prejudice or effect the respective rights or obligations of the Contractor partners and of the legal representatives of any deceased Contractor partners interse.

LABOUR

54. **Wages to labour.**—The Contractor shall be responsible to ensure compliance with the provisions of the Minimum Wages Act, 1948 (hereinafter referred to as the 'Said Act') and the rules made thereunder in respect of any employees directly or through petty contractors or sub-contractors employed by him on road construction or in building operations or in stone breaking or stone crushing for the purpose of carrying out this contract.

If, in compliance with the terms of the contract, the Contractor 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 Railways whether in connection with any work being executed by the Contractor or otherwise for the purposes of the Railway such labour shall, for the purpose of this clause, still be deemed to be persons employed by the Contractor.

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

55. **Provisions of Payments of Wages Act.**—The Contractor shall comply with the provisions of the payment of Wages Act, 1936 and the rules made thereunder in respect of all employees directly or through petty contractors or sub-contractors employed by him in the works. If in compliance with the terms of the contract, the Contractor directly or through petty contractors or sub-contractors shall supply any labour to be used wholly or partly under the direct order and control of the Engineer whether in connection with the works to be executed hereunder or otherwise for the purpose of the Engineer such labour shall, neverthless, be deemed to comprise persons employed by the Contractor and any moneys which may be ordered to be paid by the Engineer shall be deemed to be moneys payable by the Engineer on behalf of the Contractor and the Engineer may on failure of the contractor to repay such moneys to the Railway deduct the same from any moneys due to the Contractor in terms of the contract. The Railway shall be entitled to deduct from any moneys due to the Contractor (Whether under this contract or any other contract) all moneys paid or payable by the Railway by way of compensation of aforesaid or for costs of expenses in connection with any claim thereto and the decision of the Engineer upon any question arising out of the effect or force of this clause shall be final and binding upon the Contractor.

55-A. **Provisions of Contract Labour (Regulation and Abolition Act, 1970.**— (1) The Contractor shall comply with the provisions of the Contract Labour (Regulation and abolition) Act, 1970, and the Contract Labour (Regulation and Abolition) Central Rules 1971 as modified from time to time, wherever applicable and shall also indemnify the Railway from and against any claims under the aforesaid Act and the Rules.

(2) The Contractor shall obtain a valid licence under the aforesaid Actas modified from time to time before the commencement of the work and contiue to have a valid licence until the completion of the work. Any failure to fulfif this requirement shall attract the penal provisions of the Contract arising out o the resultant non-execution of the work.

(3) The Contractor shall pay to labour employed by him directly or through sub-contractors the wages as per provisions of the aforesaid Act and the Rule

wherever applicable. The Contractor shall, notwithstanding the provisions of the Contract to the contrary, cause to be paid the wages to labour indirectly engaged on the work including any engaged by his sub-contractors in connection with the said work, as if the labour had been immediately employed by him.

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

(5) In every case in which, by virtue of the provisions of the aforesaid Act or the Rules, the Railway is obliged to pay any amount of wages to a workman employed by the contractor or his sub-contractor in execution of the work or to incur any expenditure in providing welfare and health emenities required to be provided under the aforesaid Act and the Rules or to incur any expenditure on account of the contingent liability of the Railway due to the contractor's failure to fulfil his statutory obligations under the aforesaid Act or the Rules the Railway will recover from the contractor, the amount of wages so paid or the amount of expenditure so incurred, and without projudice to the rights of the Railway under section 20 sub-section (2) and section 21 Sub-section (4) of the aforesaid Act the Railway shall be at liberty to recover such amount or part thereof by deducting it from the security deposit and/or from any sum due by the Railway to the contractor whether under the contract or otherwise. The Railway shall not be bound to contest any claim made against it under sub-section (1) of Section 20 and sub-section (4) of section 21 of the aforesaid Act except on the written request of the contractor and upon his giving to the Railway full security for all costs for which the Railway might become liabie in contesting such claim. The decision of the Railway regarding the amount actually recoveratle from the contractor as stated above, shall be final and binding on the contrator.

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

57. **Provisions of Workmen's Compensation Act.**—In every case in which by virtue of the provisions of Section 12, sub-section (1) of the Workmen's Compensation Act, 1923, Railway is obliged to pay compensation to a workman directly or through petty Contractors or sub-Contractors employed by the Contractor in executing the work, Railway will recover from the Contractor the amount of the compensation so paid, and without prejudice to the rights of Railway under Section 12, sub-section (2) of the said Act, Railway shall be at liberty to recover such amount or any part thereof by deducting it from the security deposit or from any sum due by Railway to the Contractor whether under these conditions or otherwise. Railway shall not be bound to contest any claim made against it under section 12, sub-section (1) of the said Act except on the written request of the Contractor and upon his giving to Railway, full security for all costs for

57-A. **Provisions of Mines Act.**—The Contractor shall observe and perform all the provisions of the Mines Act, 1952 or any statutory modifications of re-enactment thereof for the time being in force and any rules and regulations made there under in respect of all the persons directly or through petty contractors or sub-contractors employed by him under this contract and shall indemnify the Railway from and against any claim under the Mines Act, or the rules and regulations framed there under, by or on behalf of any persons employed by him or otherwise.

58. **Railway not to provide quarters for Contractor.**—No quarters shall normally be provided by the Railway for the accommodation of the Contractor or any of his staff employed on the work. In exceptional cases where accommodation is provided to the Contractor at the Railway's discretion recoveries shall be made at such rates as may be fixed by the Railway for the full rent of the building equipment therein as well as charges for electric current, water supply and conservancy.

59. **Labour Camps.**—(1) The Contractor shall at his own expense make adequate arrangements for the housing, supply of drinking water and provision of latrines and urinals for his staff and workmen directly or through petty contractors or sub-contractors employed on the work and for temporary creche (Bal-mandar) where 50 or more women are employed at a time. Suitable sites on Railway land, if available, may be allotted to the Contractor for the erection of labour camps, either free of charge or on such terms and conditions that may be prescribed by the Railway. All camp sites shall be maintained in clean and sanitary condition by the Contractor at his own cost.

(2) *Compliance to rules for employment of labour.*—The contractor shall conform to all laws, byelaws, rules and regulations for the time being in force pertaining to the employment of local or imported labour and shall take all necessary precautions to ensure and preserve the health and safety of all staff employed directly or through petty contractors or sub-contractors on the work.

(3) *Preservation of peace.*—The Contractor shall take requisite precautions and use his best endeavours to prevent any riotous or unlawful behaviour by or amongst his workmen and others employed directly or through petty contractors or sub-contractors on the works and for the preservation of peace and protection of the inhabitants and security of property in the neighbourhood of the works. In the event of the Railway requiring the maintenance of a Special Police Force at or in the vicinity of the site during the tenure of work the expenses thereof shall be borne by the contractor and if paid by the Railway shall be recoverable from the Contractor.

(4) *Sanitary arrangements.*—The Contractor shall obey all sanitary rules and carry out all sanitary measures that may from time to time be prescribed by the Railway Medical Authority and permit inspection of all sanitary arrangements at all times by the Engineer, the Engineer's Representative or the Medical staff of the Railway, should the Contractor fail to make adequate sanitary arrangements, these will be provided by the Railway and the cost there for recovered from the Contractor.

(5) *Outbreak of infections disease.*—The Contractor shall remove from his camp such labour and their families as refuse protective inoculation and vaccination when called upon to do so by the Engineer or the Engineer's Representative on the advice of the Railway Medical Authority. Should Cholera, Plague or other infections disease break out, the contractor shall burn the huts, beddings, clothes and other belongings of or used by the infected parties and promptly erect new huts on healthy sites as required by the Engineer, failing which within the time specified in the Engineer's requisition, the work may be done by the Railway and the cost therefore recovered from the contractor.

(6) *Treatment of contractor's staff in Railway hospitals.*—The Contractor and his staff, other than labourers and their families requiring medical aid from the Railway hospitals and dispensaries will be treated as private patients had charged accordingly. The Contractor's labourers directly or through petty contractors or sub-contractors employed on the work and their families will be granted free treatment in Railway Hospitals and dispensaries where no other hospitals or dispensaries are available provided the Contractor pays the cost of medicines, dressings and diet money according to the normal scale, and additional charges for special examinations such as Pathological & bacterioligical examinations, X-Ray etc. and for operations.

