DCE(G) Room No-132-C

MINISTRY OF RAILWAYS

ENGINEERING DEPARTMENT

WORKS HAND BOOK PARTS I & II

GENERAL CONDITIONS OF CONTRACT

1998

PART I

REGULATIONS FOR TENDERS AND CONTRACTS

CONTENTS

Para	Meaning of Terms	Page No.
1.	DEFINITIONS	1
2.	APPLICATION FOR REGISTRATION	2
	TENDERS FOR WORKS	
3.	TENDER FORMS	3
4.	OMISSIONS AND DISCREPANCIES	3
5.	EARNEST MONEY	3
6.	CARE IN SUBMISSION OF TENDERS	5
7.	RIGHT OF RAILWAY TO DEAL WITH TENDERS	5
	CONTRACT DOCUMENTS	
8.	EXECUTION OF CONTRACT DOCUMENTS	5
9.	FORM OF CONTRACT DOCUMENTS	5

ANNEXURE I	TENDER FORMS	7
ANNEXURE II	AGREEMENT FOR ZONE CONTRACT	13
ANNEXURE III	Work order under zone contract	14
ANNEXURE IV	Contract Agreement form	15
ANNEXURE V	Work Order for Works	16
ANNEXURE VI	Work Order for Works	18

PART II

GENERAL CONDITIONS OF CONTRACTS

CONTENTS

DEFINITIONS AND INTERPRETATION

Clause		Page No.
1.	(1) Definitions	19
	(2) Singular and Plural	20
	(3) Headings and Marginal Headings	20
	GENERAL OBLIGATIONS	
2.	Execution, Co-relation and Intent of General Documents	20
3.	(1) Law governing the Contract	20
	(2) Compliance to Regulations and Bye-laws	20
4.	Communications to be in writing	21
5.	Service of Notices on Contractors	21
6.	Occupation and use of Land	21
7.	Assignment or sub-letting of Contract	21
8.	Assistance by the Railway for the Stores to be obtained by the Contractor	21
9.	Railway Passes	21
10.	Carriage of Materials	21
11.	Use of Ballast Trains	22
12.	Representation on Works	22
13.	Relics and Treasures	22
14.	Excavated Material	22
15.	Indemnity by Contractors	22
16.	(1) & (2) Earnest Money and Security Deposit	23
	(3) Interest on Amount	23
17.	Force Majeure Clause	23
	(1) Extension due to modification	23
	(2) Extension for delay not due to Railway Contractor	24
	(3) Extension of time for delay due to Railway	24
	(4) Extension of time for delay due to Contractor	24
18.	(1) & (2) Illegal Gratification	
	EXECUTION OF WORKS	
19.	(1) Contractor's Understanding	25
	(2) Commencement of Works	25
	(3) Accepted programme of work	25
	(4) Setting out of works	25
20.	(1) Compliance to Engineer's instructions	26
	(2) Alterations to be authorised	26
	(3) Extra Works	26
	(4) Separate Contracts in connection with Works	

Clause		Page No.
21.	Instructions of Engineer's Representative	26
22.	(1) Adherance to Specifications and Drawings	26
	(2) Drawings and Specifications on the Works	26
	(3) Ownership of Drawings and Specifications	26
	(4) Compliance with Contractor's Request for Details	26
	(5) Meaning and Intent of Specifications and Drawings	26
23.	Work During Night	27
24.	Damage to Railway Property or Private Life and Property	27
25.	Sheds, Stores-houses and Yards	27
26.	Provision of Efficient and Competent Staff	27
27.	(1) Workmanship and Testing	28
	(2) Removal of Improper Work and Materials	28
28.	Facilities for Inspection	28
29.	Examination of Work before covering up	28
30.	Temporary Works	28
31.	(1) Contractor to supply Water for Works	28
	(2) Water Supply from Railway System	29
	(3) Water Supply by Railway Transport	29
	(4) (a) Contractor to arrange supply of Electric Power for works	29
	(b) Electric supply from the Railway System	29
32.	Property in Materials and Plant	29
33.	(1) Tools, plant and materials supplied by Railway	29
	(2) Hire of Railways Plant	29
34.	(1) Precautions during Progress of Works	30
	(2) Roads and Water Courses	30
	(3) Provision of Access of Premises	30
	(4) Safety of Public	30
35.	Use of Explosive	30
36.	(1) Suspension of Work	30
	(2) Suspension lasting more than Three Months	31

SETTLEMENT OF DISPUTES

63. Matters Finally determined by the Railway 44

64. (1) Demand for Arbitration 45

(2) Obligations during Pendency of Arbitration 45

(3) Appointment of Arbitration 45

PART-1

REGULATIONS FOR TENDER AND CONTRACTS

FOR THE GUIDANCE OF ENGINEERS AND CONTRACTORS

FOR ENGINEERING WORKS

MEANING OF TERMS

1.1 These Regulations for Tenders and Contracts shall be read in conjuction with 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.

1.2 Definition - In these Regulations for Tenders and Contracts the following terms shall have the meanings assigned hereunder except where the context otherwise requires:-

(a) "Railways" 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 incharge for the general Superintendence and control of the Railway and shall also include the General manager (Construction) and shall mean and include their successors, of the Successor Railway.

(c) "Chief Engineer" shall mean the Officer in-charge of the Engineering Department of .....Railway and shall also include the Chief Engineer (Construction), Chief Signal and Telecommunication Engineer, Chief Signal and Telecommunication Engineer (Construction), Chief Electrical Engineer and Chief Electrical Engineer (Construction) and shall mean & include their successors of the Successor Railway.

(d) Divisional Railway Manager shall mean the officer incharge of a division of the..... ..... Railway and shall mean and include the Divisional Railway Manager of the successor Railway.

(e) "Engineer" shall mean the Divisional Engineer or the Executive Engineer, Divisional Signal and Telecommunication Engineer, Divisional Signal & Telecommunications Engineer (Construction), Divisional Electrical Engineer and Divisional Electrical Engineer (Construction), in executive charge of the works and shall include the superior officers of the Engineering, Signal & Telecommunication, and Electrical Department of Railway i.e. the Senoir Divisional Engineer/Deputy Chief Engineer/ Chief Engineer/Chief Engineer (Construction), Senior Divisional Signal and Telecommunication Engineer/Deputy Chief Signal and telecommunication Engineer/Chief Signal & Telecommunication Engineer/Chief Signal & Telecommunication Engineer (Construction), Senior Divisional Electrical Engineer/Deputy Chief Electrical Engineer/Chief Electrical Engineer (Construction) and shall mean and include the Engineers of the Successor Railway.

(f) "Tenderer" shall mean the person/the firm/co-operative or company whether incorporated or not 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

Clause		Page No.
37.	Rates for items of Works	31
38.	Demurrage and Warfage Dues	31
39.	Rates for Extra Items of Works	31
40.	(1) Handing over of Works	32
	(2) Clearance of Site on Completion	32
	VARIATION IN EXTENT OF CONTRACT	
41.	Modification to Contract to be in writing	32
42.	(1) & (2) Power of Modification to Contract	32
	(3) Valuation of Variations	33
	CLAIMS	
43.	(1) Monthly Statement of Claims	33
	(2) Signing of " No Claim Certificate "	33
	MEASUREMENTS, CERTIFICATES AND PAYMENTS	
44.	Quantities in Schedule annexed to Contract	33
45.	Measurements of Works	33
46.	(1) " On - Account " Payments	34
	(2) Rounding off Amounts	34
	(3) " On Account " Payments not Prejudical to Final Settlement	34
	(4) Manner of Payment	34
47.	Maintenance of Works	34
48.	(1) Certificate of Completion of Works	34
	(2) Contractor not absolved by Completion Certificate	35
49.	Approval only by Maintenance Certificate	35
50.	(1) Maintenance Certificate	35
	(2) Cessation of Railways Liability	35
	(3) Unfulfilled Obligations	35
51.	(1) Final Payment	35
	(2) Post - Payment Audit	36
	(3) Repayment of Security Deposit	36
51 A.	Production of Vouchers etc. by the Contractor.	36
52.	Withholding and Lein in respect of Sums Claimed	36
52 A.	Lien in respect of Claims in Other Contracts	37
53.	Signature on Receipts for Amounts	37
	LABOUR	
54.	Wages to Labour	37
54 A.	Apprentice Act	38
55.	Provisions of Payments of Wages Act	38
55 A.	Provision of Contract Labour (Regulation and Abolition) Act 1970	38
56.	Reporting of Accidents to Labour	39
57.	Provision of Workmen's Compensation Act	39
57 A.	Provision of Mines Act	39
58.	Railway not to Provide Quarters for Contractors	39

Clause		Page No.
59.	(1) Labour Camps	40
	(2) Compliance to Rules for Employment of Labour	40
	(3) Preservation of Peace	40
	(4) Sanitary Arrangements	40
	(5) Outbreak of Infectious Disease	40
	(6) Treatment of Contactor's Staff in Railway Hospitals	40
	(7) Medical Facilities at Site	40
	(8) Use of Intoxicants	40
	(9) Non - employment of Female labour	41
	(10) Restriction on the Employment of Retired Engineers of Railway Services within Two years of their retirement	41
60.	(1) Non employment of Labourers below the Age of 15	41
	(2) Medical certificate of Fitness for Labour	41
	(3) Period of Validity of Medical Fitness certificate	41
	(4) Medical re-examination of Labour	41
	DETERMINATION OF CONTRACT	
61.	(1) Right of Railway to determine Contract	42
	(2) Payment on Determination of Contract	42
62.	(1) Determination of Contract owing to Default of Contractor	42
	(2) Right of Railway after rescission of Contract owing to Default of Contractor	44

or select list of contractors with the Railway.

(h) "Open Tenders" shall mean the 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 of the.....Railway as specified in part III of the Works Hand Book 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 the.....Railway" shall mean the schedule of Rates issued under the autority of the Chief Engineer from time to time.

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

1.3 Words importing the singular number shall also include the plural and vice versa where the context requires.

2.1 **Application for registration** - Works of construction and of supply of material shall be entrusted for execution to contractors whose capabilities and financial status have been investigated and approved to the satisfaction of theRailway. For this purpose, list of approved Contractors shall be maintained in the Railway. The said list shall be revised perlodically once in a year or so by giving wide publicity through advertisement etc.

A Contractor including a contractor who is already on the approved list shall apply to the nearest General Manager(construction), Chief Administrative Officer (construction), Divisonal Railway Manager, Chief Engineer/Chief Engineer (Construction), Chief Signal and Telecommunication Engineer/Chief Signal & Telecommunication Engineer (construction) and Chief Electrical Engineer/Chief Electrical Engineer (Construction), furnishing particulars regarding :-

(a) his position as an independent contractor specifying Engineering organisation available with details or Partners/Staff/Engineers employed with qualifications and experience.

