



**SOUTH WESTERN RAILWAY**

M&P SECTION,  
Office of the Senior Divisional Mechanical Engineer,  
Mechanical Branch,  
Divisional Railway Manager's Office (3<sup>rd</sup> Floor),  
Bangalore – 560 023.  
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Tender Notice No: SBC-MECH-MNP-EIMWB-MLO-02-2026

**Single Tender Document for the work of:**

“Comprehensive Annual Maintenance contract for Electronic In-Motion Weighbridge (EIMWB) at Malur (MLO) station (Railway owned) for a period of 10 years”

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**Single-Packet system**

**(E-Tendering only)**

**TOP SHEET**

**SOUTH WESTERN RAILWAY**

**MECHANICAL BRANCH**

**BANGALORE DIVISION**

**TENDER NOTICE NO: SBC-MECH-MNP-EIMWB-MLO-02-2026**

**Name of work:** Comprehensive Annual Maintenance contract for Electronic In-Motion Weighbridge (EIMWB) at Malur (MLO) station (Railway owned) for a period of 10 years.

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<b>DATE OF SUBMISSION OF TENDER</b>	<b>23.06.2026</b>
<b>DATE &amp; TIME OF OPENING OF TENDER</b>	<b>13.07.2026</b>
<b>NAME AND ADDRESS OF BIDDER TO WHOM TENDER FORM IS ISSUED</b>	<b>M/s. Digital Weighing Systems (P) Ltd., Plot No. P1 B &amp; C P2, Industrial area, Bilaspur-495223. Chattisgarh.</b>
<b>APPROX. COST OF THE WORK</b>	<b>Rs.25,37,000/- (Inclusive of GST as applicable)</b>
<b>COMPLETION PERIOD OF THE WORK</b>	<b>Ten years</b>

## INDEX

Sl.No	Contents	Pages	
		From	To
1.	Top Sheet	2	
2.	Index	3	
3.	Tender Schedule	4	
4.	Instructions to bidders	5	6
5.	General Conditions of Contract for Services	7	33
6.	Special Terms & Conditions of Contract, Detailed Scope of Work & others	34	40
7.	Acceptance/Deviation Statement Annexure-I	41	
8.	Bid Form Annexure-II	42	45
9.	Undertaking for Down loaded Tender document Annexure-III	46	
10.	Format for furnishing Bank Account Details Annexure-IV	47	
11.	Format for Contract Agreement Annexure-V	48	
12.	Format for Bank Guarantee Annexure-VI	49	50
13.	Format for Affidavit to be uploaded along with tender Annexure-VII	51	
14.	Declaration as per GCC services. Annexure-VIII	52	
15.	Declaration regarding association of Railway officers or retired Railway officers with tenderer(s). Annexure-IX	53	

**(TENDER SCHEDULE)**

**Name of Work /Service:** Comprehensive Annual Maintenance contract for Electronic In-Motion Weighbridge (EIMWB) at Malur (MLO) station (Railway owned) for a period of 10 years.

**Tender Notice No. SBC-MECH-MNP-EIMWB-MLO-02-2026**

**FORM FOR TENDER SCHEDULE OF QUANTITIES & RATES**

<b>SCHEDULE</b>					
<b>Name of the work:</b> Comprehensive Annual Maintenance contract for Electronic In-Motion Weighbridge (EIMWB) at Malur (MLO) station (Railway owned) for a period of 10 years.					
<b>Sl. No.</b>	<b>Description</b>	<b>Qty</b>	<b>Unit</b>	<b>Unit RATE Per year per visit (Rs.)</b>	<b>TOTAL VALUE (Rs.)</b>
1.	CAMC for 1 <sup>st</sup> year	4	Visits	50,000.00	2,00,000.00
2.	CAMC for 2 <sup>nd</sup> year	4	Visits	50,000.00	2,00,000.00
3.	CAMC for 3 <sup>rd</sup> year	4	Visits	50,000.00	2,00,000.00
4.	CAMC for 4 <sup>th</sup> year	4	Visits	50,000.00	2,00,000.00
5.	CAMC for 5 <sup>th</sup> year	4	Visits	50,000.00	2,00,000.00
6.	CAMC for 6 <sup>th</sup> year	4	Visits	57,500.00	2,30,000.00
7.	CAMC for 7 <sup>th</sup> year	4	Visits	57,500.00	2,30,000.00
8.	CAMC for 8 <sup>th</sup> year	4	Visits	57,500.00	2,30,000.00
9.	CAMC for 9 <sup>th</sup> year	4	Visits	57,500.00	2,30,000.00
10.	CAMC for 10 <sup>th</sup> year	4	Visits	57,500.00	2,30,000.00
<b>TOTAL</b>					<b>21,50,000.00</b>
GST 18%					3,87,000.00
<b>GRAND TOTAL for 10 years inclusive of GST 18%</b>					<b>25,37,000.00</b>

Note:- Any special remarks can be made on this page with signature.

Signature of the Bidder  
with seal & date

**Note: Bidder to quote the rate in ireps.gov.in**

- Bidder(s) should quote rates for CAMC of EIMWB at Malur (MLO) for a period of 10 years inclusive of all spares, consumables, labour charges and all applicable taxes, GST & levies, etc.
- GST will be paid on producing the Challans.
- The above work will be subject to the General Conditions of Contract for Services 2018 in force on South Western Railway, as amended from time to time, in addition to the Special terms and conditions as laid down in the Tender Document.

## INSTRUCTIONS TO BIDDERS

### **1.0 Instructions for online bid submission:**

Bidders shall submit their bids electronically through the IREPS portal (<https://www.ireps.gov.in>) using a valid Class-II or Class-III Digital Signature Certificate (DSC). Only registered bidders can participate in the tendering process. Bidders who are not registered shall complete the registration process and obtain a User ID and Password before submitting their bids.

The authorized signatory of the bidder, duly empowered through a valid Power of Attorney (POA), shall use their DSC for downloading the tender document and submitting the bid. All mandatory documents and supporting papers, as specified in the tender document, shall be uploaded online through the IREPS portal before the prescribed closing date and time.

It shall be the bidder's responsibility to ensure successful submission of the bid before the deadline. The Railway Administration shall not be responsible for any delay, technical issues, or non-submission of bids due to any reason.

The tender shall remain valid for a period of **60 days** from the latest date of tender submission. The Railway Administration reserves the right to accept or reject any or all tenders without assigning any reason, and no claim shall lie against the Railway Administration on this account.

#### **IMPORTANCE:**

##### **2.0. Signing of Electronic Tender:**

The Bidder shall digitally sign the tender while quoting the electronic bid, as an expression of acceptance of all the terms and conditions of this Tender, uploaded in IREPS portal. Deviations if any should be brought out and specified clearly by the Bidder and attached to the electronic bid. Format for Acceptance/Deviation Schedule at **Annexure-I**.