(7) *Medical facilities at site.*—The Contractor shall provide medical facilities at the site as may be prescribed by the Engineer on the advice of the Railway Medical Authority in relation to the strength of the Contractor's resident staff and workmen directly or through petty contractors or sub-contractors employed on the work.

(8) *Use of intoxicants.*—The sale of ardent spirits or other intoxicating beverages upon the work or in any of the buildings, encampments or tenements owned, occupied by or within the control of the Contractor or any of his employees directly or through petty contractors or sub-contractors employed on the work shall be forbidden and the Contractor shall exercise his influence and authority to the almost extent to secure strict compliance with this condition.

(9) *Non-employment of female labour.*—The contractor shall see that the employment of female labour directly or through petty contractors or sub-contractors employed on the work in Cantonment areas, particularly in the neighbourhood of soldiers barracks, should be avoided as far as possible.

Non-employment of labourer below the age of 15.

60. (1) The contractor shall not employ childern below the age of 15 as labourers directly or through petty contractors or sub-contractors for the execution of the work.

Medical certificate of fitness for labour

(2) The contractor shall not employ a person above 15 and below 19 years of age for the purpose of executive work under this contract

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

Period of validity of Medical fitness certificate.

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

Medical re-examination of labourer.

(4) Where any official appointed in this behalf by the Ministry of Labour is of the opinion that any person employed in connection with the execution of any work under this contract in the age group 15-19 years is with out a certificate of fiitness or is having a certificate of fitness but no longer fit to work in the capacity stated in the certificate, he may serve on the Contractor, or on the person nominated by him in this regard, a notice requiring that such person shall be examined by a certifying surgeon and such person shall not, if the concerned official so directs, be employed or permitted to do any work under this contract unless he has been medically examined and certified that he has been granted a certificate of fitness or a fresh certificate of fitness, as the case may be.

Explanations.

(1) Only qu alified Medical practitioners can be appointed as "Certifying Surgeons" and the term Qualified medical practitioners means a person holding a qualification granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916. (VII of 1916) or in the schedules to the Indian Medical Council Act, 1933 (XXVII of 1933).

(2) The certifying surgeon may be a Medical Officer in the service of state or Municipal Corporation.

ANNEXURE I

CERTIFICATE OF FITNESS

1. (*a*) Serial Number ..... Serial No. .....
   (*b*) Date ..... Date .....
2. Name of person examined ..... I certify that I have personally examined (name) .....
3. Father's name ..... son/daughter of .....
4. Sex ....
   residing at .....
5. Residence ....
6. Date of birth, if available and/or certified age ..... Who is desirous of being employed in a factory or on any work requiring manual labour and that his/her age as nearly as can be ascertained from my examination, is .....
7. Physical fitness ..... years, and that he/she is fit for employment in a factory or on a work requiring manual labour as an adult/child.
8. Identification marks .....
9. Reasons for —
   (*a*) refusal to grant certificate or : His/her identification marks are .....
   (*b*) revoking the certificate .....
   ....

....

Signature or left hand thumb impression of the person examined **Signature or left hand thumb impression of the person examined.**

....

Initials of Certifying Surgeon **Signature of Certifying Surgeon.**

Note.—In case of physical disability, the exact details of the cause of the physical

Loss of P & Business
61(2)

DETERMINATION OF CONTRACT

61. (1) **Right of Railway to determine contract.**—The Railway shall be entitled to determine and terminate the contract at any time should, in the Railway's opinion, the cessation of work becomes necessary owing to paucity of funds or from any other cause whatever, in which case the value of approved materials at site and of work done to date by the Contractor will be paid for in full at the rates specified in the contract. Notice in writing from the Railway of such determination and the reason therefor shall be conclusive evidence thereof.

(2) **Payment on determination of contract.**—Should the contract be determined under sub-clause (1) of this clause and the Contractor claims payment for expenditure incurred by him in the expectation of completing the whole of the works, the Railway shall admit and consider such claims as are deemed reasonable and are supported by vouchers to the satisfaction of the Engineer. The contractor shall have no claim to any payment of compensation or otherwise how so ever 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 the contract. The Railway's decision on the necessity and propriety of such expenditure shall be final and conclusive.

62. **Determination of contract owing to default of contractor.**(1) *If the contractor should.—*

(*i*) become bankrupt or insolvent, or

(*ii*) make an arrangement with or assignment in favour of his creditors, or agree to carry out the contract under a Committee of Inspection of his creditors, or

(*iii*) being a Company or Corporation, go into liquidation (other than a voluntary liquidation for the purposes of amalgamation or reconstruction) or

(*iv*) have an execution levied on his goods or property on the works, or

(*v*) assign the contract or any part thereof otherwise than as provided in Clause 7 of these Conditions, or

(*vi*) abandon the contract, or

(*vii*) Persistently disregard the instructions of the Engineer or contravene any provision of the contract, or

(*viii*) Fail to adhere to the agreed programme of work by a margin of 10% of the stipulated period, or

(*ix*) fail to remove materials from the site or to pull down and replace work after receiving from the Engineer notice to the effect that the said materials or works have been condemned or rejected under clause 25 and 27 of these conditions, or

(*x*) fail to take steps to employ competent or additional staff and labour as required under clause 26 of these Conditions, or

(*xi*) fail to afford the Engineer or Engineer's representative proper facilities for inspecting the works or any part thereof as required under clause 28 of these Conditions, or

(*xii*) promise, offer or give any bribe, commission, gift or advantage either himself or through his partner, agent or servant to any officer or employee of the Railway or to any person on his or on their behalf in relation to the execution of this or any other contract with the Railway.

(A) (*xiii*) At any time after the tender relating to the contract has been signed and submitted by the Contractor, being a partnership firm, admit as one of its partners or employ under it or being an incorporated Company elect or nominate or allow to act as one of its directors or employ under it in any capacity whatsoever any retired Engineer of the gazetted rank or any other retired gazetted officer working before his retirement, whether in executive or administrative capacity or whether holding any pensionable post or not, in the Engineering Department of any of the Railways for the time being owned and administered by the President of India before the expiry of two years from the date of retirement from the said service of such engineer or officer unless such engineer or officer has obtained permission from the President of India or any officer duly authorised by him in this behalf to become a partner or a director or to take employment under the contractor, as the case may be, or

(B) fail to give at the time of submitting the said tender :—

(*a*) the correct information to the date of retirement of such retired engineer or retired officer from the said service, or as to whether any such retired engineer or retired officer was under the employment of the contractor at the time of submitting the said tender, or

(*b*) the correct information as to such engineers or officers obtaining permission to take employment under the contractor, or

(*c*) being a partnership firm, the correct information as to whether any of its partners was such a retired engineer or a retired officer, or

(*d*) being an incorporated company, correct information as to whether any of its directors was such a retired engineer or a retired officer, or

(*e*) being such a retired engineer or retired officer suppress and not disclose at the time of submitting the said tender the fact of his being such a retired engineer or a retired officer or make at the time of submitting the said tender a wrong statement in relation to his obtaining permission to take the contract or if the contractor be a partnership firm or an incorporated company to be a partner of director or such firm or company as the case may be or to seek employment under the Contractor.

Then and in any of the said cases, the engineer on behalf of the Railway may serve the Contractor with a notice in writing to that effect and it the Contractor does not within seven days after the delivery to him of such notice proceed to make good his default in so far as the same is capable of being made good and carry on the work or comply with such directions as aforesaid to the entire satisfaction of the Engineer, the Railway shall be entitled after giving 48 hours notice in writing under the hand of the Engineer (to rescind the contract as a whole or in part or parts as may be specified in such notice) and adopt either or both of the following courses :—

(*a*) to carry out the whole or part of the work from which the contractor has been removed by the employment of the required labour and materials, the costs of which shall include lead, lift, freight, supervision and all incidental charges ;

(*b*) to measure up the whole or part of the work from which the Contractor has been removed and to get it completed by another contractor, the manner and method in which such work is completed, shall be in the entire discretion of the Engineer whose decision shall be final;

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

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

(2) Right of Railway after rescission of contract owing to default of Contractor. In the event of any or several of the courses, referred to in sub-clause (1) of this clause, being adopted :—

(*a*) the Contractor shall have no claim to compensation for any loss sustained by him by reason of his having purchased or procured any materials or entered into any commitments or made any advances on account of or with a view to the execution of the works or the performance of the contract and Con-

for actually performed under the contract, unless and until the Engineer shall have certified the performance of such work and the value payable in respect thereof and the Contractor shall only be entitled to be paid the value so certified.