(b) his capacity to undertake and carry out work satisfactorily as vouched for by a responsible officials or firm, with details about the transport equipments, construction tools and plants etc., required for the work, maintained by him.

(c) his previous experience of works similar to that to be contracted for, in proof of which original cetrtificates or testimonials may be called for and their genuineness verified if needs be, by reference to the signatories thereof.

(d) his knowledge from actual personal investigation of the resources of the Area/Zone or Zones in which he offers to work.

(e) his ability to surprise the work personally or by competent and duly authorised agents.

(f) his financial position.

(g) authorised copy of the current Income-tax Clearance Certificate.

2.2 An applicant shall clearly state the categories of works for which and the area/Zone/

division(s)/district(s) in which he desires registration in the list of approved contractors.

2.3 The selection of contractors for enlistment in the approved list would be done by a committee for different value slabs as notified by Railway.

2.4 An annual fee as prescribed by the Railway from time to time would be charged from such approved contractors to cover the cost of sending notices to them and clerkage for tenders etc.

2.5 The list of approved contractors would be treated as confidential office record.

TENDERS FOR WORKS

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

4. **Omissions and Discrepancies**: Should a tenderer find discrepancies in or omissions from the drawings or any of the Tender 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 endeavor has been made to avoid any error which can materially affect the basis of the tender and the successfull 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.

5. **Earnest Money** - The tenderer shall be required to deposit earnest money with the Tender for the due permormance of the stipulation to keep the offer open till such date as specified in the Tender, under the conditions of Tender, Annexure-I. The earnest money will be as under.

Contract Value		Earnest money for due performance of stipulation to keep the offer open till the date specified.
(i)	For works upto Rs. 5 lakhs	2 1/2% ad valorem subject to a maximum of Rs. 10,000/-
(ii)	For works more than Rs. 5 lakhs but upto Rs. 20 lakhs.	2% ad valorem subject to a maximum of Rs. 20,000/-
(iii)	For works above Rs. 20 lakhs but upto Rs.50 lakhs	1% ad valorem subject to a maximumof Rs. 35,000/-
(iv)	For works above Rs. 50 lakhs	3/4% ad valorem subject to maxmimum of Rs. 50,000/-

(b) 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 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 Engineer. Should the tenderer fail to observe or comply with the said stipulation, the aforesaid amount shall be liable to be forfeited to the Railway.

(c) If his tender is accepted this earnest money mentioned in sub clause (a) above will be retained as part security for the due and faithful fulfillment of the contract in terms of Clause 16 of the General Conditions of Contract. The Earnest Money of other tenderers shall, save as before herein 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, nor be liable to pay interest thereon.

(d) The Contractors approved for the works in various categories will have the option to deposit the Earnest money for each individual works or furnish standing Earnest Money at the rates indicated below:-

Contract Value	Amount of lumpsum Earnest Money
Upto Rs. 5 lakhs	Rs. 10,000/-
Above Rs. 5 lakhs but upto Rs. 20 lakhs	Rs. 20,000/-
Above Rs. 20 lakhs but upto Rs. 50 lakhs	Rs. 50,000/-
Above Rs. 50 lakhs	Rs. 1,00,000/-

(2) No part of this fixed lumpsum deposit as Earnest Money can be accounted against the Security Deposit a contractor has to make on the acceptance of his tender and on execution of an agreement. It may however, be noted by the Contractors that this Earnest money deposited by them is available for forfeiture to the extent specified, in cases where they tender but due to any circumstances fail to keep the offer open for the period specified in the tender documents. The earnest money should be in cash or in any of the following forms:-

(i) Deposit receipts, pay orders, demand drafts. These forms of earnest money could be either of the State Bank of India or of any of the nationalised banks. No confirmator advice from the Reserve Bank of India will be necessary.

(ii) Deposit receipt executed by the Scheduled Bank (other than the State Bank of India and the Nationalised Banks) approved by the Reserve Bands of India for this purpose. The Railways will not, however, accept deposit receipt without getting in writing the concurrence of the Reserve Bank of India.

(B) Standing or permanent earnest money may be accepted in the following forms :-

(i) A deposit in cash.

(ii) Government securities at 5% below the market value.

(iii) Deposit receipts or demand drafts of the Nationalised Bank.

(iv) A deposit in the Post Office Saving Bank.

(v) National Savings certificates.

(vi) Twelve Year National Defence Certificates.

(vii) Ten year Defence Deposits.

(viii) National Defence Bonds.

(ix) Time Deposit Account which came into force on 16-3-1970 and notified under Ministry of Finance Notification No. F3(7)NS/70, dated 28-2-70.

(x) IRFC Bonds.

Note :- (vi) to (viii) These certificates/bonds. may be accepted at their surrender value.

6. **Care in Submission of Tenders** a) Before submitting a tender, the tenderer will be deemed to have satisfied himself 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 taken 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 Condition 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, recognise such power of attorney and changes after obtaining proper legal advice. The cost of which will be chargeable to the contractor.

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

CONTRACT DOCUMENTS

8. **Execution of Contract Document** The Tenderer whose tender is accepted shall be required to appear in person at the office of the General Manager/ General Manager (Construction), Chief Administrative Officer (Construction), Divisional Railway Manager or concerned Engineer, as the case may be, or if a firm or corporation, a duly authorised representative shall so appear and execute the contract documents within 7 days after notice that the contract has been awarded to him. Failure to do so shall constitute a breach of the agreement affected 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 herein before provided, the Railway may determine that such tenderer has abandoned the contract and there upon his tender and acceptance thereof shall be treated as cancelled and the Railway shall be entitled to forefeit the full amount of the Earnest money and to recover the damages for such default.

9. **Form of Contract Document** - Every contract shall be complete in respect of the document it shall so constitute. Not less thaat 2 copies of the contract documents shall be signed by the competent authority and the contracator and one copy given to the contractor.

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

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

ANNEXURE -I

.....RAILWAY

TENDER FORMS (FIRST SHEET)

Tender No.....

Name of Work.....

To

The President of India,

Acting through the .....

.....

.....Railway.

I/We .....have read the various conditions to tender attached hereto and agree to abide by the said conditions. I/We also agree to keep this tender open for acceptance for a period of .....days from the date fixed for opening the same and in default thereof, I/We will be liable for forfeiture of my/our "Earnest Money." I/We offer to do the work for .....Railway, at the rates quoted in the attached schedule and hereby bind my self/ourselves to complete the work in all respects within.....months from the date of issue of letter of acceptance of the tender.

2. I/We also hereby agree to abide by the General Conditions of Contract corrected upto printed/advance correction slip No .....dated.....and to carry out the work according to the Special Conditions of Contract and Specifications of materials and works as laid down by Railway in the annexed Special Conditions/specifications and the .....Railway Works Hand Book Part III corrected upto printed/advance correction slip No .....dated.....Sanitary Works Hand Book corrected upto printed/advance correction slip No..... dated ..... schedule of Rates Part II corrected upto printed/advance correction slip No. .....dated.....for the present contract.

3. A sum of Rs.....is herewith forwarded as Earnest money. The full value of the earnest Money shall stand forfeited without prejudice to any other right or remedies incase my/our Tender is accepted and 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; and.

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

4. 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 my/our offer for this work.

Signature of Witnesses :

(1).....

.....

Signature of Tenderer (s)

(2).....

Date.....

Address of the Tenderer (s)

ANNEXURE -1

TENDER FORM (SECOND SHEET)

1. **Instructions to tenderers and conditions of tender.** The following documents form parts of Tender/ Contract :-

(a) Tender forms - First Sheet and Second Sheet.

(b) Special Conditions/Specifications (enclosed).

(c) Schedule of approximate quantities (enclosed).

(d) General Conditions of Contract and Standard Specification for materials and works as laid down in Works Hand Book and Sanitary Works Hand Book of.....Railway,as amended/ corrected upto correction slips mentioned in First sheet of Tender Form, copies of which can be seen in the office of .....or obtained from the office of the Chief Engineer.....Railway .....on .....payment of Rs .....Rs.....& Rs .....respectively.

(e) Schedule of Rates, Part I and Part II as amended/ corrected upto correction slip as mentioned in First sheet of Tender sheet of tender form, copies of which can be seen in the office of .....or obtained from the Chief Engineer ..... Railway on payment of Rs .....& Rs ..... respectively.

(f) All general and detailed drawings pertaining to this work which will be issued by the Engineer or his representatives (from time to time) with all changes and modifications.

2. **Drawings for the work** - The Drawings for the work can be seen in the office of the ..... and/ or Chief .....at any time during the office hours. The drawings are only for the guidance of Tenderer (s) Detailed working drawings (if required) based generally on the drawings mentioned above, will be given by the Engineer or his representative from time to time.

3. The Tenderer (s) shall quote his/their rates as a percentage above or below the schedule of Rates of the ..... Railway ..... as.....applicable to .....Division except where he/they are required to quote item rates and must tender for all the items shown in the schedule of approxiate quantities attached. 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 does not guarantee work under each item of the schedule.

4. Tenders containing erasures and/or alterations of the tender document are liable to be rejected. Any correction made by Tenderer (s) 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 issue of acceptance letter.

6. **Earnest Money** - (a) The tender must be accompanied by a sum of Rs .....as earnest money deposited in cash or in any of the forms as mentioned in Regulations for tenders and Contracts for the guidance of the Engineer and Contractors, failing which the tender will not be considsered.

(b) The Tenderer (s) shall keep the offer open for a minimum period of .....days from the date of opening of the Tender. It is understood that the tender documents has been sold/

issued to the Tenderer (s) and the Tenderer (s) is /are permitted to tender in consideration of the stipulation on his/their part that after submitting his/their tender subject to the period being extended further if required by mutul agreement from time to time, he will not resile from his offer or modify the terms and conditions thereof in a manner not acceptable to the ..... of ..... Railway. Should the Tenderer fail to observe or comply with the foregoing stipulation, the amount deposited as Earnest Money for the due performance of the above stipulation shall be forfeited to the Railway.

(c) If the tender is accepted, the amount of Earnest Money will be retained and adjusted as Security Deposit for the due and faithfull fulfilment of the contract. This amount of Security Deposit shall be forfeited if the tenderer (s)/contractor (s) fail to execute the Agreement Bond within 7 days after after receipt of notice issued by railway that such documents are ready or to commence the work within 15 days after receipt of the orders to that effect.

(d) The Earnest Money of the unsuccessful tenderer (s) will, save as here-in-before provided be returned to the unsuccessful tenderer (s) within a reasonable time 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 not be liable to pay interest thereon.

7. **Right of the Railways to deal with tender** - The authority for the acceptance of the tender will rest with the Railway. It shall not be obligatory on the said authority to accept the lowest tender or any other tender and no tenderer (s) shall demand any explanation for the cause of rejection of his/their tender nor the Railway undertake to assign reasons for declining to consider or reject any particular tender or tenders.