##### **3.0. GST:**

3.1. Bidders will examine the various provisions of The Central Goods and Services Tax Act, 2017 (CGST)/Integrated Goods and Services Tax Act, 2017(IGST)/ Union Territory Goods and Services Tax Act, 2017 (UTGST)/respective state's State Goods and Services Tax Act (SGST) also, as notified by Central/State Govt & as amended from time to time and applicable Taxes before bidding, Bidders will ensure that full benefit of Input Tax Credit (ITC) likely to be availed by them is duly considered while quoting rates.

3.2. The successful bidder who is liable to be registered under CGST/IGST/UTGST/SGST Act shall submit GSTIN along with other details required under CGST/IGST/UTGST/SGST Act to railway immediately after the award of contract, without which no payment shall be released to the contractor. The contractor shall be responsible for deposition of applicable GST to the concerned authority.

3.3. In case the successful bidder is not liable to be registered under CGST/IGST/UTGST/ SGST Act, the railway shall deduct the applicable GST from his/their bills under reverse charge mechanism (RCM) and deposit the same to the concerned authority.

4.0 **Method of quoting rates:** The rates, rebates and/or other financial terms, if any, quoted by the bidders in the relevant fields of the Financial Bid page will only be the ruling terms for deciding the inter-se ranking, and any such condition having financial repercussions, if quoted by bidders anywhere else including attached documents shall not be considered for deciding inter-se ranking. However, Railways shall have the right to incorporate any such condition quoted by bidders, in the contract, at their discretion.

##### **5.0. Effect and validity of offer:**

- a. The offer shall be kept valid for a minimum period of **60 calendar days** from the date of closing of tender, within which the bidder will not be entitled to rescind or withdraw his offer.
- b. The submission of any offer connected with the specifications and documents shall constitute an Agreement that the bidder shall have no cause of action or claim against the "Railways" for rejection of his offer. The "Railways" shall always be at liberty to reject or accept any offer or offers at its sole discretion and any such action will not be called into question and the bidder shall have no claim in that regard against the "Railways".

- c. Offers shall be deemed to be under consideration immediately after they are opened and until the official intimation of award of contract is made by the Railways to the bidder. If necessary, the “Railways” will obtain clarification on the offers by requesting for such information from any or all the bidder, in writing as may be considered necessary. Bidder will not be permitted to change the substance of their offers after the offers have been opened.
- 6.0. On behalf of the President of India, Senior Divisional Mechanical Engineer, Bangalore Division, South Western Railway, Bangalore – 560 023 (herein after referred to as “Railways”) invites e-tenders from Original Equipment Manufacturer (OEM)/authorized dealers.
- 7.0. All offers shall be submitted **(through E-Tender)** before the time and date fixed for the receipt of the offers as set forth in the tender notice and corrigendum, if any, thereof. Offers received after the stipulated time and date are liable to be rejected.
- 8.0. The Standard General conditions of contract (Services)- Jan 2018 (issued by Ministry of Railways) with latest correction slips till the date of issuing of NIT for the tender shall be applicable.
- 9.0. **Assistance to bidders**  
Any queries relating to the tender document and the terms and conditions contained therein should be addressed to the Tender Inviting Authority for a tender or the relevant contact person indicated in the tender.  
Any queries relating to the process of online bid submission or queries relating to tender, contact helpdesk of IREPS portal. For all other queries:  
**Addresses for Correspondence:** The addresses of the offices for correspondence in relation to this Tender are furnished here under:  
Office of the Senior Divisional Mechanical Engineer,  
Mechanical Branch, 3<sup>rd</sup> Floor,  
Divisional Railway Manager’s Office  
Bangalore-Division, South Western Railway,  
Bangalore-560023  
E-Mail: [srdmesbc@gmail.com](mailto:srdmesbc@gmail.com)  
**TDC/PG etc., Financial Matters:**  
Senior Divisional Finance Manager,  
Divisional Railway Manager’s Office  
Bangalore division, South Western Railway,  
Bangalore City – 560 023

## GENERAL CONDITIONS OF CONTRACT FOR SERVICES

(As per GCC service 2018)

### I. MEANING OF TERMS

- 1.1 Interpretation:** These shall be subject to modifications additions or suppression by special conditions of contract and/or special specifications, if any, annexed to the Bid Forms.
- 1.2 Definition:** In these General Conditions of Contract, the following terms shall have the meanings assigned hereunder except where the context otherwise requires.  
Examples of earning contracts are running (operating) 4-wheeler / 2-wheeler stands; publicity on platforms / trains etc.; running (operating) various type of stalls on platforms including reservation centres, book-stalls, restaurants, fast-food stalls, tea-stalls etc.
- 1.2.1 Railway** shall mean the President of the Republic of India or the Administrative Officers of the Railway or of the Successor Railway authorized to deal with any matters, which these presents are concerned on her behalf.
- 1.2.2 General Manager (GM)** shall mean the Officer-in-Charge of the general superintendence and control of the Zonal Railway/Production Units and shall also include the General Manager (Construction) and shall mean and include their successors, of the Successor Railway.
- 1.2.3 Chief Manager** shall mean the Officer in charge of the user department i.e. Mechanical/ Commercial/ Operations/ Safety/ Finance/ Health/ Engineering including S & T and Electrical of both Open line and Construction department including production units etc. (for e.g. COM, CCM, CE, CMD etc.) and shall mean and include their successors of the Successor Railway.
- 1.2.4 Divisional Railway Manager (DRM)** shall mean the Officer in charge of a Division of the Zonal Railway and shall mean and include the Divisional Railway Manager of the Successor Railway.
- 1.2.5 Manager** shall mean the Divisional officers or equivalent officers of the user department i.e. Mechanical, Commercial/ Operations/ Safety/Finance/ Health/ Engineering including S&T and Electrical of both Open line and Construction department including production units etc. in executive charge of the works (e.g. Sr DME, Sr DOM, Sr DCM, CMS, Sr DEN etc.) and shall include the superior officers of the same departments and shall mean & include the successors of the Successor Railway.
- 1.2.6 Bidder** shall mean the person/ the firm/ co-operative or company whether incorporated or not who Bids for the services with a view to execute the works on contract with the Railway and shall include their personal representatives, successors and permitted assignees.
- 1.2.7 Limited Bids** shall mean bids invited from all or some contractors on the approved or select list of Contractors with the Railway.
- 1.2.8 Open Bids** shall mean the bids invited in open and public manner and with adequate notice.
- 1.2.9 Works** shall mean the works contemplated for delivery of services as per drawings and schedules set forth in the Bid forms and required to be executed according to the specifications.
- 1.2.10 Service** means any subject matter of procurement other than goods or works, except those incidental or consequential to the service, and includes physical, maintenance, housekeeping, professional, intellectual, training, consultancy and advisory services or any other service classified or declared as such by a procuring entity but does not include appointment of an individual made under any law, rules, regulations or order issued in this behalf.
- 1.2.11 Earning Contract** means a contract in which the contractor makes payment to Railway for some notified activity, i.e. where Railway gets some earning by awarding the contract. Examples of earning contracts are running (operating) 4-wheeler / 2-wheeler stands; publicity on platforms / trains etc.; running (operating) various type of stalls on platforms including reservation centres, book-stalls, restaurants, fast-food stalls, tea-stalls etc."
- 1.2.12 Specifications** shall mean the Standard Specifications for Materials & Services of Railway as specified by Railway under the authority of the Ministry of Railways or the Chief Manager or as amplified, added to or superseded by Special Specifications, if any or as specified in the Bid document.
- 1.2.13 Schedule of Rates of the Railway (SOR)** shall mean the Schedule of Rates issued under the competent authority from time to time.