(*b*) The Engineer or the Engineer's Representative shall be entitled to take possession of any materials, tools, implements, machinery and buildings on the works or on the property on which these are being or ought to have been executed, and to retain and employ the same in the further execution of the works or any part thereof until the completion of the works without the Contractor being entitled to any compensation for the use and employment thereof or for wear and tear or destruction thereof.

(*c*) The Engineer shall, as soon as may be practicable after removal of the Contractor fix and determine ex-parte or by or after reference to the parties or after such investigation or enquiries as he may consider fit to make or institute and shall certify what amount (if any) had at the time of rescission of the contract been reasonably earned by or would reasonably accrue to the Contractor in respect of the work then actually done by him under the contract and what was the value of any unused, or partially used materials, any constructional plant and any temporary works upon the site.

(*d*) The Railway shall not be liable to pay Contractor any moneys on account of the contract until the expiration of the period of maintenance and thereafter until the costs of completion and maintenance damages for delay in completion (if any) and all other expenses incurred by the Railway have been ascertained and the amount thereof certified by the Engineer. The Contractor shall then be entitled to receive only such sum or sums (if any) as the Engineer may certify would have been due to him upon due completion by him after deducting the said amount; but if such amount shall exceed the sum which would have been payable to the Contractor, then the Contractor shall upon demand pay to the Railway the amount of such excess and it shall be deemed a debit due by the Contractor to the Railway and shall be recoverable accordingly.

63. **Matters finally determined by the Railway.**—All disputes and differences of any kind whatsoever arising out of or in connection with the contract, whether during the progress of the work or after its completion and whether before or after the determination of the contract, shall be referred by the contractor to the Railway and the Railway shall within a reasonable time after receipt of the Contractor's representation make and notify decisions on all matters referred to by the contractor in writing provided that matters for which provision has been made in clauses 18, 22(5), 39, 45(a), 55, 55-A (5), 61(2) and 62(1) (xiii)(B)(e)(b) of the General Conditions of Contract or in any clause of the special conditions of the contract shall be deemed as 'excepted matters' and decisions thereon shall be final and binding on the contractor; provided further that 'excepted matters' shall stand specifically excluded from the purview of the arbitration clause and not be referred to arbitration.

64. **Demand for Arbitration.**—(1) (*i*) In the event of any dispute or difference between the parties hereto as to the construction or operation of this contract, or the respective rights and liabilities of the parties on any matter in question, dispute or difference on any account, or as to the withholding by the Railway of any certificate to which the contractor may claim to be entitled to, or if the Railway fails to make a decision within a reasonable time, then and in any such case, save the 'excepted matters' referred to in clause 63 of these conditions, the contractor, after 90 days but within 180 days of his presenting his final claim on disputed matters, shall demand in writing that the dispute or difference be referred to arbitration.

(*ii*) The demand for arbitration shall specify the matter which are in question, dispute or difference. Only such dispute(s) or difference(s) in respect of which the demand has been made, shall be referred to arbitration and other matters shall not be included in the reference.

(*iii*) 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 Government that the final bill is ready for payment, he/they will be deemed to have waived his/their claim(s) and the Railway shall be discharged and released of all liabilities under the contract in respect of these claims.

(2) *Obligation during pendency of arbitration.*—Work under the contract shall, unless otherwise directed by the Engineer, continue during the arbitration proceedings, and no payment due or payable by the Railway shall be withheld on account of such proceedings, provided, however, it shall be open for arbitrator or arbitrators to consider and decide whether or not such work should continue during arbitration proceedings.

(3) *Arbitration.*—(*a*) (*i*) A sole Arbitrator who shall be the General Manager or a Gazetted Railway Officer nominated by him in that behalf in cases where the claim in question is below Rs. 5,00,000/- (Rupees five lakhs) and in cases where the issues involved are not of a complicated nature, The General Manager shall be the Sole Judge to decide whether or not the issues involved are or a complicated nature.

↑ 64(3)(b) for Panel

(3) (*a*) (*ii*) Two Arbitrators who shall be Gazetted Railway Officers of equal status to be appointed in the manner laid in Clause 64 (3)(b) for all claims of Rs. 5,00,000/- (Rupees five lakhs) and above, and for all claims irrespective of the amount or value of such claims if the issues involved are of a complicated nature. The General Manager shall be the sole judge to decide whether the issues involved are of a complicated nature or not. In the event of the two Arbitrators being divided in their opinions, the matter under disputes will be referred to an Umpire to be appointed in the manner laid down in Clause 3(b) for his decision.

(3) (*a*) (*iii*) It is a term of this contract that no person other than a gazetted Railway Officer should act as an Arbitrator/ Umpire and if for any reason, that is not possible, the matter is not to be referred to arbitration at all.

(3) (*a*) (*iv*) In case where the claim is up to Rs. 3,00,000/- (Rupees three lakh the Arbitrator(s)/Umpire so appointed, as the case may be, shall give the award on all matters referred to arbitration indicating therein break-up of the sums awarded separately on each individual item of dispute. In cases where the claim is more than Rs. 3,00,000/- (Rupees three lakhs), the Arbitrator(s)/Umpire so appointed, as the case may be, shall give intelligible award (*i.e.* the reasoning leading to the award should be stated) with the sums awarded separately on each individual item of dispute referred to arbitration.

(3) (*b*) For the purpose of appointing "two arbitrators" as referred to in sub-clause (a)(ii) above the Railway will send a pancl of more then three names of Gazetted railway officers of one or more departments of the Railway to the Contractor who will be asked to suggest to the General Manager one name out of the list for appointment as the Contractor's nominee. The General Manager, while so appointing the Contractor's nominee, will also appoint a second arbitrator as the Railway's nominee either from the panel or from outside the panel, ensuring that one of the two arbitrators so nominated is invariably from the Accounts Department. Before entering upon the reference the two Arbitrators shall nominate an Umpire who shall be a Gazetted Railway Officer to whom the case will be referred to in the event of any difference between the two arbitrators. Officers of the Junior Administrative grade of the Accounts Department of the Railways shall be considered as of equal status to the officers in the intermediate administrative grade of other departments of the Railway for the purpose of appointment. as arbitrator.

(3) (*c*) If the sole arbitrator appointed under sub-clause (a) (i) or one or both the arbitrators appointed under sub-clause (b) above resigns his appointment/resign their appointments or vacates his office/vacate their offices or is/are unable or unwilling to act for any reason whatsoever or dies/die, the General Manager may appoint a new arbitrator/arbitrators to act in his/their place in accordance with the provisions of sub-clause (a) (i) or sub-clause (b) above, as the case may be Such arbitrator/arbitrators, as the case may be, shall be entitled to proceed with the reference from the stage at which it was left by the previous arbitrator/arbitrators.

(3) (*d*) The Arbitrator or Arbitrators or the Umpire shall have power to call for such evidence by way of affidavits or otherwise as the Arbitrator or Arbitrators or Umpire shall think proper, and it shall be the duty of the parties here to do or cause to be done all such things as may be necessary to enable the Arbitrator or Arbitrators or Umpire to make the award without any delay.

(3) (*e*) It will be no objection that the person/persons appointed as arbitrator/arbitrators or Umpire is/are Government servant(s). If, however, the arbitrator/arbitrators/Umpire is/are railway servant(s) he/they shall not be one/those who had an opportunity to deal with the matters to which the contract relates or who in the course of his/their duties as railway servant(s) has/have expressed views on all or any of the matters under dispute or difference. The award of the arbitrator or arbitrators or Umpire, as the case may be shall be final and binding on the parties to the contract.

(3) (*f*) Subject as aforesaid, Arbitration Act 1940 and the Rules thereunder and any statutory modification thereof shall apply to the Arbitration proceedings under this clause.

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REGULATIONS FOR TENDERS AND CONTRACTS

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REGULATIONS FOR TENDERS AND CONTRACTS.

For the Guidance of Engineers and Contractors for Civil Engineering Works.

MEANING OF TERMS

1. **Definitions.**—(1) In these Regulations for Tenders and Contract the following terms shall have the meanings assigned hereunder except where the context otherwise requires :—

(*a*) "Railway" shall mean the President of the Republic of India or the Administrative Officers of the Northern Railway authorised to invite tenders and enter into contracts for works on his behalf.

(*b*) "General Manager" shall mean the officer in administrative charge of the whole of Northern Railway.

(*c*) "Chief Engineer" shall mean the officer in charge of the Engineering Department of Northern Railway.