8. If the tenderer (s) deliberately gives/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 the tenderers (s) expires after the submission of his/their tender or after the acceptance of his/their tender, the railway shall deem such tender cancelled. If a partner of a firm expires after the submission of their tender of after acceptance of their tender, the Railway shall deem such tender as cancelled, unless the firm retains its character.

10. **Income tax clearance certificate** - The tenderer (s) is/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.

11. **Tenderer's Credentials** - Documents testifying tenderer's previous experience and financial status should be produced along with the tender or when desired by competent authority of the .....Railway.

Tenderer (s) who has/have not carried out any work so far on this Railway and who is/are not borne on the approved list of the Contractors of .....Railway should submit along with his/their tender credentials to establish.

(i) His capacity to carry out the work satisfactorily.

(ii) His financial status supported by Bank reference and other documents.

(iii) Certificates duly attested and testimonials regarding contracting experience for the type of job for which tender is invited with list of works carried out in the past.

12. Tender must be enclosed in a sealed cover, superscribed "Tender No ..... and must be sent by registered post to the ..... Railway so as to reach his office not later than .....hours on the .....or deposited in the special box provided for the purpose in the office of .....Railway..... The Special box will be sealed at .....hours on ..... the tender will be opened at .....hours on the same day. The tender papers will not be sold after .....hours on.....

13. Non - compliance with any of the conditions setforth there in above is liable to result in the tender being rejected.

14. Execution of Contract Documents - The successful tenderer (s) shallbe required to execute an agreement with the President of India acting through the .....Railway for carrying out the work according to General conditions of Contract, special conditions/ specifications annexed to the tender and specifications for work and meterials as laid down in work Hand Book Part III and Sanitary Works Hand Book of .....Railway as amended/corrected upto correction slip mentioned in tender form (First Sheet).

15. Partnership Deeds, Power of Attorney Etc. - The tenderer shall clearly specify whether the tender is submitted on his own or on behalf of partnership concern. If the tender is submitted on behalf of a partnership Concern, he should slubmit the certified copy of partnership deed along with the tender and authorisation to sign the tender documents on behalf of partnership firm. if these documents are not enclosed along with tender documents, the tender will be treated treated as having been submitted by individual signing the tender documents. 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, recognise such power of attorney and changes after obtaining proper legel advice, the cost of which will be chargeable to the contractor.

16. The tenderer whether sole proprietor, a limited company or a partnership firm, if they want to act through agent or individual partner (s) should submit along with the tender or at a later stage, a power of attorney duly stamped and authenticated by a Notary Public or by Magistrate in favour of the specific person whether he/they be partner (s) of the firm or any other person specifically authorising him/them to submit the tender, sign the agreement, receive money, witness measurements, sign measurement books, compromise,settle, relinquish any claim (s) preferred by the firm and sign "No Claim Certificate" and refer all or any disputes to arbitration.

17. Employment/Partnership, etc., of Retired Railway Employees - (a) 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 .....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 retired Gazetted officer as aforesaid, or should a tenderer being an incorporated company have any such retired engineer or retired gazetted 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 case where such Engineer or Officer had not retired from government service at least 2 years prior to the date of submission of the tender as to whether permission for taking such contract , or if the contractor be a partnership firm or an incorporated company, to become a partner or Director as the case may be, or to take the employment under the contractor, has been obtained by the tenderer or the Engineer or Officer, as the case may be

form the President of India or any officer, duly authorised by him in this 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.

(b) Should a tenderer or contractor being an individual on the list of approved Contractors, have a relative (s) or in the case of partnership firm or company of contractors one or more of his share holders(s) or a relative (s) of the share holder(s)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 tender, failing which the tender may be disqualified/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.

.....

(Signature)

.....

(Designation)

.....

Signature of Tenderer(s)

Date.....

.....Railway

SCHEDULE OF RATES AND QUANTITIES

Sl.No.	Description of the work	Approximate Quantity	Unit	Rates in figures and in Words		Amount	
				Rs.	P.	Rs.	P.
1	2	4	5	6		7	

The quantities shown in above schedule are approximate and are as guide to give the tenderer(s) an idea of quantum of work involved. The Railway reserves the right to increase/decrease and/or delete or include any of the quantities given above and no extra rate will be allowed on this account.

I/We undertake to do the work at.....% above/below the schedule of Rates of the .....Railway as applicable to.....Division or at the rates quoted above for each item.

Dated.....

.....

Signature of the Tenderer(s)

Note - Column 1 to 5 shall be filled by the office of the Authority inviting tender. Coloumn 6 & 7 shall be filled by the tenderer(s) only when percentage tenders are not invited.

ANNEXURE II

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 .....Railway here in after called the "Railway" of the one part and.....here in after 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:-

(a) New Works, additions and alterations to existing structures,special repair works and supply of building materials subject to the contract value for such works not exceeding Rs.....

(b) All ordinary repair and maintenance works at any site between kilometre.....and Kilometre ..... as will be setforth in the work orders (which work orders shall be deemed and taken to be part of this contract) that will be issued during the said period at .....% above/below the Schedule of Rates of the ..... Railway, Part I, corrected upto Printed/Advance Correction Slip No.....dated .....and Schedule of Rates, Part II, corrected upto printed/Advance correction Slip No.....dated..... and Standard Specifications of the .....Railway contained in Works Hand Book, Part III, corrected upto Printed/advance Correcton Slip No.....dated .....& Sanitary Works Hand Book corrected upto Printed/Advance Correction Slip No .....dated..... and the special conditions and special specifications if any in conformity with the drawings (if any) that will be issued with the work order,aforesaid AND WHEREAS the performance of the said work 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 setforth in the said Work Order 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 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 duly setforth herein), AND the Railway both here by agree that if the Contractor shall duly perform the said work 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 above.

Contractor.....

Address.....

Date.....

Signature of withnesses with address to
Signature of contractor

Designation.....Rly
(for President of India)

Date.....

Witnesses.....

ANNEXURE III

WORK ORDER UNDER ZONE CONTRACT

WORK ORDERNO.....DATED.....19.....UNDER CONTRACT
AGREEMENT NO .....DATED.....

Name of work.....(site).....
Schedule of drawings.....
Authority.....Allocation.....

The Contractor(s) .....is/are hereby ordered to carryout the following works at.....% above/below the schedule of Rates of the Part I corrected upto Printed/Advance Correction Slip No ..... dated .....and schedule of Rates, Part II corrected upto Printed/Advance Correction Slip No.....dated.....of .....Division under Zone Contract Agreement here in before referred to :-

Sr. No.	Item No.	Description of item of work	Approximate Quantity	Unit	Rates in figures and in words		Amount	
					Rs.	P.	Rs.	P.
1	2	3	4	5	6		7	
					Total approximate value of work			

*This should be rate of division concerned.

The works here in mentioned are required to be completed on or before .....(date). The quantities provided here in are approximate and subject to variation under Clause 42 of the General Conditions of contract corrected upto Printed/Advance correction Slip No.....dated.....

Divisional Railway Manager/Divisional.....Engineer
.....Division
.....Railway

Dated.....

For PRESIDENT OF INDIA

I agree to complete the works herein setforth on or before the date specified under the Zone Contract Agreement herein before referred to in confirmity with the drawings here to annexed and in accordance with General and Special (if any) Conditions of Contract corrected upto Printed / Advance Correction Slip No..... dated.....and the Standard Specifications of .....Railway contained in Works Hand Book Part III corrected upto Printed /Advance Correction Slip No..... dated.....

I also agree to maintain such works for the period specified below from the date of completion.

(a) Repair and maintenance work including white/colour washing. Three calender months from the date of completion.

(b) All new works except earth work -Six calender months from the date of completion.

Contractor.....

Designation.....Rly
(for president of India)

Address.....

Date.....

Signature of witnesses with address to signature of contractor

Date.....

Witnesses.....

ANNEXURE IV

.....Railway

CONTRACT AGREEMENT NO.....DATED.....

ARTICLES OF AGREEMENT made this.....day of.....19.....between the President of India a 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.....setforth in the schedule hereto annexed upon the General Conditions of contract corrected upto Printed/Advance Correction Slip No.....dated.....and the specifications of the ..... Railway contained in the Works Hand Book, Part III, corrected upto Printed/Advance/Correction Slip No.....dated.....and Sanitary Works Hand Book corrected upto Printed/Advance/Correction Slip No.....dated.....and the Schedule of Rates of the .....Railway, Part I, corrected upto Printed/Advance Correction Slip No. dated.....and the special conditions and special specifications, if any, and in confirmity with the drawings here into annexed AND WHEREAS the performance of the said works is an act in which the public are interested.

NOW THIS INDENTURE WITNESSETH that in consideration of the payments to be made by the Railway, The Contractors will duly perfom the said works in the said schedule setforth 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 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.....Calender 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 a part of this contract as if the same has been fully setforth 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 final completion thereof the amount due in respect thereof at the rates specified in the Schedule hereto annexed.

Contractor.....

Address.....

Date.....

Signature of witnesses with address to signature of contractor

Designation.....Rly
(for President of India)

Date.....

Witnesses.....

ANNEXURE V

WORK ORDER FOR WORKS

(Valued at over RS. 10,000/-)

WORK ORDER NO.....DATED.....

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 setforth in the schedule below in accordance with the General Conditions of Contract corrected upto Printed/Advance/Correction Slip No.....dated.....and the standard specifications of the ..... Railway contained in Works Hand Book, Part III, corrected upto Printed / Advance correction Slip No..... dated.....the Schedule of Rates of the .....Railway, Part I, corrected upto Printed/Advance Correction Slip No. dated.....and schedule of rates, Part II, corrected upto Printer/Advance Correction Slip NO.....dated.....and special conditions and special specifications, if any, and in conformity with 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 the period of .....from the certified date of the completion. The quantities setforth in the said schedule shall be considered approximate and subject to variation under clause 42 of the General Conditions of Contract.

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 understand that no fixed quantity of work is given to 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 Scheduled Rates. I agree that all works 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 or either and I agree that the Standard Specifications contained in the Works Hand BookPart III,corrected upto Printed/Advance Correction Slip No .....dated.....and Sanitary Works Hand Book Corrected upto Printed/Advance correction slip No.....dated .....of .....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 sublet without the previous written approval of the.....Engineer.

I agree that my work may be stopped at any time by the.....Engineer on his giving me or my agent on the works, seven days 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 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 materials delivered at site of work as ascertained by the said measurement, I shall have no further claim against the Railway and I agree that any dispute arise on matters connected with this agreement, tha same shall be referred to a person to be nominated in this behalf by the.....for the time being of the Railway, whose decision in writing shall be final and binding on both parties.