- 1.2.14 Drawings** shall mean the maps, drawings, plans, tracings or prints thereof annexed to the contract and shall include any modifications of such drawings and further drawings as may be issued by the Manager from time to time.
- 1.2.15 Contractor** shall mean the Person/Firm/Co-operative Society or Company whether incorporated or not who enters into the contract with the Railway and shall include their executors, administrators, successors and permitted assignees.
- 1.2.16 Contract** shall mean and include the Agreement of Work Order, the accepted Schedule of Rates or the Schedule or Rates of Railway modified by the Bid 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 Bid Forms, if any.
- 1.2.17 Tools and plants** shall mean all appliances or things of whatsoever nature required for the execution, completion or maintenance of the services.
- 1.2.18 "Temporary Works"** shall mean all temporary works of every kind required for the execution completion and/or maintenance of the services.
- 1.2.19 Site** shall mean the lands, spaces, trains and other places on, under, in or through which the services are to be carried out and any other lands or places provided by the Railway for the purpose of the contract.
- 1.2.20 Period of Maintenance** shall mean the specified period of maintenance from the date of completion of the works, as certified by the Manager.
- 1.2.21 Two Bid System / Two Packet System** shall mean a system of bid evaluation where there is simultaneous receipt of separate technical and financial bids. The technical evaluation of bids is completed first and the financial bids of only the technically responsive bids are opened, for further evaluation. This is the standard method to be adopted.
- 1.2.22 Quality and Cost Based Selection** shall mean a system of bid evaluation where weightages are assigned to technical and financial criteria, wherein higher weightage is assigned to technical criteria based on the importance of quality of consultancy services sought. The evaluation is made on the basis of combining the weighted scores for technical and financial criteria.
- 1.2.23 Singular and Plural:** Words importing the singular number shall also include the plural and vice versa, where the context requires.
- 1.2.24 Headings and Marginal Headings:** The headings and marginal headings these general conditions are solely for the purpose of facilitating reference and shall not be deemed to be part thereof or be taken into consideration in the interpretation or construction thereof or the contract.
- 1.2.25 Use of Personal Pronouns:** The form of personal pronouns adopted in this document in relation to bidders is 'she', 'her' etc. It shall be deemed to signify/include all persons (and objects) irrespective of the gender/sex.
- 1.2.26 Senior Divisional Mechanical Engineer (Sr.DME)** shall mean the Officer-in-Charge of the Mechanical Department of the Division.
- 1.2.27 "Engineer"** shall mean the Senior Divisional Mechanical Engineer/ Sr. DME.
- 1.2.28 "Engineers/Manager's representative"** shall mean the Representative nominated by Sr.DME.
- 1.2.29 The "Railway Administration"** means Indian Railways, South Western Railway acting through Senior Divisional Mechanical Engineer/Sr. DME, Bangalore Division, South Western Railway, Bangalore-23, on behalf of the President of India.
- 1.2.30 The "Inspecting officer"/ "Inspector"** means the official, firm or department nominated by the "Railway Administration" to inspect the work on his behalf and the deputies of the inspecting officer so nominated.
- 1.2.31 "Specification"** shall mean specification for materials and works, Indian Railways issued under the authority of Sr.DME/SBC or as amplified, added to or suppressed by special specifications, if any, appended to the tender form.
- 1.2.32 "GCC for services"** shall mean General Conditions of Contract for services 2018 and later, if any along with all amendments / corrections as on date.

## II. ELIGIBILITY OF BIDDERS AND BID EVALUATION

### 2.1 Elements of Service Contracts and Procedures thereof

- 2.1.1 Essential elements of a Service Contract:** Service contracts are generally defined by scope, (e.g., services expressed in terms of functions, processes, activities, or projects), governance (e.g., decision powers, roles and responsibilities), operations (e.g., day-to-day operating procedures), financial arrangements (e.g., fee



structures, settlement arrangements), performance (e.g., expected outputs, levels of service, reporting) and implementation (e.g., activities, timelines, level of effort). Quality of services and timely availability of services is essential for the satisfactory performance of a Service Contract. Bids/ Tenders have to be framed in such a manner in which these basic elements are ensured.

### III. DOCUMENTATION

#### 3.1 Bid (Tender) Form

Bid (Tender) Forms shall embody the contents of the contract documents either directly or by reference and shall be as per specimen form, **Annexure II**.

MSEs registered with District Industries Centers, Khadi and Village Industries Commission, Khadi and Village Industries Board, Coir Board, National Small Industries Corporation, Directorate of Handicraft and Handloom, any other body specified by Ministry of MSME or Startups as recognized by Department of Industrial policy & Promotion shall be supplied such Bid documents free of cost on confirmation (photocopy/ Xerox copy) of their evidence to this effect.

#### 3.2 Omissions & Discrepancies.

Should a Bidder find discrepancies in or omissions from the drawings or any of the Bid Forms or should she be in doubt as to their meaning, she should at once notify the authority inviting Bidders who may send a written instruction to all the Bidders. It shall be understood that every endeavour has been made to avoid any error which can materially affect the basis of tender and successful Bidder shall take upon herself and provide for the risk of any error which may subsequently be discovered and shall make no subsequent claim on account thereof.

#### 3.3 Earnest Money.

**3.3.1** The Bidder shall be required to deposit earnest money with the Bid for the due performance with the stipulation to keep the offer open till such date as specified in the Bid, under the conditions of Bid. The earnest money shall be as under -

Value of The Work		Earnest Money Deposit (EMD)
a)	For works estimated to cost up to Rs. 1 crore.	2% of the estimated cost of the work
b)	For works estimated to cost more than Rs. 1 crore.	Rs. 2 lakh plus ½% (half percent) of the excess of the estimated cost of work beyond Rs.1 crore subject to a maximum of Rs. 1 crore

#### Note:

- The earnest money shall be rounded to the nearest Rs.10. This earnest money shall be applicable for all modes of Bidding.
- EMD shall be submitted through **any one** of the following instruments, drawn in favor of “**Senior Divisional Finance Manager, Bangalore, South Western Railway**”, payable at **Bangalore**, and issued by a **Nationalised Bank or Scheduled Bank**:
  - Account Payee Demand Draft
  - Banker’s Cheque
  - Fixed Deposit Receipt (FDR)
  - Irrevocable Bank Guarantee (BG)
  - The bidder shall upload a scanned copy / proof of the EMD instrument along with the bid. The bidder shall also ensure that the original hard copy of the EMD instrument (Except BG) is delivered to the Buyer within 05 (five) working days from the Bid End Date / Bid Opening Date, as applicable.
  - The original Bank Guarantee should be delivered in person to the official nominated as indicated in the tender document before closing date for submission of bids. (i.e. excluding the last date of submission of bids).
- MSEs registered with District Industries Centres, Khadi and Village Industries Commission, Khadi and Village Industries Board, Coir Board, National Small Industries Corporation, Directorate of Handicraft and Handloom, any other body specified by Ministry of MSME or Startups as recognized by Department of Industrial policy & Promotion shall be exempted from payment of minimum EMD detailed in the bid.