(*d*) "Divisional Superintendent" shall mean the officer-in-charge of a Division of Northern Railway.

(*e*) "Divisional/District Engineer" shall mean the officer-in-charge of Engineering Department of a Division/District of Northern Railway.

(*f*) "Tenderer" shall mean the person, the firm or company who tenders for the works with a view to execute the works on contract with the Railway and shall include their personal representatives, successors and permitted assigns.

(*g*) "Limited Tenders" shall mean tenders invited from all or some contractors on the approved list of contractors with the Railway.

(*h*) "Open Tenders" shall mean tenders invited in open and public manner and with adequate notice.

(*i*) "Works" shall mean the works contemplated in the drawings and schedules set forth in the tender forms and required to be executed according to specifications.

(*j*) "Specifications" shall mean the specifications for Materials and Works prescribed on the Northern Railway, issued under the authority of

the Chief Engineer or as amplified, added to or superseded by special specifications, if any, appended to the Tender Forms.

(*k*) "Schedule of Rates of Northern Railway" shall mean the Schedule of Rates issued under the authority of the Chief Engineer from time to time.

(1) "Drawings" shall mean the drawings, plans and tracings or prints thereof annexed to the Tender Forms.

(2) **Singular and Plural.**—Words importing the singular number shall also include the plural and *vice-versa* where the context requires.

(3) These Regulations for Tender and Contracts shall be read in conjunction with the General Conditions of Contract which are referred to herein and shall be subject to modifications, additions or supersession by special conditions of contract and or special specifications, if any, annexed to the Tender Forms.

CREDENTIALS OF CONTRACTORS

2. **Lists of approved contractors.**—Works of construction and of supply of materials shall not be entrusted for execution to contractors whose capabilities and financial status have not been investigated and approved to the satisfaction of the Railway. For this purpose, lists of approved contractors shall be maintained in the offices of the Divisional/District Engineers for their Divisions/Districts, Regional Engineers and Regional Accounts Officers for their regions, the Chief Engineer and Financial Adviser & Chief Accounts Officer for the whole Railway. The said lists shall be deemed to be confidential records and examined and revised periodically the names of new contractors being added thereto and the names of those contractors whose performance is unsatisfactory being deleted there from, and maintained under the following categories of works :—

(*a*) Earthwork and roads;

(*b*) Buildings and structures;

(*c*) Supply, including loading and unloading, of materials such as ballast, boulders, bricks, stone-metal, lime and sand;

(*d*) Steel work;

(*e*) Wood works;

(*f*) Water supply, drainage and sanitary works;

(*g*) Maintenance and repair works;

(*h*) Supply of miscellaneous materials such as red earth, ballies, tatties, chicks and manure.

3. **Application for registration.**—A Contractor desirous of having his name included in the list of approved contractors, shall apply to the nearest Divisional/District Engineer furnishing particulars regarding :—

(*a*) his position as an independent contractor ;

(*b*) his capacity to undertake and carry out works satisfactorily, as vouched for by a responsible official or firm ;

(*c*) his previous experience on works simlar to that to be contracted for, in proof of which orignal certificates or testimonials may be called for and their genuineness verified, if need be, by reference to the signatories thereof ;

(*d*) his knowledge, from actual personal investigation, of the resources of the zone or zones in which he offers to work ;

(*e*) his ability to supervise the work personally or by competent and duly authorised agents ;

(*f*) his financial position.

The applicant shall clearly state the categories of works listed under para 2 of these regulations for which and the Division (s)/District (s) or Region (s) in which he desires registration in the lists of approved contractors and submit with his application a duly authorised copy of the Income-tax Clearance Certificate.

4. **Consideration of applications for registration.**—The Divisional/District Engineer should satisfy himself as far as possible in regard to the correctness of particulars in the Contractor's application that may be made in accordance with para 3 of these Regulations and submit thes ame with his remarks to the Regional Engineer, who will forward the same with his recommendations to the Chief Engineer. The Chief Engineer shall authorise the inclusion in the lists of approved contractors the names of applicants considered capable of executing works.

TENDERS FOR WORKS

5. **Tenders will be invited for.**—(*a*) Works required to be carried out under zone contracts. These will include.—

(*i*) New Works, additions and alterations to existing structures, special repair works and supply of building materials, subject to the contract value of each such work not exceeding Rs. 50,000/-. and

(*ii*) All ordinary repairs and maintenance works.

(*b*) Works other than such as carried out under zone contracts mentioned in preceeding sub-paras at (a) (i) and (a) (ii).

6. **Inviting tenders for zone-contracts.**—Limited tenders will be invited on the basis of the Schedule of Rates of Northern Railway for the whole or part of a financial year by the Divisional/District Engineer specified zones of the Division/ District, the said zones being decided upon with due regard to the extent of works required to be carried out. Tenders for zone-contracts shall be considered on a percentage above or below the "Schedule of Rates of Northern Railway" as a whole.

Note.—Items of work, estimateed at Rs. 10,000 and Rs. 50,000 or less as mentioned in para 5 from larger works are not included in zone-contracts but may be entrusted to the contractor by the Divisional/Dis trict Engineer with the approval of the Regional Engineer.

7. **Inviting tenders for works exceeding Rs. 10,000/—**(*a*) For each work the contract value of which is more than Rs. 10,000/- but less than Rs. 50,000/- open or limited tenders, as may be prescribed by the General Manager or the Chief Engineer on his behalf, will be invited by the Divisional/District Engineer.

(*b*) For each work, the contract value of which is more than Rs. 50,000 but less than Rs. 5,00,000 open tenders will be invited by the Divisional Superintendent.

(*c*) For each work, the contract value of which exceeds Rs. 5,00,000, open tender will be invited by the Chief Engineer.

8. **Form of Notice for Tenders.**—The notice for inviting tenders shall be as per specimen form, Annexure I. Sufficient notice shall be given for submission of tenders, which in the case of large works should not be less than one month.

9. **Display of Tender Notices.**—(*a*) When limited tenders are invited for zone-contracts or for work the contract value of which does not exceed Rs. 50,000 tender notices shall be issued to contractors on the list of approved contractors and displayed on the notice boards of the offices of the Divisional/District Engineer, Assistant Engineer, permanent Way Inspectors, Inspectors of works and Bridge Inspectors and important stations on the Division/District concerned.

(*b*) When open tenders are invited for a work, the contract vlaue of which is more than Rs. 10,000/- but less than Rs. 50,000/-, tender notices shall be displayed on the notice boards of the offices of the Regional Engineer, Divisional/ District Engineer, Assitt. Engineers, Permanent Way Inspectors, Inspectors of Works, Bridge Inspectors and important stations on the Region concerned and arragements made with PWD and M.E.S. offices near the said Region for display of the tender notices on their notice boards.

(*c*) When open tenders are invited for work the contract vlaue of which exceeds Rs. 50,000 the tender notice will be published in the newspapers on the approved list of the Government of India (it being left to the authority inviting tenders to select the news papers and the number of insertions for this purpose) and, in addition, the procedure stipulated in sub-para, (b) of this paragraph shall be observed.

10. **Tender Forms.**—Tender forms shall embody the contents of the contrct documents either directly or by reference and shall be as per specimen form, Annexure II. Tender forms shall be issued on payment of the prescribed fees to the appropriate contractors on the list of approved contractors. Contractors not on the approved list of approved contractors, will, on payment of the prescribed fees, be furnished with tender forms and shall be required to submit evidence regarding their financial status, previous experience and ability to execute the works, and an authorised copy of the Income-Tax Clearance Certificate, without which their tenders will not be considered.

11. **Omissions and discrepancies.**—Should a tenderer find discrepancies in, or omissions from the drawings or any of the tendre forms or should he be in doubt as to their meaning, he should at once notify the authority inviting tenders who may send a written instruction to all tenderers. It shall be understood that every endeavour has been made to avoid any error which can materially affect the basis of the tender and the successful tenderer shall take upon himself and provide for the risk of any error which may subsequently be discovered and shall make no subsequent claim on account thereof.

12. **Earnest Money.**—(*a*) The tenderer shall be required to deposit a sum of Rs. ..... with the tender as a security deposit for the due performance of the stipulation to keep the offer open till such date as might be specified in the tender. It shall be understood that the tender documents have been sold/issued to the tenderer and the tenderer is permitted to tender in consideration of the stipulation on his part, that after submitting his tender he will not resile from his offer or modify the terms and conditions thereof in a manner not acceptable to the Chief Engineer/Divisional Engineer/District Engineer of Northern Railway. Should the tenderer fail to observe or comply with the said stipulation the aforesaid amount shall be liable to be forefeited to the Railway.