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

I agree to indemnify the Railway against any claims which may be made under 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 Legislature exist. e.g. the Indian Mines Act the agreement should include a clause indemnifying the Railway against all claim arising of provision of such Act.

I agree to pay rates at .....%above/ below Schedule of rates as applicable to.....Division setforth in the schedule of rates here in for finished and approved work.

.....Engineer
.....Division
.....Railway
FOR PRESIDENT OF INDIA

Date.....

I/We agree to complete the works here in setforth on or before date specified herein and to maintain in the same for a period of.....calender months from the certified date of their competition and in conformity with the document here in referred to, and all the condition therein mentioned shall be deemed and taken to be a part of this contract as if the same had been fully setforth there in.

Signature of witnesses with address, to Signature of contractor
1.....
2.....

Contractor.....
Address.....
Date.....

ANNEXURE VI

WORK ORDER FOR WORKS

.....DIVISION

WORK ORDER NO.....Original/ Duplicate/Triplicate No ..... Date 19

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

SCHEDULE OF RATES

Particulars	Rates (Rs.)	Per	Remarks

Witness

Name.....

Address.....

Contactor

Name.....

Address.....

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

Date.....19

.....Engineer

PART II

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

DEFINITIONS AND INTERPRETION

1. (1) **Definition.** --In these General Conditions of Contract, the following terms shall have the meaning assigned here under except where the context otherwise requires :-

(a) "Railways" 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-charge of the General Superintendence and Control of the Railway and shall also include the General Manager (Construction) and shall mean and include their successor, of the Successor Railway.

(c) "Chief Engineer"shall mean the Officer in-charge of the Engineering Department of Railway and shall also include Chief Engineer (Construction), Chief Signal and Telecommunication Engineer, Chief Signal and Telecommunication Engineer (Construction), Chief Electrical Engineer, Chief Electrical Engineer(Construction) ,and shall mean & include their successors of the Successor Railway.

(d) "Divisional Railway Manager" shall mean the Officer in-charege of a Division of the Railway and shall mean and include the Divisional Railway Manager of the Successor Railway.

(e) "Engineer" shall mean the Divisional Engineer or the Executive Engineer, Divisional Signal & Telecommunication Engineer, Divisional Signal & Telecommunication Engineer (Construction), Divisional Electrical Engineer, Divisional Electrical Engineer (Construction), in executive charge of the works and shall include the superior officers of the Engineering, Signal & Telecommunication, and Electrical Department of Railway *i.e.,* the Senior Divisional Engineer/Deputy Chief Engineer/ Chief Engineer / Chief Engineer (Construction), Senior Divisional Signal & Telecommunication Engineer/Deputy Chief Signal & Telecommunication Engineer/Chief Signal & Telecommunication Engineer (Construction), Senior Divisional Electrical Engineer/Deputy Chief Electrical Engineer/Chief Electrical Engineer (Construction) and Chief Administrative officer (Construction) and shall mean and include the Engineer of the Successor Railway.

(f) "Engineer's Representative" shall mean the Assistant Engineer, Assistant Signal and Telecommunication Engineer and Assistant Electrical Engineer in direct charge of the works and shall include any Sr. Sec/Sec/Jr. Engineer of Civil Engineering/Signal and Telecommunication Engineering/Electrical Engineering Department appointed by the.....Railway and shall mean and include the Engineer's Representative of the Successor Railway.

(g) "Contractor" shall mean the Person/Firm/Co-operative Society or Company whether incorporated or not who enters into the contract with Railways and shall include their executors, administrators, successors and permitted assigns.

(h) "Contract" shall mean and include the agreement of work Order, the accepted schedule of rates or the schedule of the rates of .....Railway modified by the tender percentage for items of works quantified or not quantified, the General Conditions of contract, the special conditions of contracts if any, the drawings, the specifications, the special specifications, if any, and tender forms, if any.

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

(j) "Specifications" shall mean the standard specifications for materials and works of ....Railway as specified in part III of the work Hand Book issued under the authority of the chief Engineer or as amplified, added to or superseded by special specifications, if any.

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

(l) "Drawings shall mean the maps, drawings, plans and tracings or prints there of annexed to the contract and shall include any modifications of such drawings and further drawings as may be issued by the Engineer from time to time.

(m) "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 herein after defined) but does not include materials or other things intended to form or forming part of the permanent work.

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

(o) "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 purpose of the contract.

(p) "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) **Heading & marginal headings**.-- The headings and marginal headings in these general conditions are solely for the purpose of facilitating reference and shall not be deemed to be part thereof or be taken into consedration in the interpretation or construction thereof or the contract.

GENERAL OBLIGATIONS

2.(1) **Execution, Co-relation and intent of contract Documents.**--The contract documents shall be signed in triplicate 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 document is to include all labour and materials, equipments and transportation necessary for the proper execution of work. Materials or work not covered by or properly inferable from any heading or class of the specifications shall not be supplied by the 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.

(2) If a work transfered from the jurisdiction of one Railway to another Railway or to project authority or vice versa while contract is in subsistence, the contract shall be binding on the Contractor and the successor Railway/Project in the same manner & take effect in all respects as if the contractor and the Successor Railway/Project were parties thereto from the inception and the correspondence officer or the comptent 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.

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

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

(2) **Compliance to regulations and bye-Laws** - The contractor shall conform to the provision

of any statute relating to the works and regulations and bye-laws of any local authority and of any water and lighting companies or undertakings, with whose system the work is proposed to be connected and shall before making any variation from the drawings or the specifications that may be necessitated by so 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 until he has received instructions from the Engineer in respect thereof. The contractor shall be bound to give all notices required by statute, regulations or bye laws as aforesaid and to pay all fees and taxes payable to any authority in respect thereof.

4 **Communication 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 interse concerning the work shall be in writing and no Notice, communication, reference or complaint not in writing shall be recognised.

5 **Service of Notices on Contractors** - 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 day on which they would have reached such address in the ordinary course of post or on the day on which they were so delivered or left. In the case of contract by partners, any change in the constitution of the firm shall be forthwith notified by the contractor to the Engineer.

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

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

8 **Assistance by the Railway for the Stores to be obtained by the Contractor** - Owing to difficulty in obtain ing certain materials (including Tools & Plants) in the market, the Railway may have aggreed with out any liability therefor, to endeavour to obtain or assist the contractor in obtaining the required quantities of such materials may be specified in the Tender. In the event of delay or failure in obtaining the required quantities of the aforesaid materials, the contractor shall not be deemed absolved of his own responsibility and shall keep in touch with the day to day position regarding their availability and accordingly adjust progress of works including employment of labour and the Railway shall not in any way be liable for the supply of materials or for the non supply thereof for any reason whatsoever nor for any loss or damage arising in cosequence of such delay or non supply.

9 **Railway Passes** - No free Railway passes shall be issued by the Rly. to the contractor or any of his employee/worker.

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 Railways may agree to allow the Contractor, the use of the ballast or material trains under such conditions as shall be specially prescribed, provided that the Contractor shall pay for the use thereof charges calculated at public tariff rates on the marked carrying capacity of each vehicle subject to specified minimum charge per day or part of day and provided further that the Contractor shall indemnify the 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 amendments thereto.

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

13. **Relics and Treasures**-All gold, silver, oil and other minerals of any description and all precious stones, coins, treasures, relic, antiquities and other similar things which shall be found in or upon the site shall be the property of the Railway and 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 material**- The Contractor shall not sell or otherwise dispose of or remove except for the purpose of this contract, the sand, stone, clay, ballast, earth, rock or other substances or materials which may be obtained from any excavation made for the purpose of the works or any building or produced upon the site at the time of delivery of the possession thereof but all the substances, materials, buildings, and produce shall be the property of the Railway provided that the Contractor may, with the permission of the Engineer, use the same for the purpose of the work either free of cost or pay the cost of the same at such rates as may be determined by the Engineer.

15. **Indemnity by Contractors**- The Contractor shall indemnify and save harmless the Railway from and against all actions, suits, proceedings, losses, costs, damages, charges, claims and demands of every nature and description bought or recovered against the Railways by reason of any act or omission of the Contractor, his agents or employees, in the execution of the works or in his guarding of the same. All sums payable by way of compensation under any of these conditions shall be considered as reasonable compensation to be applied to the actual loss or damage sustained, and whether or not any damage shall have been sustained.

16. (1)**Earnest Money and security Deposit** The Earnest Money deposited by the Contractor with his tender will be retained by the Railway as part of security for the due and faithfull fulfilment of the contract by the contractor. The balance to make up the security deposit, the rates for which are given below, may be deposited by the Contractor in cash or 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 defaulting contractor the Railway may retain any amount due for payment to the Contractor on the pending "on account bills" so that the amounts so retained may not exceed 10% of the total value of the contract.

(2) Unless otherwise specified in the special conditions, if any, the rates for deposit of security amount by contractors will be as under :-

(i) for contracts upto Rs. 1 lakh--	10% of the value of the contract.
(ii) for contracts more than Rs. 1 lakhs-- and upto Rs. 2 lakhs	10% of the first Rs. 1 lakh and 7-1/2% of the balance.

(iii) for contracts more than Rs. 2 Lakhs-- and upto Rs. 2 Crores	10 % of the first Rs 1 Lakh, 7-1/2% of the next Rs. 1 Lakh and 5% of the balance subject to the maximum of Rs. 3 lakhs.
(iv) for the contracts above Rs. 2 Crores--	5 % of the contract value . The amount over and above 3 Lakhs to be recovered from the progressive bills of the contractors @ 10% till it reaches 5% of the contract value.

(3) No interest will be payable upon the Earnest Money and Security Deposit or amounts payable to the Contractor under the Contract, but Government Securities deposited in terms of Sub-Clause (1) of this clause will be payable with interest accrued thereon.

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

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

Extension due to modification:

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

Extension for delay not due to Rly.Contractor :

(ii) If in the opinion of the Engineer the progress of work has any time been delayed by any act or neglect of Railway's employees or by other contractor employed by the Railway under sub-clause (4) of clause 20 of these conditions or in executing the work not forming part of the contract but on which contractor's performance necessarily depends or by reason of proceeding taken or threatened by or dispute with adjoining or neighbouring owners or public authority arising otherwise through the Contractor's own defeult etc. or by the delay authorised by the Engineer pending arbitration or in consequences of the contractor not having received in due time necessary instructions from the Railway for which he shall have specially applied in writing to the Engineer or his authorised representative then happening of any such event causing delay, the Contractor shall immediately give notice thereof in writing to the Engineer within 15 days of such happening but shall nevertheless make constantly his best endeavours to bring down or make good the

delay and shall do all the things reasonably required of him to the satisfaction of the Engineer to proceed with the works. The contractor may also indicate the period for which the work is likely to be delayed and shall be bound to ask for necessary extension of time. The Engineer on receipt of such request from the contractor shall consider the same and shall grant such extension of time as in his opinion is reasonable having regard to the nature and period of delay and the type and quantum of work affected thereby. No other compensation shall be payable for works so carried forward to the extended period of time, the same rates, terms and conditions of contract being applicable as if such extended period of time was originally provided in the original contract itself.