**3.3.2** It shall be understood that the Bid documents have been sold/issued to the Bidder and the Bidder is permitted to bid in consideration of stipulation on their part, that after submitting her Bid she will not resile from her/their offer or modify the terms and conditions thereof in a manner not acceptable to the Manager. Should the Bidder fail to observe or comply with the said stipulation, the aforesaid amount shall be liable to be forfeited to the Railway.

**3.3.3** If her Bid is accepted, this earnest money mentioned in sub clause 3.3.1 above will be returned to the successful bidder after the submission and verification of the Performance Guarantees as per clause **4.11** of this General Conditions of Contract. The Earnest Money of other Bidders shall, save as herein before provided, be returned to them, but the Railway shall not be responsible for any loss or depreciation that may happen thereto while in their possession, nor be liable to pay interest thereon.

**3.3.4** The Earnest Money should be demanded in the form and manner as per the latest Instructions issued by the Railway Board from time to time.

#### **3.4 Care in Submission of Bids**

**3.4.1** Before submitting a Bid, the Bidder shall be deemed to have satisfied herself by actual inspection of the site and locality of the services, that all conditions liable to be encountered during the delivery of the services are taken into account and that the rates she enters in the Bid forms are adequate and all-inclusive to accord with the provisions in **Clause — 4.42** of the General Conditions of Contract for the delivery of services to the entire satisfaction of the Manager.

**3.4.2** When the service is bid for, by a firm or a company of contractors, the Bid shall be signed by the individual legally authorized to enter into commitments on their behalf.

**3.4.3** Railway shall not be bound by any power of attorney granted by the Bidder or by changes in the composition of the firm made subsequent to the execution of the contract. It may, however, recognize such power of attorney and changes after obtaining proper legal advice, the cost of which will be chargeable to the contractor.

#### **3.5 Execution of Contract Document.**

The Bidder whose bid is accepted shall be required to appear in person at the office of concerned Manager, as the case may be, or if a firm or corporation, a duly authorized representative shall so appear and execute the contract document within 7 days after receipt of notice issued by the Railway that such documents are ready; and failure to do so shall constitute a breach of the agreement affected by the acceptance of the bid in which case the Railway may determine that such Bidder has abandoned the contract and there upon her bid and acceptance thereof shall be treated as cancelled and the Railway shall be entitled to forfeit the full amount of the Earnest Money of the bid and performance guarantees for the bid available with the Railway.

#### **3.6 Form of Contract Document.**

Every contract shall be complete in respect of the document it shall so constitute. Not less than 3 copies of the contract document shall be signed by the competent authority and the contractor — one copy given to the contractor, one copy for the finance department and one copy for the contract manager. The form of contract document shall be provided in the tender/bid documents for every individual work.

**Specimen Bid and Agreement forms are placed at [Annexure – II](#) and [Annexure – III](#)**

### **IV. GENERAL OBLIGATIONS**

#### **4.1 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 anyone shall be as binding as if called for by all, the intention of the

documents is to include all labour and materials, equipment and transportation necessary for proper execution of the services. Materials or works/services 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/services described in words which so applied have a well-known technical or trade meaning shall be held to refer to such recognized standards.

**4.1.1** If a service is transferred from the jurisdiction of one Railway to another Railway or to a 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 corresponding officer or the Competent Authority in the Successor Railway/Project will exercise the same powers and enjoy the same authority as conferred to the Predecessor Railway/Project under the original contract/agreement entered into.

**4.1.2** If for administrative or other reasons the contract is transferred to the Successor Railway, the contract shall, notwithstanding any things contained herein contrary there to, be binding on the Contractor and the Successor Railway in the same manner and take effect in all respects as if the Contractor and the Successor Railway had been parties thereto from the date of this contract.

## **4.2 Law Governing the Contract**

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

### **4.2.1 Compliance to Regulations and Bye-Laws**

The Contractor shall conform to the provision of any statute relating to the services and regulations and bye-laws of any local authority and of any water, drainage and lighting companies or undertakings, with whose system the services are proposed to be provided and shall before making any variation from the drawings or the specifications that may be necessitated by so confirming give to the Manager notice specifying the variation proposed to be made and the reason for making the variation and shall not carry out such variation until she has received instructions from the Manager 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.

### **4.2.2 Communications to be in Writing**

All notices, communication, reference and complaints made by the Railway or the Manager or the Manager's Representative or the Contractor *inter se* concerning the works/ services shall be in writing and no notice, communication, reference or complaint not in writing shall be recognized.

## **4.3 Service of Notices on Contractors**

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

## **4.4 Occupation and Use of Land**

No land belonging to or in the possession of the Railway shall be occupied by the Contractor without the permission of the Railway. The Contractor shall not use, or allow to be used, the site for any purposes other than that of executing, or in relation to the execution of the services.

## **4.5 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 7.4 of these Conditions and also render the contractor liable for payment to the Railway in respect of any loss or damage arising or ensuing from such cancellation. The permitted subletting of services 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.

#### **4.6 Railway Passes**

No free Railway passes shall be issued by the Railway to the Contractor or any of her employees/ workers. Wherever required 'authority for entering restricted area' or 'authority for on board services' shall be provided.

#### **4.7 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 services and the contractor shall pay full freight charges at public tariff rates therefor.

#### **4.8 Representation on Site**

The Contractor shall, when she is not personally present on the site of the work place, keep a responsible agent during working hours who shall on receiving reasonable notice, present herself to the Manager, and orders given by the Manager or the Manager's representative to the agent shall be deemed to have the same force as if they had been given to the Contractor. Before absenting herself, the Contractor shall furnish the name and address of her agent for the purpose of this clause and failure on the part of the Contractor to comply with this provision at any time will entitle the Railway to rescind the contract under Clause 7.4 of these Conditions.