(*b*) The tenderer shall also be required to deposit a sum of Rs.....towards the earnest money with the tender. The sum mentioned in (a) above together with the sum mentioned in (b) above constitute the earnest money. If his tender is accepted his earnest money will be retained as part security for the due and faithfull fulfilment of the contract in terms of clause 16 of the General Conditions of Contract. The earnest moneys of other tenderers shall, save as herein before provided, be returned to them, but the Railway shall not be responsible for any loss or depreciation that may happen thereto while in their possession not be liable to pay interest thereon.

13. **Care in submission of tenders.**—(*a*) Before submitting a tender, the tanderer will be deemed to have satisfied him self by actual inspection of the site and locality of the works, that all conditions liable to be encountered during the execution of the works are tahen into account and that the rates he enters in the tender forms are adequate and all-inclusive to accord with the provisions in Clause 37 of the General Conditions of Contract for the completion of works to the entire satisfaction of the Engineer.

(*b*) When work is tendered for by a firm or company of contractors, the tender shall be signed by the individual legally authorised to enter into commitments on their behalf.

(c) The Railway will not be bound by any power of attorney granted by the tenderer or by changes in the composition of the firm made subsequent to the execution of the contract. It may however, recongnise such power of attorney and chages after obtaining proper legal advice, the cost of which will be chargeable to the contractor.

CONSIDERATION OF TENDERS

14. **Tender Committees.**—The General Manager will specify— (a) The constitution and functions of Tender Committees for the purposes of opening of tenders and submitting recommendations to the competent authority.

The Convenor of a Tender Committee meeting shall be the Chief Engineer the Divisional Supdt., Engineer-in-Chief or the Divisional/District Engineer, as the case may be; wherever practicable, an officer of the Accounts Department-should be deputed on the Tender Committee.

(b) The power that shall be exercised by the Chief Engineer, Divisional Supdt. and Divisional/District Engineers respectively in matters of acceptance of tenders and entering into contract, inter alia the signing of contract documents.

(c) The conditions in regard to cases where only tender is received.

Note.— (i) When only one tender is received in response to a call for limited tenders (as distinct from single and open tenders/under the/rules inforce fresh tenders should be invited unless the work is very urgent. The discretion to class work as very urgent for the purpose rates in an officer not lower in statue than a Divisional Superintendent who shall record full reasons Justifying such course of action.

(ii) If the rates in the only tender are considered inordinately high, negotiation may be carried out by the Tender Committee. with the tenderer in the interest of the works.

15. **Opening of tenders.**—At the advertised time and place, tenders received for a contract shall be opened by the Tender Committee, and, where practicable, the names of tenderers and the rates tendered by them read out in the presence of such of the intending contractors or their agents as may attend. Each page and correction or stipulation (if any) of every tender shall be initialled with date by members of the Tender Committee.

16. **Acceptance of Tenders.**—Tenders opened and duly initialled at the Tender Committee meeting shall be valued in the office of the Chief Engineer, Divisional Supdt., Engineer in Chief or the Divisional/District Engineer as the case may be, the stipulations made, if any being duly assessed, and a comparative statement prepared. Based on the comparative statement the tenders will be adjudged by the Tender Committee and recommendations made to the authority empowered to accept the tender.

Ordinarily the lowest tender may be accepted by the Railway unless such acceptance would not be to the public interest. The acceptacne or rejection of

any tender is left entirely to the discretion of the authority empowered to deal with the matter and no explanation can be demanded of the cause of rejection of his tender by any tenderer.

17. **Right of Railway to deal with tenders.**—The Railway reserves the right of not to invite tenders for any work or works, or to invite open or limited tenders and when tenders are called, to accept a tender in whole or in paat or reject any tender or all tenders without assigning reasons for any such action.

CONTRACT DOCUMENTS

18. **Execution of contract documents.**—The Tenderer whose tender is accepted shall be required to appear at the office of the General Manager, Chief Engineer, Regional Engineer or Divisional/District Engineer as the case may be in person or if a firm or corporation, a duly authorised representative shall so appear and to execute the contract documents within seven days after notice that the contract has been awarded to him. Failure to do so shall constitute a breach of the agreement effected by the acceptance of the tender in which case the full value of the earnest money accompanying the tender shall stand forfeited without prejudice to any other rights or remedies.

In the event of any tenderer whose tender is accepted shall refuse to execute the contract documents as hereinbefore provided, the Railway may determine that such tenderer has abandoned the contract and ther eupon his tender and the acceptance thereof shall be treated as cancelled and the Railway shall be entitled to forfeit the full amount of the earnest money and to recover the liquidated damages for such default.

19. **Form of contrcat document.**—Every contract shall be complete in respect of the documents it shall constitute. Not less than two copies of the contract documents shall be signed by the competent authority and the Contractor and one copy given to the Contractor.

(a) For Zone-contracts, awarded on the basis of a percentage above or below the Schedule of Rates of Northern Railway for the whole or part of a financiar year, the contract agreement required to be executed by the tenderer whose tend.r is accepted shall be as per specimen form, Annexure III, During the currency of the zone-contract, work orders as per specimen form Annexure IV or VII, for works not exceeding Rs. 10,000 each, shall be issued by the Divisional/District Engineer under the Agreement for zone-contract.

(b) For contracts for specific works, valued at more than Rs. 10,000 the contract document required to be executed by the tenderer whose tender is accepted shall be either an Agreement as per specimen form Annexure V, or a work order as per specimen form Annexure VI or VII as may be prescribed by the Railway.

Annexure I

NORTHERN RAILWAY

TENDER NOTICE

1. The Chief Engineer, Northern Railway.....
.....Divn./Distt. .....Divisional/District Engineer.....hours on.....19.....for the invites sealed tenders upto..... work.....

The tender should be in the prescribed form obtainable from the office of the Chief Engineer, Northern Railway on payment of Rs..... .....Divn./Distt. Divisional/District Engineer..... (Rupees.....) on production of a receipt for the said amount to wards the cost of the tender form from the Cashier/Divisional Accounts Officers, Northern Railway. Copies of plain for the work will be supplied on payment of Rs..... in no circumstances will the amount Paid for the Tender form or for plans be refunded.

3. The tender form is not transferable.

4. The Tenderer should submit alongwith the tender the Income-tax Clearance Certificate in original or an authorised copy thereof/or, if he has no taxable income, a sworn affidavit duly countersigned by the Income-tax Officer to that effect.

5. The forms will not be issued after.....hours on.....

6. The tender should be accompanied by a deposit made in cash or in any of the following forms :

(1) Deposit receipt, pay orders, demand drafts, or guarantee bonds of the State Bank of India.

(2) Guarantee bonds executed by a Scheduled Bank provided

(*i*) the bonds in question is countersigned by the State Bank of India, whereby the State Bank of India undertakes full responsibility to indemnify the Railway in case of default or

(*ii*) the bank concerned lodges with the Reserve Bank of India requisit securities, namely, cash deposits or Government securities, in respect of the guarantees executed by it and the Reserve Bank advises the Railway concerned that the bond may be accepted for the amounts specified as under :—

(*a*) Rs.....as Security Deposit for the due performance of

opening the same it being understood that the tender documents have been sold/ issued to the tenderer and the tenderer is being permitted to tender in consideration of the stipulation on his part that after submitting his tender, he will not resile from his offer of modify the terms and conditions thereof in a manner not acceptable to the Chief Engineer/Divisional Engineer/District Engineer of Northern Railway. Should the tenderer fail to observe or comply with the foregoing stipulation, the aforesaid amount of Rs.....shall be liable to be forfeited to the Railway.

(*b*) Rs.....in addition which together with Rs..... mentioned in (a) above will constitute the earnest money of Rs.....

Government securities, stock certificate, bearer bonds, promissiory notes, cash certificates, etc. will not be accepted.

Tender will be opened at.....hours on..... the.....in this office at.....

Chief Engineer
Division District Engineer
.....Divn./Distt.
Northern Railway.

Annexure II

Tender Forms (First Sheet)

TENDER

To

The President of India,

Acting through the Chief Engineer/Deputy Chief Engineer/Divisional Engineer/Distt. Engineer.....Railway.