Extension for delay due to Rly.:

(ii) In the event of any failure or delay by the Railway to hand over the Contractor possession of the lands necessary for the execution of the works or to give the necessary notice to commence the work 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 thereof 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 consisdered reasonable.

Extension of time for delay due to contractor.

17-B The time for the execution of the work or part of the works specified in the contract document shall be deemed to be the essence of the contract and the works must be completed not later than the date(s) as specified in the contract. If the contractor fails to complete the works within the time as specified in the contract for the reasons other than the reasons specified in clause 17 and 17-A, the Railway may, if satisfied that the works can be completed by the contractor within reasonable short time thereafter, allow the contractor such further extension of time (proforma Annex.I) as the Engineer may decide. On such extension the Railway will be entitled without prejudice to any other right and remedy available on that behalf, to recover from the contractor as agreed damages and not by way of penalty as sum equivalent to 1/2 of 1% of the contract value of the works for each week or part of the week.

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

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

Provided further, that 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 work within 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 such default.

18. (1) **Illegal Gratification** - Any bribe, commission, gift or advantage given, promised or offered by or on behalf to the contracator or his partner, agent or servant or anyone on his behalf, to any officer or employee of the Railway, or to any person on his behalf in relation to 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 decision and the

Railway shall be entitled to deduct the amounts so payable from any moneys due to the contractor(s) under this contract or any other contracts with the Railway.

(2) The Contractor shall not lend or borrow from or have or enter into any monetary dealing or transactions either directly or indirectly with any employee of the Railway as if he shall do so, the Railway shall be entitled forthwith to rescind the contract and all other contracts with the Railway. Any question or dispute as to the commission or any such offence or compensation payable to the Railway under this clause shall be settled by the General Manager of the Railway, in such a manner as he shall consider fit and sufficient and his decision shall be final and conclusive. In the event of rescission of contract under this clause, the Contractor will not be paid any compensation whatsoever except payments for the work done upto the date of rescission.

EXECUTION OF WORKS

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

(2) **Commencement of works.**-- The Contractor shall commence the works within 15 days after the receipt by him of an order in writing to this effect from the Engineer and shall proceed with the same with due expedition without delay.

(3) **Accepted programme of works.**-- The Contractor who has been awarded the works shall as soon as possible but not later than 30 days after the date of receipt of the acceptance letter in respect of contract with initial completion period of two years or less or not later than 90 days for other contracts have to submit the detailed programme of work indicating the time schedule of various items of works in the form of Bar Chat/PERT/CPM. He shall also submit the details of organisation (in terms of labour and supervisors) plant and machinery that he intends to utilise (from time to time) for execution of the work within stipulated date of completion. The programme of work amended as necessary by discussions with the Engineer, shall be treated as the agreed programme of the work of the purpose of this contract and the contractor shall endeavour to fulfill this programme of the work. The progress of work will be watched accordingly. However the liquidated damages will be with reference to the overall completion date. Nothing stated herein shall preclude the contractor in achieving earlier completion of item or whole of the works than indicated in the programme.

(4) **Setting out of works**.-- The contractor will be responsible for the correct setting out of all works in relation to original points, lines and levels of reference at his cost. The Contractor shall execute the work true to alignment, grade, levels and dimensions as shown in the drawing and as directed by the Engineer's representative and shall check these at frequent intervals. The Contractor shall provide all facilities like labour and instruments and shall cooperate with the Engineer's representative to check all alignments, grades, levels and dimensions. If, at any time, during the progress of the works any error shall appear or arise in any part of the work, the Contractor, on being required so to do by the Engineer's representative shall, at his own cost rectify such errors, to the satisfaction of the Engineer's representative. Such checking shall not absolve the Contractor of his own responsibility of maintaining accuracy in the work. The Contractor shall carefully protect and preserve all bench marks, sight rails, pegs and other things used in setting out the work.

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

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

(3) **Extra works** -- Should works over and above those included in contract require to be executed at the site, the contract 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 Railway.

(4) **Separate contracts in connection with works** - The Railway shall have the right to let other contracts in connection with the works. The contract shall afford other contractors reasonable opportunity for the storage of their materials and the execution of their works and shall properly connect and coordinate his work with theirs. if any part of the Contractor's work depends for proper execution or result upon the work of another contractor(s), the contractor shall inspect and promptly report to the Engineer any defects in such works that render it unsuitable for such proper execution and results. The contractor's failure so-to inspect and report shall constitute 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 **Instructions of Engineer's Representative** - Any instruction or approval given by the Engineer's representative to contractor in connection with the works shall bind the contractor as though it had been given by the Engineer provided always as follows

(a) Failure of the Engineer's Representative to disapprove any work or materials shall not prejudice, the power of the Engineer there after to disapprove such work or material and to order the removal or breaking up thereof.

(b) If the contractor shall be dis satisfied by reason of any decission of the Engineer's Representative, he shall be entiteled to refer the matter to the Engineer who shall there-upon conform or vary such decisions

22(1) **Adherence to specifications and drawings** -- The whole of the works shall be executed in perfect conformity with the specifications and drawings of the contract. If the contractor performs any works in a manner contrary to the specifications or drawings or any of them and with out such reference to the Engineer, he shall bear all the costs arising or ensuring therefrom and shall be responsibile for all loss to the Railway.

(2) **Drawings and specifications on the work** --The contractor shall keep one copy of drawings and specifications at the site, in good order, and such contract documents as may be necessary, available to the Engineer or the Engineer's Representative.

(3) **Owner ship of Drawings and specifications** -- All drawings 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 work or termination of the Contract.

(4) **Compliance with Contractor's request for details** -- The Engineer shall furnish with reasonable promtness, after receipt by him of the Contractor's Request for the same, additional instructions by means of drawings or otherwise, necessary for the proper execution of the works or any part thereof. All such Drawings and instructions shall be consistent with the Contract Documents and reasonabily inferable therefrom.

(5) **Meaning and intent of specification and drawings** -- If any ambiguity arises as to the

meaning and intent of any portion of the Specifications and Drawings or as to execution or quality of any work or material or as to the measurements of the works the decision of the Engineer thereon shall be final subject to the appeal (with in 7 days of such decision being intimated to the Contractor) to the Chief Engineer who shall have the power to correct any errors, omissions, are discrepancies in aforementioned items and whose decision in the matter in dispute or doubt shall be final and conclusive.

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

24. **Damage to Railway property or private life and property** - The Contractor shall be responsible for all risk to the works and for trespass and shall make good at his own expense all loss or damage whether to the works themselves or to any other property of the Railway or the lives, persons or property of others from whatsoever cause in connection with the works untill they are taken over by the Railwayand this although all reasonable and proper precautions may have been taken by the Contractor, and in case the the Railway shall be called upon to make good any cost, loss or damages, or to pay any compensation, including that payable under the provisions of the workmen's Compensation Act or any statutory amendments thereof to any person or persons sustaining damages as aforesaid by reason of any act, or any negligence of omissions on the part of the Contractor the amount of any costs or charges including costs and charges in connection with legal proceedings, which the 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 claim of threatened legal proceedings or in anticipation of legal proceedings being instituted consequent on the action of default of the Contractor, to take such steps as may be considered necessary or desirable to ward off or mitigate the effect of such proceedings, charging to Contractor, as aforesaid, any sum or sums of money which may be paid any expenses whether for reinstatement or otherwise which may be incurred and the propriety of any such payment, defence or compromise, and the incurring of any such expenses shall not be called in question by the Contractor.

25. **Sheds, Storehouses and Yards** - The Contractor shall at his own expense provide himself with sheds, storehouses and yards in such situations and in such numbers, as in the opinion of the Engineer is requisite for carrying on the works and the contractor shall keep at each such sheds, storehouses and yards a suficient 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 representatives shall have free access to the said sheds, store houses and yards at any time for the purpose of inspecting the stock of materials or plant so kept in hand, and any materials or plant which the Engineer may object to shall not be brought upon or used in the works, but shall be forthwith removed from the sheds, store houses or yards by the Contractor. The Contractor shall at his own expenses provide and maintain suitable mortar mills, soaking vats or any other equipments necessary for the execution of the works.

26. **Provision of the efficeint and competent staff.** - The Contractor shall place and keep on the works at all times efficient and competent staff to give the necessary directions to his workmen and to see that they execute their work in sound and proper manner and shall employ only such supervisors, workmen and labourers in or about the execution of any of these works as are careful and skilled in the various trades and callings. The Contractor shall at once remove from the works any agents, permitted sub-contractor, supervisor, workmen or labourer who shall be objected to by the Engineer and if 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 Engineer being of the opinion that the Contractor is not employing on the works a sufficient number of staff and workmen as is necessary for the proper completion of the works within the time prescribed, the contractor shall forthwith on receiving intimation to this effect take on the additional number of staff and labour specified by the Engineer within seven days of being so required and failure on part of the Contractor to comply with such instructions will entitle the Railway to rescind the

contract under Clause 62 of these conditions.

27. (1) **Workmanship and testing.** - The whole of the works and /or supply of materials specified and provided in the contract or that may be necessary to be done in order to form and complete any part thereof shall be executed in the best and most substantial workman like manner with materials of the best and most approved quality of their respective kinds, agreeable to the particulars contained in or implied by the specifications and as referred to in and represented by the drawings or in such other additional particulars, instructions and drawings may be found requisite to be given during and 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 Engineers may direct and wholly at the expense of the Contracator.

(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 specifications or drawings.

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

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

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

29. **Examination of work before covering up** - The Contracator shall give 7 days notice to the Engineer or the Engineer's Representative whenever any work or materials are intended to be covered up in the earth, in bodies or walls or otherwise to be placed beyond the reach of measurements in order that the work may be inspected or that correct diemnsions may be taken before being so covered, placed beyond the reach of measurement in default whereof, the same shall at the option of the Engineer or the Engineer's Representative be uncovered and measured at the Contractaor's expense or no allowance shall be made for such work or materials.

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

31. (1) **Contracator to supply water for works.--** Unless otherwise provided inthe Contract, the Conatractor shall be responsible 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 the 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 Railways and payable by the Contractor, provided that the Contractor shall arrange, at his own expense, to effect the connections and lay additional pipe lines and accessories on the site and that the Contractor shall not be entitled to any compensation for interruption or failure of the water supply.

(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-clause (2) of the clause provided that the contractor shall not be entitled to any compensation for interruption or failure of the water suipply.

(4)(a) **Contractor to arrange supply of Electric power for works.** - Unless otherwise provided in the contract, the Contractor shall be responsible for arrangements to obtain supply of Electrical Power for the works.