#### **4.9 Relics, Treasures, Lost and Found**

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

#### **4.10 Indemnity by Contractors**

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

#### **4.11 Performance Guarantee**

**4.11.1** Performance guarantee at a rate of 5% of the contractual value shall be deposited by the successful bidder. The successful bidder shall have to submit a Performance Guarantee (PG) valuing 5% of the contract value in four separate parts of 1.25 % each of the contract value, within 30 (thirty) days from the date of issue of Letter of Acceptance (LOA). Extension of time for submission of PG beyond 30 (thirty) days and up to the date of submission of PG from the date of issue of LOA may be given by the Authority who is competent to sign the contract agreement. However, a penal interest of 15% per annum shall be charged for the delay beyond 30 (thirty) days, i.e. from 31<sup>st</sup> day after the date of issue of LOA. In case the contractor fails to submit the requisite PG after 60 days from the date of issue of LOA, a notice shall be served to the contractor to deposit the PG immediately however not exceeding 90 days from the date of issue of LOA. In case the contractor fails to submit the requisite PG even after 90 days from the date of issue of LOA, the contract shall be terminated duly forfeiting EMD and other dues, if any payable against that contract. The failed contractor shall be debarred from participating in re-tender for that work. In case 90<sup>th</sup> day is a bank holiday or office closure next working day should be considered as the last day for submission of the PGs. Decision of Authority competent to sign the Contract Agreement would be final in case of any dispute.

**4.11.2** The value of PG to be submitted by the, contractor will not change for variation upto 25% (either increase or decrease). In case during the course of execution, value of the contract increases by more than 25% of the original contract value, an additional Performance Guarantee amounting to 05% (five percent) for the excess value over the original contract value shall be deposited in four equal parts by the contractor. On the other hand, if the value of Contract decreases by more than 25% of the original contract value, Performance guarantee amounting to 5% of the decrease in the contract value shall be returned to contractor. The PG amount in excess of required PG for decreased contract value, available with railways shall be returned to the contractor duly safeguarding the interest of Railways.

**4.11.3** The applicable Performance Guarantee shall be calculated as per the revised value of the contract covering all variations up to the determination of the contract.

**4.11.4** If the penalty imposed exceeds 50% of the applicable maximum penalty (as per the revised value of the contract), a PG equivalent to 25% of the applicable PG shall be forfeited. If the penalty imposed exceeds 75% of the applicable Penalty, a PG equivalent to 50% of the applicable PG shall be forfeited. The PGs shall be encashed after the completion of the contract.

**4.11.5** The successful bidder shall submit the Performance Guarantees (PG) in any of the following forms, amounting to 5% of the contract value —

- a. A deposit of cash;
- b. Irrevocable Bank Guarantee;
- c. Government Securities including State Loan Bonds at 5% below the market value;
- d. Deposit Receipts, Pay Orders, Demand Drafts and Guarantee Bonds. These forms of Performance Guarantee could be either of the State Bank of India or of any of the Nationalized Banks;
- e. Guarantee Bonds executed or Deposits Receipts tendered by all Scheduled Banks;
- f. A Deposit in the Post Office Saving Bank;
- g. A Deposit in the National Savings Certificates;
- h. Twelve years National Defence Certificates;
- i. Ten years Defence Deposits;
- j. National Defence Bonds and
- k. Unit Trust Certificates at 5% below market value or at the face value whichever is less.

Also, FDR in favour of **SENIOR DIVISIONAL FINANCE MANAGER/SOUTH WESTERN RAILWAY/BANGALORE (Sr.DFM/SBC/SWR)** (free from any encumbrance) may be accepted.

**Note** - The instruments as listed above will also be acceptable for Guarantees in case of Mobilization Advance.

**4.11.6** The Performance Guarantees shall be submitted by the successful bidder after the Letter of Acceptance (LOA) has been issued, but before signing of the contract agreement. These PGs shall be initially valid up to the stipulated date of completion and maintenance period, if any plus 60 days beyond that. In case, the time for completion of service gets extended, the contractor shall get the validity of PGs extended to cover such extended time for completion and maintenance period, if any of service plus 60 days.

**4.11.7** The Performance Guarantees (PGs) shall be released after physical completion of the work/ service delivery based on 'Completion Certificate' issued by the competent authority stating that the contractor has completed the assigned services in all respects satisfactorily and passing of final bill based on "No Claims Certificate" from the contractor. In case any contract provides for warranty/ maintenance clause then 25 % of the Performance Guarantee would be retained till the warranty/ maintenance period is over and a certificate to that effect is issued by the Manager.

**4.11.8** Whenever the contract is rescinded, the Performance Guarantees shall be encashed/ forfeited. The balance work or services for the same shall be got done independently without risk & cost of the failed contractor. The failed contractor shall be debarred for a period of 2 years from the date of such rescindment from participating in the bid which includes delivery of balance services of failed contract. If the failed contractor is a Partnership firm, then every member/ partner of such a firm shall be debarred for a period of 2 years from the date of such rescindment from participating in the bid which includes delivery of balance services of failed contract in his/her individual capacity.

**4.11.9** The Manager shall not make a claim under the Performance Guarantee except for amounts to which the President of India is entitled under the contract (not withstanding and/or without prejudice to any other provisions in the contract agreement) in the event of —

- a. Failure by the contractor to extend the validity of the Performance Guarantee as described herein above, in which event the Manager may claim the full amount of the Performance Guarantee.

- b. Failure by the contractor to pay President of India any amount due, either as agreed by the contractor or determined under any of the Clauses/Conditions of the Agreement, within 30 days of the service of notice to this effect by Manager.
- c. The Contract being determined or rescinded under provision of the GCC, the Performance Guarantee shall be forfeited in full and shall be absolutely at the disposal of the President of India.

#### **4.12 Force Majeure**

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 7 days from the date of occurrence thereof, neither party shall by reason of such event, be entitled to terminate this contract nor shall either party have any claim for damages against the other in respect of such non-performance or delay in performance, and works/ services 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 Manager as to whether the works/ services have been so resumed or not shall be final and conclusive, PROVIDED FURTHER that if the performance in whole or in part of any obligation under this contract is prevented or delayed by reason of any such event for a period exceeding 120 days, either party may at its option terminate the contract by giving notice to the other party.

#### **4.13 Illegal Gratification**

**4.13.1** Any bribe, commission, gift or advantage given, promised or offered by or on behalf to the Contractor or her partner, agent or servant or, anyone on her behalf, to any officer or employee of the Railway, or to any person on her behalf in relation to obtaining or execution of this or any other contract with the Railway shall, in addition to any criminal liability which she may incur, subject 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.

**4.13.2** The Contractor shall not lend or borrow from or have or enter into any monetary dealings or transactions either directly or indirectly with any employee of the Railway and if she 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 she shall consider fit & sufficient and her decision shall be final & conclusive. In the event of rescission of the contract under this Clause, the Contractor will not be paid any compensation whatsoever except payments for the work/ services rendered up to the date of rescission.

#### **4.14 Contractor's Understanding**

It is understood and agreed that the Contractor has, by careful examination, satisfied herself as to the nature, scope and location of the services, the type I character of equipment and facilities needed preliminary to, and during the progress of the services, the general and local conditions, the labour conditions prevailing therein and all other matters which can in any way affect the services under the contract.