I/We.....have read the various conditions to tender attached hereto and hereby agree to abide by the said condition. I/We also agree to keep this Tender open for acceptacne for a period of..... days from the date fixed for opening the same and in default thereof. I/We will be Liable for for-feiture of my/our "security deposit". I/We offer to do the work for.....at the rates quoted in the attached schedule and hereby bind myself/ourselves to complete the work in.....months from the date of issue of letter of acceptance of the tender. I/We also hereby agree to abide by the General and Special Conditions of Contract and to carry out the work according to the specifications materials and works laid down by the Railway for the present contract.

2. A sum of Rs.....is herewith forwarded a earnest money, in addition to the sum of Rs.....as "security deposit" mentioned above. The full value of the earnest money shall stand forfeited without prejudice to any other rights or remedies if :

(*a*) I/We do not execute the contract documents within seven days after receipt of notice issued by the Railway that such documents are ready or

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

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

Signature of contractor/s
Contarctor's address. Date

Signature of witness :— 1.
2.

ACCEPTANCE OF TENDERS

I accept the tender as above and agree to pay the rate as entered in schedule of rates and quantities.

Witnesses.
1.....

2.....

Chief/Divisional/Distt. Engineer
on behalf of the President of India
Division.....
Date.....

Annexure II

Tender Forms (Second Sheet)

CONDITIONS OF TENDER

1. The drawings for the works can be seen in the office of Northern Railway at any time during office hours.

2. General conditions of contract and specifications for materials and works are laid down in the under noted books, which can be seen at the office of..... or had on payment.

(*i*) Northern Railway Engineering Department General Conditions of Contract regulations and instructions for tenderers and standard forms of contract, 1989.

Price Rs.

(*ii*) Northern Railway Engineering Department Standard Specifications, 1987.

Price Rs. 70/-

3. The Tenderer/Tenderers shall quote his/their rates with reference to each item and must tender for all the items shown in attached schedule. The quantities shown in the attached schedule are given as a guide and are approximate only and are subject to variation according to the needs of the Railway. The Railway accepts no responsibility for their accuracy. The Railway does not guarantee work under each item of the schedule.

4. Tenders containing erasures and alterations of the tender documents are liable to be rejected. Any corrections made by the Tenderer/Tenderers in his/their entries must be attested by him/them.

5. The works are required to be completed within a period of..... months from the date of execution of agreement.

6. The tender must be accompanied by a sum of Rs.....as earnest money deposited in cash or in any of the forms mentioned in the tender notice failing which the tender will not be considered.

The tenderer shall hold the offer open till such date as may be specified in the tender. It is understood that the tender documents have been sold/issued to the tenderer and the tenderer is being permitted to tender in consideration of the stipulation on his part that after submitting his tender, he will not resile from his offer or modify the terms and conditions thereof in a manner not acceptable to the Chief Engineer/Divisional Engineer/District Engineer of the Northern Railway. Should the tenderer fail to observe or comply with the foregoing stipulation, the amount deposited as security for the due performance of the above stipulation shall be forfeited to the Railway. If the tender is accepted, the amount of earnest money will be held as security deposit for the due and faithful fulfilment of the contract. The earnest moneys of the unsuccessful tenderers will have as hereinbefore provided be returned to the unsuccessful tenderers but

the Railway shall not be responsible for any loss or depreciation that may happen to the security for the due performance of the stipulation to keep the offer open for the period specified in the tender documents or to the earnest money while in their possession, nor be liable to pay interest thereon.

7. It shall not be obligatory on the said authority to accept the lowest tender and no Tenderer/Tenderers shall demand any explanation for the cause of rejection of his/their tender.

8. If the Tenderer deliberately gives/Tenderers deliberately give wrong information in his/their tender or creates/create circumstances for the acceptance of his/their tender, the Railway reserves the right to reject such tender at any stage.

9. If a Tenderer expires after the submission of his tender or after the acceptance of his tender, the Railway shall deem such tender as cancelled. If a partner of a firm expires after the submission of their tender or after the acceptance of their tender, the Railway shall deem such tender as cancelled unless the firm retains its character.

10. The earnest money including the amount taken as security deposit for the due performance of the stipulation to keep the offer open till the date specified in the tender will be refunded to the unsuccessful tenderer/tenderers within a reasonable time. The earnest money deposited by the successful tenderer/tenderers will be retained towards the security deposit for the due and faithful fulfilment of the contract but shall be forefeited if the contractor fails/ contractors fail to execute the Agreement Bond or start the work within a reasonable time (to be determined by the Engineer in charge) after notification of the acceptance of his/their tender.

11. The Tenderer is/Tenderers are required to produce along with his/their tender an authorised copy of the Income-tax Clearance, Certificate or a sworn affidavit duly countersigned by the Income-tax officer to the effect that he has/ they have no taxable income. Documents testifying to the Tenderer's/Tenderers' previous experience and financial status should be produced when desired by Northern Railway.

12. Tenders must be enclosed in sealed covers, superscribed "Tender for ..... and must be sent by registered post to the address of Northern Railway .....so as to reach his office not later than.....hours on the.....or deposited in the special box allotted for the purpose in the office of....., this will be sealed at.....hours on.....

13. Non-compliance with any of the conditions set forth therein above is liable to result in the tender being rejected.

14. The authority for the acceptance of the tenders will rest with the ....Northern Railway, who does not bind himself to accept the lowest or any other tender nor does he undertake to assign reasons for declining to any particular tender or tenders.

15. The successful Tenderer/Tenderers shall be required to execute an Agreement with the President of India acting through the .....of the Railway, for carrying out the work according to the General Conditions of Contract and Standard Specifications for Works & Materials of Northern Railway.

16. The tenderer shall keep the offer open for a minimum period of 30/60/ 90* days from the date of opening of tender within which period the tenderer cannot withdraw his offer subject to the period being extended further if required, by mutual agreement from time to time. Any contravention of the above condition will make the tenderer liable for forefeiture of his security deposit for due performance of the foregoing stipulation.

17. Should a tenderer be a retired Engineer of the gazetted rank or any other gazetted officer working before his retirement, whether in the executive/ or administrative capacity, or whether holding a pensionable post or not in the Engineering Department of any of the Railways owned and administered by the President of India for the time being or should a tenderer being partnership firm have as one of its partners a retired engineer or a retired gazetted officer as aforesaid, or should a tenderer being an incorporated company have any such retired engineer or retired officer as one of its directors, or should a tenderer have in his employment any retired engineer or retired gazetted officer as aforesaid, the full information as to the date of retirement of such engineer or gazetted officer from the said service and in cases where such engineer or officer had not retired from Government service at least two years prior to the date of the submission of the tender as to whether permission for taking such contract, or if the contractor be a partnership firm or any incorporated company, to become a partner or director as the case may be or to take employment under the contractor, has been obtained by the tenderer or the engineer or the officer as the case may be from the President of India or any officer duly authorised by him in his behalf, shall be clearly stated in writing at the time of submitting the tender. Tenders without the information above referred to or a statement to the effect that no such retired engineer or retired gazetted officer is so associated with the tenderer, as the case may be, shall be rejected.

18. "Should a Tenderer or Contractor being an individual on the list of approved contractors, have a relative employed in gazetted capacity in the..... .....Department of the .....Railway, or in the case of a partnership firm or company incorporated under the Indian Company Law should a partner or a relative of the partner or a shareholder or a relative of a shareholder be employed in gazetted capacity in the.....Department of the..... Railway, the authority inviting tenders shall be informed of the fact at the time of submission of tenders, failing which the tender may be rejected; or if such fact subsequently comes to light the contract may be rescinded in accordance with the provisions in Clause 62 of the General Conditions of Contract .

Date.....

Signature
Designation....
.....Railway

*Note:—Cross out which is not applicable depending on the type of work & the time required to consider the tender

Annexure II

Tender Forms (Third Sheet)

SCHEDULE OF RATES AND QUANTITIES

Rates to be quoted by Tenderer/s

Name and place of works .....

Approximate contract value of works Rs. .....

I. Schedule of drawings .....

II. Schedule of approximate quantities and rates (to be tendered) .....

S. No.	Approximate quantity	Item of Work	Unit		Rates	
			In figures	In words	In figure Rs. P.	In words (add the word 'only at end against each item).
1	2	3	4	5	6	7

.....
Signature of Contractor/s

Date.....

Tender shall be filed by the office of the authority inviting tenders.

Annexure III

Agreement for Zone-Contract

CONTRACT AGREEMENT NO.....dated.....19....