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

32. **Property in materials and plant** -- The materials and plant brought by the Contractor upon the site or on the land occupied by the Contractor in connection with the works and intended to be used for the execution thereof shall immediately, they are brought upon the site of the said land, be deemed to be the property of the Railway. Such of them as during the progress of the works are rejected by the Engineer under Clause 25 of these conditions or are declared by him not to be needed for the execution of the works or such as on the grant of the certificate of completion remain unused shall immediately on such rejection, declaration or grant cease to be deemed the property of the 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 fire, tempest or otherwise.

33.(1) **Tools, Plant and Materials Supplied by Railway.** -- The Contractor shall take all reasonble 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-contractor or his workmen or others while they are in his charge. The Contractors shall sign accountable receipts for tools, plants and materials made over to him by the Engineer and on completion of the works shall hand over the unused balance of the same to the Engineer in good order and repair, fair wear and tear excepted, and shall be responsible for any failure to account for the same or any damage done thereto.

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

34. (1) **Precaution during progress of works.** -- During the execution of works, unless otherwise specified the Contractor shall at his own cost provide the materials for and execute all shoring, timbering and strutting works as is necessary for the stability and safety of all structures, excavations and works and shall ensure that no damage, injury or loss is caused or likely to be caused to any person or perperty.

(2) **Roads and Water courses.** -- Existing roads or water courses shall not be blocked, cut through, altered, diverted or obstructed in any way by the Contractor, except with the permission of the Engineer. All Compensations claimed for any 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 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 thoroughfare and for any drainage, water supply or means of lighting which may be interrupted by reason of the execution of the works and shall react and maintain at his own cost barriers, lights and other safeguards as prescribed by the Engineer, for the regulation of the traffic, and provide watchmen necessary to prevent accidents. The works shall in such cases be executed night and day if so ordered by the Engineer and with such vigour so that traffic may 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 look-out men as may in the opinion of the Engineer be required to comply with regulations appertaining to the work.

35. **Use of Explosives.**-- Explosives shall not be used on the works or on the site by the Contractor without the permission of the Engineers and then only in the manner and to the extent to which such permission is given. Where explosives are required for the works, they shall be stored in a special magazine to be provided by and at the cost of the Contractor in accordance with the Explosive Rules. The Contractor shall obtain the necessary license for the storage and the use of explosives and all operations in which or for which explosives are employed shall be at the sole risk and responsibility of the Contractor and the Contractor shall indemnify the Railway in respect thereof.

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

(a) Provide for in the contract, or

(b) Necessary for the proper execution of the works or by the reason of weather conditions or by some default on the part of the Contract, and or

(c) Necessary for the safety of the works or any part thereof,

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

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

37. **Rates for items of works :-** The rates entered in the accepted Schedule of Rates of the Contract are intended to provide for work duly and properly completed in accordance with the general and special (if any)conditions of the contract and the specifications and drawings together with such enlargement, extensions, diminutions, reductions, alterations or additions as may be ordered in terms of Clause 42 of these conditions and without prejudice to the generality thereof and shall be deemed to include and cover superientendence and labour, supply, including full freight, of materials, stores, Patterns, profiles, moulds, fittings, centerings, scaffolding, shoring props, timber, machinery, barracks, tackle, roads, pegs, posts, tools, and all apparatus and plant required on the works, except such tools, plant or materials as may be specified in the contract to be supplied to the Contractor by the Railway. The erection, maintenance and removal of all temporary works and buildings, all watching, lighting, bailing, pumping and draining, all prevention of or compensation for trespass, all barriers and arrangements for the safety of 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 upkeep of all centre lines, bench marks and level pegs thereon, site clearance, all fees, duties, royalties, rent and compensation to owners for surface damage or taxes and impositions payable to local authorities in respect of land, structures and all material supplied for the work or other duties 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 wharfagedues :--** Demurrage charges calculated in accordance with the scale inforce for the time being on the Railway and incurred by the Contractor failing to load or unload / any goods of materials within the time allowed by the Railway for loadings as also wharfage charges, of materials not removed in time as also charges due on consignments booked by or to him shall be paid by the Contractor, failing which such charges shall be debited to the Contractor's account in the hands of the Railway and shall be deducted from any sums which may become due to him in terms of the contracts.

39. **(1) Rates for extra items of works:--** Any item of work carried out by the Contractor on the instructions of the Engineer which is not included in the accepted schedules of rates shall be executed at the rates setforth in the "schedule of Rates..... .....Railway" modified by the tender percentage and such items are not contained in the latter, at the rate agreed upon between the Engineer and the Contractor before the execution of such items of work and the contractors shall be bound to notify the engineer atleast seven days before the necessity arises for the execution of such items of works that the accepted schedule of rates does not include rate or rates for the extra work involved. The rates payable for such items shall be decided at the meeting to be held between the Engineer and contractor, in as short a period as possible after the need for the special item has come to the notice. In case the Contractor fails to attend the meeting after being notified to do so or in the event of no settlement being arrived at, the 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 as determined and agreed upon as lastly hereuntofore mentioned, then and in such a case the contractor shall only be entitled to be paid in respect of the work carried out or

expenditure incurred by him prior to the date of determination of the rates or 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 paraties in the matter would be final and binding on the contractor and the Railway

40. (1) **Handling over of works**:-The Contractor shall be bound to hand over the works executed under the contract to the Railway complete in all respects to the satisfaction of the Engineer. The Engineer shall determine the date on which the work is considered to have been completed, in support of which his certificate shall be regarded as sufficient evidience 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) **Clearence of site on completion** :- On completion of the works the contractor shall clear away and remove from the site all constructional plant, surplus materials, rubbish and temporary works of every kind and leave the whole of the sites and the works clean and in a workman like condition to the satisfaction of the Engineer. No final payment in settlement of the account for the works shall be paid, held to be due or shall be made to the contractot till, in addition to any other condition necessary for final payment, site clearence shall have been affected by him and such clearence may be made by the Engineer at the expense of the Contractor inthe event of his failure to comply with this provision within 7 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 there from which removal may be effected by means of public sales of such materials and property or in such a way as deemed fit and convenient to the Engineer.

VARIATIONS IN EXTENT OF CONTRACT

41. **Modification to contract to be in writing** :- In the event of any of the provisions of the contract requiring to be modified after the contract documents have been signed, the modifications shall be made in writing and signed by the Railway and the Contractor and no work shall proceed under such modifications until this has been done. Any verbal or written arrangement abandoning, modifying, extending, reducing or supplementing the contract or any of the terms thereof shall be deemed conditional and shall not be binding on the Railway unless and until the same is incorporated in a formal instrument and signed by the Railway and the Contractor, and till then the Railway shall have the right to repudiate such arrangements.

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

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

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

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

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

CLAIMS

43. (1) **Monthly Statement of Claims** :- The Contractors shall prepare and furnish to the Engineer once in every month an account giving full and detailed particulars of all claims for any additional expenses to which the Contractor may consider himself entitled to and of all extra or additional works ordered by the Engineer which he has exectuted during the preceding month and no claim for payment for and 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 or 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 "No Claim" Certificate or demanding a clearance to arbitration in respect thereof.

MEASUREMENTS, CERTIFICATES AND PAYMENTS

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

45. **Measuremet of works** : The Contractor shall be paid for the works at the rates in the accepted schedule of rates and 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 shcedule of rates is 100 or 1000 shall be calculated to the nearest whole number, any fraction below half being dropped and half and above being taken as one; for items the unit of which in the acepted schedule of rates is single, the quantities shall be calculated to two places of decimals. Such measurements will be taken of the work in progreess from time to time and at such intervals as in the opinion of the Engineer shall be proper having regard to the progress of works. The data and time on which "on account" or final measurements are to be made shall be communicated to the Contractor who shall be present at at the site and shall sign the results of the measurements (which shall also be signed by the Engineer or Engineer's representative) recorded in the official measurements book as an acknowledgement of his acceptance of the accuracy of the measurements. Failing the Contractor's attendance the work may be measured up in his absence and such measurements shall, not-withstanding such absence, be binding upon the Contractor whether or not he shall have signed the measurement books provided always that any objection made by him to measuremnt shall be dully investigated and considered in the manner set out below :-

(a) It shall be open to the Contractor to take specific objection to any recorded measurements

or Classification on any ground within seven days of the date of [illegible] remeasurement 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 which no objection made by the Contractor shall be final and binding on the Contractor and the Contractor shall not be entitled thereafter be entertained regarding the accuracy and classification of the measurements.

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

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

(2) **Rounding off amounts** :- The total amount due on each certificate shall be rounded off to the nearest rupee i.e., sums less than 50 paise shall be omitted and sums of 50 paise or more upto Re. 1/- will be reckoned as Re. 1/-

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

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

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

48. (1) **Certificate of completion of works** :- As soon as in the opinion of the the works shall have been substantially completed and shall have satisfactorily passed test or tests that may be prescribed, the Engineer shall issue a Certificate of Completion of the works and the period of maintenance of the works shall commence from the date certificate provided that the Engineer may issue such a certificate with respect to any

works before the completion of the whole of the work 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 part of the works such part shall be considered as completed and the period of maintanence of such part shall commenece from the Date of such Certificate.

(2) **Contractor not absolved by completion Certificate**:- The Certificate of completion in repect of the work reffered 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 direction in writing of the Engineer be amended and made good by the Contractor at his own cost; and in case of default on the part of contractor the Engineer may employ labour and materials or appoint another contractor to amend and make good such defects, imperfections, shrinkages and faults and all expenses consequent thereon and incidental thereto shall be borne by the Contractor and shall be recoverable from any moneys due to him under the contract.

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

50 (1) **Maintenance Certificate** :- The Contract shall not be considered as completed until a Maintenance Certificate shall have been signed by the Engineer stating that the works have been completed and maintained to his satisfaction. The maintenance Certificate shall be given by the Engineer upon the expiration of the period of maintenance or as soon thereafter as any works ordered during such period pursuant to sub clause (2) Clause 48 of these conditions shall have been completed to the satisfaction of the Engineer and full effect shall be given to this Clause notwithstanding the taking possession of or using the works or any part thereof by the 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 of the execution of the works unless the Contractor shall have made a claim in writing in respect thereof before the issue of the Maintenance Certificate under this clause.

(3) **Unfulfilled obligations** :- Notwithstanding the issue of the Maintenance Certificate the 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 provision of the contract prior to the Issue of the maintenance Certificate which remains unperformed at the time such certificate is issued and for the purpose of determining the nature and extent of any such obligations the contract shall be deemed to remain in force between the parties thereto.