#### **4.15 Commencement of Services**

The Contractor shall commence the services within 15 days (unless specified otherwise) after the receipt by her of an order in writing to this effect from the Manager or as directed by the Manager and shall proceed with the same with due expedition and without delay.

#### **4.16 Accepted Programme**

The Contractor shall submit schedule of delivery of services, the details of organization (in terms of labour and supervisors) plant and machinery that she intends to utilize (from time to time) for execution of the services. The programme of delivery of services amended as necessary by discussions with the Manager, shall be treated as the agreed programme of the delivery of services for the purpose of this contract and the contractor shall endeavor to fulfill this programme of delivery of services. The progress of delivery of services shall be watched accordingly.

#### **4.17 Compliance to Manager's instructions**

The Manager shall direct the order in which the several components of the services shall be provided and the Contractor shall execute without delay all orders given by the Manager from time to time; but the Contractor shall not be relieved thereby from responsibility for the due performance of the services in all respects.

**4.17.1** In cases, where performance or/and quality of services is/are found to be dissatisfactory, Manager or his representatives shall impose penalty as mentioned in bid document, subject to cumulative penalty for such dissatisfactory performance or/and quality of services does not exceeds 10% of original contract value or as prescribed in the bid document.

#### **4.18 Alterations to be Authorized**

No alterations in or additions to or omissions or abandonment of any part of the services shall be deemed authorized, except under instructions from the Manager, and the Contractor shall be responsible to obtain such instructions in each and every case in writing from the Manager.

#### **4.19 Extra Services.**

Should services over and above those included in the contract require to be provided at the site, the contractor shall have no right to be entrusted with the execution of such works/services which may be carried out by another contractor or contractors or by other means at the option of the Railway.

#### **4.20 Separate Contracts in Connection with Services**

The Railway shall have the right to let other contracts in connection with the works/services. The Contractor shall afford other contractors' reasonable opportunity for the storage of their materials and the execution of their works/services and shall properly connect and coordinate her work/services with theirs. If any part of the Contractors works/services depends for proper execution or result upon the works/services of another contractor(s), the Contractor shall inspect and promptly report to the Manager any defects in such works/ services 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 her services, except as to defects which may develop in the other contractor's work after the execution of her work.

#### **4.21 Instructions of Manager's Representative**

Any instructions or approval given by the Manager's representative to Contractor in connection with the services shall bind the Contractor as though it had been given by the Manager provided always as follows —

- a. Failure of the Manager's representative to disapprove any work/ services or materials shall not prejudice the power of the Manager thereafter to disapprove such services or material and to order the rectification thereof.
- b. If the Contractor shall be dissatisfied by reason of any decision of the Manager's representative, she shall be entitled to refer the matter to the Manager who shall there upon confirm or vary such decision.

#### **4.22 Adherence to Specifications and Drawings**

The whole of the works/ services shall be executed in perfect conformity with the specifications and procedures (and drawings, wherever applicable) of the contract. If Contractor performs any act in a manner contrary to the specifications or drawings or any of them and without such reference to the Manager, she shall bear all the costs arising or ensuing there from and shall be responsible for all loss to the Railway.

**4.22.1 Drawings and Specifications of the Works:** The Contractor shall keep one copy of procedures and Specifications at the site, in good order, and such contract documents as may be necessary, available to the Manager or the Manager's Representative.

**4.22.2 Ownership of Proprietary Information and Specifications:** All procedures, documents, drawings, processes and specifications and copies thereof furnished by the Railway to the Contractor are deemed to be the property/ proprietary information of the Railway. They shall not be copied, distributed, published, used in any form or on other services. With the exception of the signed contract set, all such documentation in hard copy or soft copy format and other material, shall be returned by the Contractor to the Railway, on completion/ termination of the Contract.

**4.22.3 Compliance with Contractor's Request for Details:** The Manager shall furnish with reasonable promptness, after receipt by her of the Contractor's request for the same, additional instructions by means of procedures, specifications or otherwise, necessary for the proper execution of the services or any part thereof. All such procedures, specifications and instructions shall be consistent with the Contract Documents and reasonably inferable therefrom.

**4.22.4 Meaning and Intent of Specification and Drawings:** If any ambiguity arises as to the meaning and intent of any portion of the procedures, specifications and drawings or as to execution or quality of any services or material, or as to the measurements of the services the decision of the Manager thereon shall be final subject to the appeal (within 7 days of such decision being intimated to the Contractor) to the Chief Manager who shall have the power to correct any errors, omissions, or discrepancies in aforementioned items and whose decision in the matter in dispute or doubt shall be final and conclusive.

#### **4.23 Working Timings**

The Contractor shall have to carry out any required services round the clock as per directions of the Manager/ Manager's representative.

#### **4.24 Damage to Railway Property or Private Life and Property:**

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

#### **4.25 Sheds, yards and Store Houses**

The Contractor shall at her own expense provide herself with sheds, yards and storehouses in such situations and in such numbers as in the opinion of the Manager is requisite for carrying on the services and the Contractor shall keep at each such sheds, yards and store-houses a sufficient quantity of materials / plant in stock as not to delay the carrying out of the services with due expedition and the Manager and the Manager's representative shall have free access to the said sheds/yards/ store houses 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 Manager may object to shall not be brought upon or used in the services, but shall be forthwith removed from the sheds/yards/store houses by the Contractor.

#### **4.26 Provision of Efficient and Competent Staff at Sites by the Contractor.**

**4.26.1** The Contractor shall maintain efficient and competent staff to give the necessary directions to her workers and to see that they provide their services in proper and desirable manner and shall employ only such supervisors, workers & labour in or about the execution of any of these services as are careful and skilled in the various trades. Daily record of such supervisors and labour shall be maintained.

**4.26.2** The Contractor shall at once remove from the site any agents, permitted subcontractor, supervisor, worker or labour who shall be objected to by the Manager. If and whenever required by the Manager, she shall submit a correct return showing the names of all staff and workers employed by her.

**4.26.3** In the event of the Manager being of the opinion that the Contractor is not employing on the services a sufficient number of staff and workers as is specified or otherwise for proper execution of the services within the



prescribed procedure and time, the Contractor shall forthwith on receiving intimation to this effect deploy the additional number of staff and labour as specified by the Manager immediately and failure on the part of the Contractor to comply with such instructions will entitle the Railway to rescind/ penalize the contract under suitable clauses of these/special conditions.

#### **4.26.4 Deployment of Qualified Supervisors by the Contractor**

- (a) The contractor shall also employ qualified supervisors based on value of the contract and the extent of services as prescribed in the Bid documents as 'Special Conditions of Contract' by the Tender Inviting Authority.
- (b) In case the contractor fails to employ the supervisor, as aforesaid in the above paragraph, she shall be liable to pay penalty at the rates, as may be prescribed by the Ministry of Railways through separate instructions from time to time for the default period for the provisions, as contained in this section or as provided for in the bid document.
- (c) Number of qualified supervisors required to be deployed by the Contractor for various activities contained in the service contract shall be specified in the tender documents by the tender inviting authority.