ARTICLES OF AGREEMENT made this.....day of .....19 .... between the President of India acting through the Northern Railway Administration hereinafter called the "Railway of the one part and.....hereinafter called the "Contractor" of the other part.

WHEREAS the Contractor has agreed with the Railway during the period of.....months from.....to.....for the performance of works each valued at Rs. 10,000 or less at any site between Km.....and Km..... as will be set forth in the Work Order (which work orders shall be deemed and taken to be part of this contract) that will be issued during the said period at the rates specified in the schedule hereto annexed upon the General Conditions of Contract and the Specifications of Northern Railway and the special conditions and special specification, if any, in conformity with the drawings (if any) that will be issued with the Work Orders aforesaid, AND WHEREAS the performance of the said works is an act in which the Public are interested.

NOW THIS INDENTURE PRESENTS WITNESSETH that in consideration of the payments to be made by the Railway, the Contractor will duly perform the works set forth in the said Work Orders and shall execute the same with great promptness, care and accuracy in a workman like manner to the satisfaction of the Railway, and will complete the same on or before the respective dates specified therein in accordance with the said specifications and said drawings (if any) and said conditions of contract and will observe, fulfil and keep all the conditions therein mentioned (which shall be deemed and taken to be part of this contract as if the same had been fully set-forth herein), AND the Railway both hereby agree that if the Contractor shall duly perform the said works in the manner aforesaid and observe and keep the said terms and conditions the Railway will pay or cause to be paid to the Contractor for the said works on the completion thereof the amount due in respect thereof at the rates specified in the schedule hereto annexed.

(Designation).....
Northern Railway
for President of India

Date.....

Signature of witnesses with address to signature of Contractor 1.....

.....

2.....

Contractor.....

Address.....

Date.....

Annexure IV

Work Order under Zone-Contract

WORK ORDER No.....DATED.....19....
UNDER-ZONE-CONTRACT AGREEMENT No.....DATED....19....
Name of work.....(Site).....
Schedule of Drawings.....
Authority.....Allocation.....

The Contractor (s).....is/are hereby ordered to carry out the following works under Zone-Contract Agreement herein before referred to :—

S. No.	Item No. of Schedule annexed to Zone-Contract Agreement	Approxi-mate quantity	Description of item of Work	Unit	Rate in Schedule annexed to the Zone-Contract Agreement Rs. P.	Amount Rs. P.
	Total approximate value of work					

The works herein mentioned are required to be completed on or before (date).....The quantities provided herein are approximate and subject to variation under Clause 42 of the General Conditions of Contract.

Divisional/District Engineer
.....Division/District
Northern Railway
for President of India
Date.....

I agree to complete the works herein set forth on or before the date specified under the Zone-Contract Agreement herein before referred to in conformity with the drawings hereto annexed and in accordance with the General and Special (if any) Conditions of Contract and the Specifications of Northern Railway.

Witness
Signature.....
Address.....

Contractor(s).....
Address.....

Annexure-V

Agreement for Works

(Valued at over Rs. 10,000)

CONTRACT AGREEMENT No.....DATED.....19....

ARTICLES OF AGREEMENT made this.....day of....19.... between the President of India acting through the Railway Administration hereinafter called the "Railway of the one part and..... hereinafter called the Contractor of the other part.

WHEREAS THE Contractor has agreed with the Railway for the performance of the works".....set forth in the Schedule hereto annexed upon the General conditions of Contract and the Specifications of the Northern Railway and the special conditions here into and special specifications if any, and in conformity with the drawings annexed AND WHEREAS the performance of the said works is an act in which the public are interested.

NOW THIS INDENTURE PRESENTS WITNESSETH that in considerations of the payments to be made by the Railway, the Contractor will duly perform the said works in the said schedule set forth and shall execute the same with great promptness, care and accuracy in a work manlike manner to the satisfaction of the Railway and will complete the same in accordance with the said specifications and said drawings and said conditions of contract on or before the..... day of.....19.....and will maintain the said works for a period of..... .....calendar months from the certified date of their completion and will observe, fulfil and keep all the conditions therein mentioned (which shall be deemed and taken to be part of this contract as if the same had been fully set forth herein). AND the Railway do hereby agree that if the Contractor shall duly perform the said works in the manner aforesaid and observe and keep the said terms and conditions the Railway will pay or cause to be paid to the Contractor for the said works on the final conpletion thereof the amount due in respect thereof at the rates specified in the schedule hereto annexed.

(Designation).....
Northern Railway
for President of India

Date.....

Signature of witness with address to signature of Contractor
1.....
.....
2.....

Contractor.....
Address.....
.....

Annexure-VI

Work Order for Works

(Valued at over Rs. 10,000)

Work Order only No.....Date.....
Name of work.....(Site).....
Schedule of drawings.....
Authority.....Allocation.....

Mr./Messers.....Contractor/Contractors having agreed with the Railway is/are hereby ordered to carry out the works set forth in the schedule below in accordance with the General Conditions of Contract and the specifications of the Northern Railway and the special conditions and special specifications if any, and in conformity with the drawings annexed hereto at the rates specified in the said schedule and to complete the same on or before the.....day of.....19.....and maintain the said works for a period of.....from the certified date of their completion. The quantities set forth in the said schedule shall be considered approximate and subject to variation under clause 42 of the General Condition of Contract.

SCHEDULE OF RATES

S. No.	Description of work	Approximate quantity	Unit		Rates		Amount
			In figures.	In words	In figures Rs. P.	In words	Rs. P.
				Total			

I agree to pay the rates set-forth in the schedule of rates for finished and approved work.

.....Engineer
.....Divn./Distt. Region
Northrn Railway
for President of India

I/We agree to complete the works herein set-forth on or before the date specified herein and to maintain the same for a period of.....calendar months from the certified date of their completion and in conformity with the documents herein referred to and that all the conditions therein mentioned shall be deemed and taken to be part of this contract as if the same had been fully set forth therein.

Signature of witness with address to signature of Contractor
1.....
.....
2.....
.....

Contractor (s).....
Address.....
.....

Date .....

Annexure-VII
FORM E-1119

WORK ORDER

.....District/Division.

Work Order No.....Original/Duplicate/Triplicate.

No.....Date the.....19....

.....

I will carry out the following work according to the agreement at back.

Schedule of Rates

Particulars	Rate		Per	Remarks
	Rs.	P.		

Witness

Name.....

Address.....

.....

Contractor

Name.....

Address.....

.....

I agree to pay the above mentioned rates for finished and approved work.

Dated.....19..

Divisional Executive Engineer

.....Division.

CONTRACTOR'S AGREEMENT

I offer to do the work at the rates entered in the schedule of rates on the reverse which I have signed, and, I understand that no fixed quantity of work is given me to do, that in starting work I am only given a place to work in or to deposit materials on, and that I have no claim to more than one unit of work as entered in the schedule of rates. I agree that all work done and materials delivered shall be subject to the approval of the Engineer-in-charge, who may reject and decline to pay for whatever may be in his opinion inferior or defective in either and I agree that the Standard Specifications and the General Conditions of Contract of Northern Railway in so far as they are not over-ruled by items of this agreement, shall be deemed part of this agreement.

I agree that no work under this work order shall be assigned or sub-let without the previous written approval of the Executive Engineer.

I agree that my work may be stopped at any time by the Executive Engineer on his giving me or my agent on the works, seven day's notice in writing, and I agree that the measurement of my works shall be made by the Engineer at any time appointed by him in writing subsequent to the expiry of the said notice, and that the measurement shall be made by him at the said time whether I am present or not, and that on payment for work done and approved, and approved materials delivered at site of works as ascertained by the said measurement, I shall have no further claim against the Railway and I agree that should any dispute arise on matters connected with this agreement, the same shall be referred to a person to be nominated in this behalf by the General Manager for the time being of the Northern Railway, whose decision in writing shall be final and binding on both parties.

I agree that any claims I have to make shall be made in writing within seven days of the date of measurement taken by the Engineer as aforesaid and that any claims in respect of such measurements made more than seven days after the taking of such measurements shall be deemed to have been waived by me.

I agree to indemnify the Railway against all claims which may be made under the Workmen's Compensation Act, 1923.

Witness

Name.....

Address.....

Contractor

Name.....

Address.....

Note:—If the agreement is for a work for which a special Act of the Legislature exists, *e.g.* the Indian Mines Act, the agreement should include a clause indemnifying the Railway against all claims arising of the provisions of such Act.

Annexure-VIII

REGISTERED ACKNOWLEDGEMENT DUE.....