51. (1) **Final Payment** :- On the Engineer's certificate of completion in respect of the works an adjustment shall be made and the balance of account based on the Engineer or the Engineer's representative's certified measurements of the total quantity of work executed by the Contractor upto the date of completion and on the accepted schedule or rates and for extra works on rates determined under Clause 39 of these conditions shall be paid to the Contractor subject always to any deduction which may be made under these presents and further subject to the Contractor having delivered to the Engineer either a full account in detail of all calims he may have on the Railway in respect of the works or having delivered "No Claim" Certificate and the Engineer having after the receipt of such account given a certificate in writing that such claims are correct, that the

whole of the works to be done under the provisions of the contracts have been completed, that they have been inspected by him since their completion and found to be in good and substantial order, that all properties, works and things, removed, disturbed or injured in consequence of the works have been properly replaced and made good and all expenses and demands incurred by or made upon the Railway for or in the respect of damage or loss any form or in consequence of the works, have been satisfied agreeably and in conformity with the contract.

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

(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 stipulations of the 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 (i) of clause 48 of these conditions, the expression expiration of the period of maintenance shall for the purpose of this caluse, be deemed to mean the expiry of the latest of such periods.

51-A. **Production of vouchers etc. by the Contractor** :- (i) For a contract of more than one crore of rupees, the contractor shall, whenever required, produce or cause to be produced for examination by the Engineer any quotation, invoice, cost or other account, book of accounts, voucher, receipt, letter, memorandum, paper of writing or any copy of or extract from any such document and also furnish information and returns verified in such manner as may be required in any way relating to the execution of this contract or relevant for verifying or ascertaining cost of execution of this contract (the decision of the Engineer on the question of relevancy of any documents, information or return being final and binding 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 specification laid down in the contract.

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

(iii) The obligations imposed by subclause (i) and (ii) above is without prejudice to the obligations of the contractor under any statute rules or orders bindings on the contractor.

52. **Withholding and lien in respect of sums claimed.** Whenever any claim or claims for payment of a sum of money arises out of or under the contract against the contractor, the Railways shall be entitled to with hold and also have 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 Railways 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 amounts or amount or if no security has been taken from the contractor, the Railways shall be entitled to withhold and have a lien to the extent of the such calimed amounts or amount referred to supra, from any sum or sums

found payable or which at any time thereafter may become payable to the contractor under the same contract or any other contract with this or any other Railway or any 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 money so withheld or retained under the lien referred to above, by the Railway will be kept withheld or retained as such by 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 compentent 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 purposeof this clause, where the contractor is a partnsership 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 whole or in part from any sum found payable to any pertner/ limited company, as the case may be whether in his individual capacity or otherwise.

52 **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 with held or retained be way of lien by theRailway, 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 department of the Central Government.

It is an Agreed terms 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 mutully settled or determined by arbitration, if the other contrat is governed by arbitration clause or by the competent court as the case may be and contractor shall have no claim for interest or damages whatsoever on this account or on any other ground in respect of any sum of money withheld or retained under this clause and duly notified as such to the contractor.

53. **Signature on Receipt for Amounts** - Every receipt for money which may become payable or for any security which may become transferable to the Contractors under these presents, shall, if signed in the partnership name by any one of the partners of a Contractor's 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 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 representative of any contractor partner so dying, for or in respect of any breach of any of the conditions of the contracat, provided also that nothing in this clause contained shall be deemed to prejudice or effect the repective rights or obligations of the Contractor partners and of the legal representatives of any deceased Contractor partners interse.

LABOUR

54. **Wages to Labour:-** The contractor shall be responsible to ensure compliance with the provision of the Minimum Wages Act, 1948 (Hereinafter referred to as the "said Act" and the Rules made thereunder in respect of any Employees directly or through petty contractors or sub-contractors or subcontractors 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 contracator supplied any labour to be used wholly or partly under the direct order and control of the Railway whether in connection with any work being executed by the Contractor or otherwise for the purpose of the Railway such labour

sh l, for the purpose of this clause, still be deemed to be persons employed by the contractor.

•If any ,money shall, as a result of any claim or application made under the said Act be directed to be paid by Railway, such money 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 sevendays after the same shall have been demanded, the Railways shall be entitled to recover the same form any moneys due or accruing to the contractor under this or any Contract with the Railways.

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

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

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

55. **Provisions of payments of wages Act -** The Contractor shall comply with the provisions of the Payment of Wages Act, 1936 and the rules made thereunder in respect of all employees directly or through petty contractors or sub- contractors employed by him in the works. If in compliance with the terms of the contract, the Contractor directly or through petty contractors or sub-contractors shall supply any labour to be used wholly or partly under the direct orders and control of the Engineer whether in connection with the works to be executed hereunder or otherwise for the purpose of the Engineer such labour shall nevertheless the less be deemed to comprise persons employed by the contractor and any moneys wiich may be ordered to be paid by the Engineer shall be deemed to be moneys payable by the Engineer on behalf of the Contractor and the Engineer may on failure of the contractor to repay such money to the Railways 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 afore said or for costs of expense in connection with any claim\ thereto and the decision of the Engineer upon any question arising out of the effect of force of this clause shall be final and binding upon the contractor.

55 -A (1) **Provision of Contractor labour (Regulation and Abolition) Act, 1970 -** (1) The Contractor shall comply with the provision of the Contract labour (Regulations and Abolition) Act, 1970 and the contractor labour (Regulation and Abolition) Central Rules 1971 as modified from time to time, whereever applicable and shall also indemnify the railway from and against any claims under the afore asaid Act and the Rules.

(2) The contractor shall obtain a valid licence under the afore said Act as modified from time to time before the commencement of the work and continue to have a valid licence untill the completion of the work. Any failure to fulfill the requirement shall attract the penal provision of the contract arising out of the resultant non-execution of the work.

(3) The contractor shall pay to the labour employed by him directly or through sub-contractors the wages as per provision of the aforesaid Act and the rules whereever are aplicable. The contractor shall not withstanding the provision of the Contract to the contrary, cause to be paid the wages to labour indirectly engaged on the works including any engaged by sub-contractors in

connection with the said work, as if the labour had been immmediately employed byhim

(4) In respect of all labour directly or indirectly employed in the work for performance of the contractor's part of the contract, the contract shall comply with or cause to be complied with the provisions of the aforesaid Act and 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 inexecution of the work or to incur any expenditure in providing Welfare and health aminities required to be provided under the aforesaid Act and the Rules to incur any expenditure an account of contingent liability at the Railways due to the contractor's failure to fulfil his statutory obligations so under the aforesaid Act or the rules the Railway will recover from the Contractor the amount of the wages so paid or the amount of expenditure so incurred, and without prejudice to the rights of the Railway under the section 20, sub-section(2) and section 2, 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 Contracator and upon this giving to the Railway full security for all costs for which the Railway might become liable in contesting such claim. The decision of the Railway regarding the amount actually recoverable from the contractor as stated above, shall be final and binding on the contracator.

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 or wherever occuring on the works to the Engineer or the Engineers Representative and shall make every arrangements to render all possible assistance.

57. **Provision of Workmen's Compensation Act.** - In every case in which by virtue of the provisions of Section 12 Sub-section (1) of the Workmen's Compensation Act 1923, Railways is obliged to pay compensation to a workmen directly or through petty contractor or sub-contractor 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, Railways 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 subsection (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 which Railway might become liable in consequence of contesting such calim.

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

58. **Railway not to provide quarters for Contractors** - 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 buildings and equipments therein as well as charges for electric current, water supply and

conservancy.

59. (1) **Labour Camps** - The Contractor shall at his own expense make adequate arrangements for the housing, supply of driking water and provision of latrines, and urinals for his staff and workmen, directly or through the petty contractors or sub-contractors and for temporary creche (Bal-mandir) where 50 or more women are employed at a time. Suitable sites on 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 saniatary conditions by the Contractor at his own cost.

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

(3) **Preservation of peace** - The Contractor shall take requisite precautuions and use his best endeavours to prevent any riotous or unlawful behaviour by or amongst his workmen and other 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 special Police Force at or in the vicinity of the site during the tenure of works, the expenses thereof shall be borne by the Contractor and if paid by the Railway shall be recoverable from the Contrctor.

(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 Engineers's Representative or the Medical Staff of the Railway. Should the Contractor fail to make the adequate sanitary arrangements, these will be provided by the Railway and the cost therefor recovered from the Contractor.

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

(6) **Treatment of Contractor's Staff in Railway Hospital** -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 and charged accordingly. The Contractor's labourers 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, dressing and diet money according to the normal scale and additionbal charges for special examinations such as pathological and becteriological examination, X - Ray,etc., and for surgical 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.

(8) **Use of intoxicants** - The sale of ardent spirits or other intoxicating beverages upon the work or in any of the buildings, encampments or tenements owned, occupied by or within the control of the Contractor or any of his employees shall be forbidden and the Contractor shall

exercise his influence and authority to the utmost extent to secure strict eompliance with this condition.

(9) **Non -employment of female labour** - The Contractor shall see that the employment of female labour in Contonment areas, particularly in the neighbourhood of soliders barracks, should be avoided as far as possible.

(10) **Restrictions on the employment of retired Engineers of Railway services within two years of their retirement** - The contractor shall not, if he is a retired Governament Engineer of Gazetted rank, him self engage in or employ or associate a retired Government Engineer of Gazetted rank, who has not completed two years form the date of retirement, in connecation with this contract in any manner whatsoever without obtaining prior permission of the President and if the contractor is found to have contravened this provision, it will constitute a breach of contracat and administration will be entitled to terminate the contract at the risk and cost of the contractor and forfeit his security deposit.

60 (1) **Non- employment of labourers below the age of 15** - The Contractor shall not employ children below the age of 15 as labourers directly or through petty contractors or sub-contracators for the execution of work.

(2) **Medical Certificate of fitness for labour** - It is agreed that the contractor shall not employ a person above 15 and below 19 years of age for the purpose of execution of work under the contract unless a medical certificate of fitness in the prescribed form (Proforma at Annexure II) granted to him by a certifying surgeon certifying that he is fit to work as an adult is obtained and kept in the custody of the contractor or a person nominated by him in this behalf and the person carries with him, while at work, a token giving a reference to such certificate. It is further agreed that the responsibility for having the adolescent examined medically at the time of appointment or periodically till he attains the age of 19 years shall devolve entirely on the contractor and all the expenses to be incurred on this account shall be borne by him and no fee shall be charged from the adolescent or his parent for such medical examination.

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

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

EXPLANATIONS :

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

(2) The Certifying surgeon may be a medical officer in the service of State or Municipal Corporation.

DETERMINATION OF CONTRACT

61. (1) **Right of Railway to determine the 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 rate specified in the contract. Notice in writing from the Railway of such determination and the reasons there for shall be conclusive evidence thereof.

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

(3) The Contractor shall have no claim to any payment of compensation or otherwise, howsoever on account of any profit or advantage which he might have derived from the execution of the work in full but which he did not derive in consequence of determination of contract.