#### **4.27 Skilled Labour/ Expertise and Testing**

The whole of the services 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 workers with expertise and in a workman like manner with materials of the best and most approved quality of their respective kinds, agreeable to the particulars contained in or implied by the specifications and as referred to in and represented by the drawings or in such other additional particulars, instructions and drawings may be found requisite to be given during the carrying on of the services and to the entire satisfaction of the Manager according to the instructions and directions which the Contractors may from time to time receive from the Manager. The materials may be subjected to tests by means of such machines, instruments and appliances as the Manager may direct and wholly at the expense of the Contractor.

#### **4.28 Removal of Improper Materials/ Tools and Plant**

The Manager or the Manager'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 their opinion are not in accordance with the procedures/ specifications.
- (b) The substitution of proper and suitable materials/ tools and plants, and
- (c) 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 7.4 of these conditions.

#### **4.29 Facilities for Inspection**

The Contractor shall afford the Manager and the Manager's Representative every facility for entering in and upon every portion of the site at all hours for the purpose of inspection or otherwise and shall provide all facilities of every kind required for the purpose and the Manager and the Manager's Representative shall at all times have free access to every part of the site and to all places at which materials / tools and plant for the services are stored or being prepared.

#### **4.30 Temporary Works:**

All temporary works necessary for the proper execution of the services shall be provided and maintained by the Contractor and subject to the consent of the Manager shall be removed by her at her expenses when they are no longer required, and in such manner, as the Manager shall direct. In the event of failure on the part of the Contractor to remove the temporary works, the Manager will cause them to be removed and cost as increased by supervision and other incidental charges shall be recovered from the Contractor. If temporary huts are provided by the Contractor on the Railway land for labour engaged by her for the execution of services, the contractor shall arrange for handing over vacant possession of the said land after the service is completed; if the contractor's labour refuse to vacate, and have to be rejected by the Railway, necessary expenses incurred by the Railway in connection therewith shall be borne by the Contractor.

#### **4.31 Contractor to Supply Water for Works/ Services**

4.31.1 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 services from the Railway's existing water supply system at or near the site of services on specified terms and conditions and free of cost (**unless specified otherwise**), provided that the Contractor shall arrange, at her 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.

4.31.2 In case the Railway is unable to provide water for the services, the contractor shall be responsible for the arrangements of supply of water necessary for the services.

#### **4.32 Contractor to Arrange Supply of Electric Power for Services**

4.32.1 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 services from the Railway's existing electric supply systems on specified terms and conditions free of cost (**unless otherwise specified**) only for the services rendered provided the cost of arranging necessary connections 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.

4.32.2. In case the Railway is unable to provide electricity for the services, the contractor shall be responsible for the arrangements of supply of electricity necessary for the services.

#### **4.33 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 services and intended to be used for the execution thereof shall immediately, as 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 services are rejected by the Manager under Clause 4.25 of these conditions or are declared by her not to be needed for the execution of the services 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

#### **4.34 Tools, Plant and Materials Supplied by Railways**

The Contractor shall take all reasonable care of all tools, plant and materials or other property whether of a like description or not belonging to the Railway and committed to her charge for the purpose of the services and shall be responsible for all damage or loss caused by her, her agents, permitted subcontractor, or her workers or others while they are in her charge. The Contractors shall sign accountable receipts for tools, plants and materials made over to her by the Manager and on completion of the services shall hand over the unused balance of the same to the Manager in good order and repair, fair wear and tear excepted, and shall be responsible for any failure to account for the same or any damage done thereto.

#### **4.35 Hire of Railways' Plant**

The Railway may hire to the Contractor such plant/ machinery as DG sets, portable engines, pumps etc. for use during execution of the services on such terms as may be specified in the special conditions or in a separate agreement for Hire of Plant.

#### **4.36 Precaution During Progress of Services**

During the execution of services, unless otherwise specified, the Contractor shall at her own cost provide the materials for and execute all services as is necessary for the safety, hygiene, satisfaction, elegance, acceptance, proper handling of assets and shall ensure that no damage, injury or loss is caused or likely to be caused to any person or assets or hindrance to other works / services.

#### **4.37 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 Manager. All compensations claimed for any unauthorized closure, cutting through, alteration, diversion or obstruction to such roads or water courses by the Contractor or her agent or her staff shall be recoverable from the Contractor by deduction from any sums which may become due to her in terms of contract, or otherwise according to law.

#### **4.38 Provision of Access to Premises**

During progress of services in any street or thoroughfare, the Contractor shall make adequate provision for the passage of traffic, for securing safe access to all premises approached from such street or thoroughfare and for any drainage, water supply or means of lighting which may be interrupted by reasons of the execution of the services and shall react and maintain at her own cost barriers, lights and other safeguards as prescribed by the Manager, for the regulation of the traffic, and provide watchers necessary to prevent accidents.

#### **4.39 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, such persons as may, in the opinion of the Manager, be required to comply with regulations appertaining to the service.

#### **4.40 Use of Explosives**

No explosives shall be used for the services rendered or on the site by the Contractor.

#### **4.41 Suspension of Services**

**4.41.1** The Contractor shall on the order of the Manager, suspend the progress of the services or any part thereof for such time or times and in such manner as the Manager may consider necessary, and shall during such suspension, properly protect and secure the work so far as is necessary in the opinion of the Manager.

If such suspension is —

- i) Provided for in the contract, or
- ii) Necessary for the proper execution of the services or by the reason of extraneous conditions or by some default on the part of the Contractor, and or
- iii) Necessary for the safety of the services or any part thereof.

**4.41.2** The Contractor shall not be entitled to the extra costs, if any, incurred by her during the period of suspension of the service, but in the event of any suspension ordered by the Manager for reasons other than aforementioned and when each such period of suspension exceeds 14 days, the Manager shall extend the time of service for completion of the services as the Manager may consider proper, having regard to the period or periods of such suspensions and to such compensations as the Manager may consider reasonable in respect of salaries or wages paid by the Contractor to her employees/ workers during the periods of such suspension.

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

#### **4.42 Rates for Items of Services**

The rates, entered in the accepted Schedule of Rates of the Contract are intended to provide for services duly and properly completed in accordance with the General and Special (if any) Conditions of the Contract and the Specifications/ procedures specified in the contract document including drawings wherever applicable along with all labour, materials, tools, and plants etc.

**4.42.1 Rates for Extra Items of Services:** Any additional item of work carried out by the Contractor on the instructions of the Manager which is not included in the accepted Schedules of Rates shall be executed at the rate agreed upon between the Manager and the Contractor before the execution of such items of work.

The Contractors shall be bound to notify the Manager at least seven days before the necessity arises for the execution of such items of works that the accepted Schedule of Rates does not include rate or rates for the extra work involved.

The rates payable for such items shall be decided at the meeting to be held between the Manager 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.