No. Dated

To

.....

.....

Sub :— (*i*) ..... (Name of work).....
(*ii*) Acceptance letter No....., dated.....
(*iii*) Understanding/agreement No.....

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

Dear Sir,

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

Expecting that you may be able to complete the work, if some more time is given, the.....(insert here the contractoring party on behalf of the President of India), although not bound to do so, hereby extends the time for completion from.....to.....

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 without any penalty fixed earlier) will be recovered from you as mentioned in clause 17 (4) of the General conditions of Contract for the extended period, not withstanding the grant of this extension. You may proceed with the work accordingly.

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

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

Please not 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 work by.....(here mention the extended date), further action will be taken in terms of clause 62 of the General Conditions of Contract.

Your faithfully,

for and behalf of the President
of India

NORTHERN RAILWAY

HD. QRS. OFFICE.
BARODA HOUSE,
NEW DELHI.

GENERAL CONDITIONS OF CONTRACT - REGULATIONS AND INSTRUCTIONS FOR TENDERERS AND STANDARD FORMS OF CONTRACT (1989 Edition)
****

Addendum & Corrigendum No:1.

Please delete existing Clause 63 & 64 of the General Conditions of contract (1989 Edition) and revised Clause 63 & 64 as given below should be substituted in lieu thereof with immediate effect:

Clause 63: Matters finally determined by the Railway: All disputes and differences of any kind whatsoever arising out of or in connection with the contract, whether during the progress of the work or after ~~the~~ its completion and whether before or after the determination of the contract shall be referred by the contractor to the Railway and the Railway shall within 120 days after receipt of the Contractor's representation make and notify decision on all matters referred to by the contractor in writing provided that matters for which provision has been made in Clause 8(a), 18, 22(5), 39, 43(2), 45(a), 55, 55-A(5), 57, 57-A, 61(1), 61(2) and 62(1)(b) of General Conditions of Contract or in any clause of the special conditions of the contract shall be deemed as 'excepted matters' and decisions of the Railway authority, thereon shall be final and binding on the contractor provided further that 'excepted matters' shall stand specifically excluded from the purview of the arbitration clause and not be referred to arbitration.

Clause 64(1)(i) : Demand for Arbitration: In the event of any dispute or difference between the parties hereto as to the construction or operation of this contract, or the respective rights and liabilities of the parties on any matter in question, dispute or difference on any account or as to the withholding by the Railway of any certificate to which the contractor may claim to be entitled to, or if the Railway fails to make a decision within 120 days, then and in any such case, but except in any of the ' excepted matters' referred to in Clause 63 of these conditions, the contractor, after 120 days but within 180 days of his presenting his final claim on disputed matters, shall demand in writing that the dispute or difference be referred to arbitration.

Clause 64(1)(ii): The demand for arbitration shall specify the matters which are in question or subject of the dispute or difference as also the amount of claim itemwise. Only such dispute(s) or difference(s) in respect of

which the demand has been made, together with counter claims or set off shall be referred to arbitration and other matters shall not be included in the reference.

Clause 64(1)(ii)(a) :

The Arbitration proceedings shall be assumed to have commenced from the day, a written and valid demand for arbitration is received by the Railway.

(b) The claimant shall submit his claim stating the facts supporting the claims alongwith all relevant documents and the relief or remedy sought against each claim within a period of 30 days from the date of appointment of the Arbitral Tribunal.

(c) The Railway shall submit its defence statement and counter claim(s), if any, within a period of 60 days of receipt of copy of claims from Tribunal thereafter, unless otherwise extension has been granted by Tribunal.

Clause 64(1)(iii):

No new claim shall be added during proceedings by either party. However, a party may amend or supplement the original claim or defence thereof during the course of arbitration proceedings subject to acceptance by Tribunal having due regard to the delay in making it.

Clause 64(1)(iv):

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 Railways that the final bill is ready for payment, he/they will be deemed to have waived his/their claim(s) and the Railway shall be discharged and released of all liabilities under the contract in respect of these claims.

Clause 64(2): Obligation during pendency of arbitration:

Work under the contract shall, unless otherwise directed by the Engineer, continue during the arbitration proceedings, and no payment due or payable by the Railway shall be withheld on account of such proceedings, provided, however, it shall be open for Arbitral Tribunal to consider and decide whether or not such work should continue during arbitration proceedings.

Clause 64(3)(a)(i):

In cases where the total value of all claims in question added together does not exceed Rs.10,00,000/- (Rupees Ten Lakhs only), the Arbitral Tribunal consist of a Sole-Arbitrator who shall be either the General Manager or a Gazetted Officer of Railway not below the grade of J.A.Grade nominated by the General Manager in that behalf. The sole arbitrator shall be appointed

Contd.....3

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

Clause 64(3)(a)(ii):

In cases not covered by clause 64(3)(a)(i), the Arbitral Tribunal shall consist of a panel of three Gazetted Railway Officers not below J.A.Grade, as the arbitrators. For this purpose, the Railway will send a panel of more than 3 names of Gazetted Railway Officers of one or more departments, of the Railway to the contractor who will be asked to suggest to General Manager upto 2 names out of the panel for appointment as contractor's nominee. The General Manager shall appoint at least one out of them as the contractor's nominee and will, also simultaneously appoint the balance number of arbitrators either from the panel or from outside the panel, duly indicating the 'presiding arbitrator' from amongst the 3 arbitrators so appointed. While nominating the arbitrators it will be necessary to ensure that one of them is from the Accounts Department. An Officer of Selection Grade of the Accounts Department shall be considered of equal status to the Officers in S.A.Grade of other departments of the Railways for the purpose of appointment of arbitrators.

Clause 64(3)(a)(iii):

If one or more of the arbitrators appointed as above refuses to act as arbitrator, withdraws from his office as arbitrator, or vacates his/their office/offices or is/are unable or unwilling to perform his functions as arbitrator for any reason whatsoever or dies or in the opinion of the General Manager fails to act without undue delay, the General Manager shall appoint new arbitrator/arbitrators to act in his/their place in the same manner in which the earlier arbitrator/arbitrators had been appointed. Such re-constituted Tribunal may, at its discretion, proceed with the reference from the stage at which it was left by the previous arbitrator(s).

Clause 64(3)(a)(iv):

The arbitral Tribunal shall have power to call for such evidence by way of affidavits or otherwise as the Arbitral Tribunal shall think proper, and it shall be the duty of the parties hereto to do or cause to be done all such things as may be necessary to enable the Arbitral Tribunal to make the award without any delay.

Contd.....4

Clause 64(3)(a)(v):

While appointing arbitrator(s) under sub-clause(i), (ii) and (iii) above, due care shall be taken that he/they is/are not the one/those who had an opportunity to deal with the matters to which the contract relates or who in the course of his/their duties as Railway servant(s) expressed views on all or any of the matters under dispute or differences. The proceedings of the Arbitral Tribunal or the award made by such Tribunal will, however, not be invalid merely for the reason that one or more arbitrator had, in the course of his service, opportunity to deal with the matters to which the contract relates or who in the course of his/their duties expressed views on all or any of the matters under dispute.

Clause 64(3)(b)(i): modified clause vide Rly Bd's letter No. dated

The arbitral award shall state the item-wise, the sum and reasons upon which it is based.

Clause 64(3)(b)(ii):

A party may apply for corrections of any computational errors, any typographical or clerical errors or any other error or similar nature occuring in the award and interpretation of a specific point of award to trinunal within 30 days of receipt of the award.

Clause 64(3)(b)(iii):

A party may apply to tribunal within 30 days of receipt of award to make an additional award as to claims presented in the arbitral proceedings but omitted from the arbitral award.

Clause 64.4:

In case of the Tribunal, comprising of three Members any ruling or award shall be made by a majority of Members of Tribunal. In the absence of such a majority, the views of the Presiding Arbitrator shall prevail.

Clause 64.5:

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

Clause 64.6:

The cost of arbitration shall be borne by the respective parties. The cost shall inter-alia include fee of the arbitrator(s) as per the rates fixed by the Rly. Administration from time to time.

Clause 64.7:

Subject to the provisions of the aforesaid Arbitration and Conciliation Act, 1996 and the rules there under and any statutory modification thereof shall apply to the arbitration proceedings under this clause.

Authority: Board's No. 96/CE-1/CT/29 dated 6-3-97.
Case No: 74-W/24/1 Part VI(WA).

(S.K.Singla)
for General Manager/Engg.