62. (1) **Determination of contract owing to default of contractor** (1) If the Contractor should.....(i) Become bankrupt or insolvent, or

(ii) make an arrangement with of assignment in favour of his creditor, 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 purpose of amalgamation or reconstruction), or

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

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

(vi) abandon the contract, or

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

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

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

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

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

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

(xiii) (A) At any time after the tender relating to contract has been signed and submitted by the contractor, being a partnership firm admit as one of its partners or employ under it or being an incorporated company elect or nominate or allow to act as one of its directors or employ under it in any capacity whatsoever any retired engineer of the gazetted rank or any other retired gazetted officer working before his retirement, whether in the executive or administrative capacity, or whether holding any pensionable post or not, in the Engineering Department 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 as to the date of retirement of such retired engineer or retired officer from the said service, or as to whether any such retired engineer or retired officer was under the employment of the contractor at the time of submitting the said tender, or

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

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

(d) being 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 or director of such firm or company as the case may be or to seek employment under the contractor.

Then and in any of the said cases, the Engineer on behalf of the Railway may serve the Contractor with a notice (Proforma at Annexure III) in writing to that effect and if the Contractor does not within seven days after the delivery to him to 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 satisfacation of the Engineer, the Railway shall be entitled after giving 48 hours notice (Proforma at Annexure IV) in writing under the hand of the Engineer to rescind the contract as a whole or in part or part (as may be specified in such notice) and adopt either or both of the following courses.

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

(y) to measure up the whole or part of the work from which the contractor has been removed and to get it complete 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 case (x) and (y) mentioned above, the Railway shall be entitled (i) to forfeit the whole or such portion of the security deposit as it may consider fit, and (ii) to recover from the Contractor the cost of carrying out the work in excess of the sum which would have been payable

according to the certificate of the of the Engineer to the Contracator If the works has 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 may 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 powers conferred upon the Railway by subclause (1) of Clause 62 hereof shall have become exercisable and the same shall not be exercised, the non-exercise there of shall not constitute a waiver of any of the conditions thereof and such powers shall not with standing be exercisable in the event of any future case of default by the contracator 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 or any of several of the courses, referred to in sub-clause (1) of this clause, being adpoted.

(a) The Contractor shall have no claim to compensation for any loss sustained by him by reason of his having purchased 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 Contract or shall not be entitled to recover or be paid any sum for any work thereto for actually performed under the contract unless and until the Engineer shall have certified the performance such work and the value payable in respect thereof and the Contractor shall only 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 work 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 any part thereof until the completion of the works without Contractor being entitled 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 ans shall certify what amount (if any) had at the time of rescission of the contract been reasonably eamed 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 Railways shall not be liable to pay to the contractor any moneys on account of the contract until the expiration of the period of maintanence and thereafter until the cost of completion and maintanence, 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 debt due by the contractor to the Railway and shall be recoverable accordingly.

SETTLEMENT OF DISPUTES

63. **Matters finally determined by the Railway** - All disputes and differences of any kind what soever 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 with in 120 days after receipt of contractor's representation make and notify decisions on all matters referred to by the contractor

writing provided that matters for which provisions has been made in clauses 8(a), 18, 22(5), 39, (2) 55,45(A), 55-A (3), 57, 57-A, 61 (1), 61 (2) and 62 (1) (b) of General Conditions of contract in clause of the special conditions of the contract shall be deemed as 'expected matters' and ecision of the Railway authority, thereon shall be final and binding on the contractor provided rther that 'expected matters' shall stand specifically excluded from the purview of the Arbitration ause and not be referred to arbitration .

64 (1) (i) **Demand for Arbitaration** -

In the event of any dispute or difference between the parties hereto as to the construction or eration of this contract, or the respective rights and liabilities of the parties on any matter in estion, dispute or difference on any account or as to the withholding by the Railway of any rtificate to which the contractor may claim to be entitled to, or if the Railway fails to make a cision within 120 days, then and in any such case, but except in any of the 'excpected matters' ferred to in clause 63 of these conditions, the contractor, after 120 days but within 180 days of presenting his final claim on disputed matters, shall demand in writing that the dispute or ference be referred to arbitration.

64 (1) (ii) The demand for arbitration shall specify the matters which are in question or subject the dispute or difference as also the amount of claim item wise. Only such dispute(s) or ference(s) in respect of which the demand has been made, together with counter claims or set shall be reffered to arbitriation and other matters shall not be included in the reference.

64 (1) (ii) (a) The orbitration proceeding shall be assumed to have commenced from the day, a tten and valid demand for arbitration is received by the Railway.

(b) The Claimant shall submit his claim stating the facts supporting the claims along with all evant documents and the relief or remedy sought against each claim with in aperiod of 30 days n the date of appointment of the Arbitral Tribunal.

(c) The Railway shall submit its defence statement and counter claim(s), if any, with in a iod of 60 days of receipt of copy of claims from tribunal thereafter, unless otherwise extention been granted by Tribunal

64(1) (iii) No new claims shall be added during proceedings by either party. However, a party y ammend or supplement the original claim or difference thereof during the course of Arbitration ceedings subject to acceptance by Tribunal having due regard to the delay in making it.

64(1) (iv) If the Contractor(s) does/ donot prefer his/their specific and final claims in writing, n In a period of 90 days of receiving the Intimation from the Railways that the final bill is ready for yment, he/they will be deemed to have waived his / there claim(s) and the Railways shall be charged and released of all liabilities under the Contract in respect of these claims.

64(2) **Obligation during pendency of Arbitaration** - Work under the contract shall, unless erwise directed by the Engineer, continue during the Arbitaration proceedings, and no payment or payable by the Railway shall be with held on account of such proceedings, provided, ever, it shall be open for Arbitral Tribunal to consider and decide whether or not such work uld continue during Arbitaration Proceedings.

64 (3) (a) (i) In cases where the total value of all claims in Question added together does not eed Rupees 10,00,000/- (Rupees Ten Lacs Only), the Arbitral Tribunal consist of a sole Arbitraior shall be either the General manager or Gazetted officer of Railways not below the grade of rade nominated by the General Manager in that behalf. The sole Arbitrator shall be appointed in 60 Days from the day when a written and valid demand for Arbitaration is received by lway.

64 (3) (a) (ii) In cases not covered by clause 64 (3) (a) (i), the Arbitiral Tribunal shall consist of a pannel of three Gazetted Rly. Officers not below JA grade, as the Arbitrators. For this purpose, the Railway will send a pannel of more than 3 names of Gazetted Rly. Officers of one or More departments, of the Rly. to the Contractor who will be asked to suggest to General Manager upto names out of the pannel for appointment as Contractor's nominee. The General Manager shall appoint atleast one out of them as the contractor's nominee and will, also simultaneously appoint the balance number of arbitrators either from the pannel or from outside the pannel, duly indicating the 'Presiding Arbitrator' from amongest 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 SAGrade of other Departments of the Railways for the purpose of appontmaent of Arbitrators.

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 reconstituted Tribunal may, at its direction, proceed with the reference from the stage at which it was left by the previous arbitrator(s).

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

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 oppurtunity to deal with the matters to which the contract relates or who in the course of his/their duties as Railway servent(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 the or more arbitrator had, in the course of his service, opportunity to deal with the matters to which the contractrelates or who in the course of his/their duties expressed views on all or any of the matters under dispute.

64 (3) (b) (i) The arbitral award shall state item wise, the sum and reasons upon which it is based.

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

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.

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 absense of such a majority, the views of the presiding arbitrator shall prevail.

64. 5 Where the arbitral award is for the payment of the money, no interest shall be payable on the sole or any part of the money for any period till the date on which the award is made.

64. 6 The cost of arbitration shall be borne by the respective parties. The cost shall inter-alia include fee of the arbitrator(s) as per the rates fixed by the Railway Administration from time to time.

64. 7 Subject to the provisions of the afore said Arbitration and Conciliation Act, 1996 and the rules there under and any statutory modification thereof shall apply to the arbitration proceedings under this clause.

Annexure 1

REGISTERED ACKNOWLEDGEMENT DUE

..... Dated.....

.....

.....

Sub. (i) .....(name of work)

(ii) Acceptance letter No.....

(iii) Understanding/Agreement No.....

.....

Ref.:.....(Quote specific application of Contractor for extension to the Date 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)

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

3. Please note that an amount equal to the liquidated damages for delay in the completion of the work after the expiry of .....(given here the stipulated date for the completion with/without any penality fixed earlier)will be recovered from you as mentioned in clause 17 (4) of the General Conditions of contract for the extended period, not with standing the grant of this extension. You may proceed with the work accordingly.

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

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

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

Yours faithfully

For and on behalf of the
President of India.

Annexure II

CERTIFICATE OF FITNESS

1. (a) Serial Number.....
   (b) Date .....

2. Name of person examined.....

3. Father's name.....

4. Sex.....

5. Residence.....

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

7. Physical fitness.....

8. Identification mark.....
   .....

9. Reasons for :-

(a) refusal to grant certificate, or (b) revoking the certificate .....

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

.....
initials of certifying surgeon

Serial Number.....
Date.....

I certify that I have personally examined (name.....)

son/daughter of.....
residing at.....

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

His/her identification marks are.....
.....

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

.....
Signature of Certifying Surgeon

Note - In case of physical disability, the exact details of the cause of the physical disability should be clearly stated.

Annexure III

REGISTERED POST, A.D.

.....Railway

To

M/s.....

.....

.....

Dear Sir,

Contract Agreement No.....

In connection with.....

Inspite of repeated instructions to you by subordinate offices as well as by this office in various letters of even No.....dated.....you have failed to start work/show adequate progress of work and / or submit detailed programme for completing the work.

2. Your attention is invited to this office / Chief Engineer's office letter No _____ dated _____ in reference to your representation dated _____

3. As you have failed to abide by the instructions issued to commence the work / to show adequate progress of work you are hereby given 7 days notice in accordance with clause 62 of General Conditions of contract to commence work / to make good the progress, failing which further action as provided in clause 62 of the general conditions of contract Viz. to terminate your contract and complete the work at your risk and cost will be taken.

Kindly acknowledge receipt.

Yours faithfully,

for and behalf of President of India

Eng. Dept/15

Annexure IV

REGISTERED POST A.D.

.....Railway

(without Prejudice)

To

M/s.....

.....

.....

Contract Agreement No.....

in connection with.....

Dear Sir,

Seven days notice under clause 62 of General Conditions of Contract was given to you under this office letter of even Number dated.....but you have taken no action to commence the work/show adequate progress of the work.

(2) your are hereby given 48 hours notice in terms of clause 62 of General Conditions of Contract and on expiry of this period your above contract will stand rescinded and the work under this contract will be carried out at your risk and cost and consequence which may please be noted.

Kindly acknowledge receipt.

Yours faithfully,

for and on behalf of President of India.