**4.42.2** Provided that if the Contractor commences work or incurs any expenditure in regard thereto before the rates as determined and agreed upon as lastly here unto forementioned, then and in such a case the Contractor shall only be entitled to be paid in respect of the services carried out or expenditure incurred by her prior to the date of determination of the rates as aforesaid according to the rates as shall be fixed by the Manager. However, if the Contractor is not satisfied with the decision of the Manager in this respect, she may appeal to the Chief Manager within 30 days of getting the decision of the Manager, supported by analysis of the rates claimed. The Chief Manager's decision after hearing both the parties in the matter would be final and binding on the Contractor and the Railway.

#### **4.43 Clearance of Site on Completion**

On completion of the services, the Contractor shall clear away and remove from the site all tools /plants and surplus materials, rubbish and temporary works of every kind and leave the whole of the site clean to the satisfaction of the Manager. No final payment in settlement of the accounts for the services shall be paid, held to be due or shall be made to the, Contractor till, in addition to any other condition necessary for final payment, site clearance shall have been affected by her, and such clearance may *be* made by the Manager at the expense of the Contractor in the event of her failure to comply with this provision within 7 days after receiving notice to that effect.

Should it become necessary for the Manager to have the site cleared at the expenses 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 affected by means of public sales of such materials and property or in such a way as deemed fit and convenient to the Manager.

#### **4.45 Environmental Requirements**

The Contractor shall, when working on the Premises, perform its obligations under the Contract in accordance with the Indian Railways environmental policy, which is to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimize the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

## **V. VARIATIONS, MEASUREMENT AND PAYMENTS**

### **5.1 Extension of Time**

Subject to any requirement in the contract as to completion of any portions or portions of the works before completion of the whole, the contractor shall fully and finally complete the whole of the works comprised in the contract (with such modifications as may be directed under conditions of this contract) by the date entered in the contract or extended date in terms of the following clauses. However, care may be taken to ensure that the extension in service contracts (other than Consultancy contracts) is on the ground that new contract has not been finalized.

#### **5.1.1 Extension Due to Modification**

If any modifications have been ordered which in the opinion of the Manager have materially increased the magnitude of the services, then such extension of the contracted date of completion may be granted as shall appear to the Manager 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 services.

### **5.1.2 Extension for Delay Not Due to Railways or Contractor**

If in the opinion of the Manager, the progress of services has any time been delayed by any act or neglect of Railway's employees or by other contractor employed by the Railway under Clause 4.20 of these Conditions or in executing the work/service not forming part of the contract but on which contractor's performance necessarily depends or by reason of proceeding taken or threatened by or dispute with adjoining or to neighbouring owners or public authority arising otherwise through the Contractor's own default etc. or by the delay authorized by the Manager pending arbitration or in consequences of the contractor not having received in due time necessary instructions from the Railway for which she shall have specially applied in writing to the Manager or her authorized representative then upon happening of any such event causing delay, the Contractor shall immediately give notice thereof in writing to the Manager within 15 days of such happening, but shall nevertheless make constantly her best endeavours to bring down or make good the services and shall do all that may be reasonably required of her to the satisfaction of the Manager to proceed with the services.

The contractor may also indicate the period for which the services is likely to be delayed and shall be bound to ask for necessary extension of time. The Manager on receipt of such request from the contractor shall consider the same and shall grant such extension of time as in her 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.

### **5.1.3 Extension for Delay Due to Railways**

In the event of any failure or delay by the Railway, to hand over the Contractor possession of the site necessary for the execution of the services, or to give the necessary notice to commence the services, 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 therefore, but in any such case, the Railway may grant such extension or extensions of the completion date as may be considered reasonable.

## **5.2 Extension of Time for Delay Due to Contractor**

**5.2.1** The time and uninterrupted delivery of services shall be deemed to be the essence of the contract and the service must be completed not later than the date(s) as specified in the contract. If the contractor fails to complete the services within the time/manner as specified in the contract for the reasons other than the reasons specified in Clause 5:1, the

Railway may, if satisfied that the service delivery can be completed by the contractor within reasonable short time thereafter, allow the contractor for further extension of time as the Manager 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 a sum equivalent to 0.10% of the contract value of the service for each week or part of the week.

**5.2.2** For the purpose of this clause, the contract value of the services shall be taken as value as per contract agreement including any supplementary contract agreement issued. Provided also, that the total amount of liquidated damages under this condition, shall not exceed 5% In lieu, competent authority while granting extension to the currency of contract under Clause 5.2 of GCC may also consider levy of token penalty, as deemed fit based on the merit of the case of total value of the contract.

This section does not limit Indian Railways from imposing any penalties under other provisions and such penalties will be applicable concurrently.

Provided further, that if the Railway is not satisfied that the service can be completed by the Contractor and in the event of failure on the part of the contractor to complete the service 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 Performance Guarantee and rescind the contract under Clause 7.4 of these Conditions, whether or not actual damage is caused by such default.

## **5.3 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 service 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.

**5.3.1 Powers of Modification To Contract:** The Manager on behalf of the Railway shall be entitled by order in writing to enlarge or extend, diminish or reduce the services 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 service to be done or any services 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.

**5.3.2** Unless otherwise specified in the special conditions of the contract, the accepted variation in quantity of each individual item of the contract would be up to 25% of the quantity originally contracted. The contractor shall be bound to carry out the service at the agreed rates and shall not be entitled to any claim or any compensation whatsoever up to the limit of 25% variation in quantity of individual item of services.

**5.3.3 Valuation of Variations:** The variation referred to in Sub-Clause 5.3.2 of this Clause shall in no degree affect the validity of the contract; but shall be performed by the Contractor as provided therein and be subject to the same conditions, stipulations and obligations as if they had been originally and expressively included and provided for in the Specifications and Drawings and the amounts to be paid therefore shall be calculated in accordance with the accepted Schedule of Rates. Any extra items/quantities of work falling outside the purview of the provisions of Sub-Clause 5.3.2 above shall be paid for at the rates determined under Clause — 4.42.1 of these Conditions.

#### **5.3.4 Variations in Quantities during Execution of Service Contracts**

The procedure detailed below shall be adopted for dealing with variations in quantities during execution of service contracts —

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

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

**The variation of quantities is governed by relevant circulars/ SOP issued by Railway Board from time to time during the currency of the contract.**

#### **5.4 Claims**

##### **5.4.1 Monthly Statement of Claims**

The Contractor shall prepare and furnish to the Manager once in every month an account giving full and detailed particulars of all claims for any additional expenses to which the Contractor may consider herself entitled to and of all extra or additional works ordered by the Manager which she has executed during the preceding month and no claim for payment for and such work will be considered which has not been included in such particulars.

##### **5.4.2 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 she 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.

#### **5.5 MEASUREMENTS**

##### **5.5.1 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 services and they shall not be taken as the actual and correct quantities of the work to be executed by the Contractor in fulfilment of her obligations under the contract.

##### **5.5.2 Measurement of Services/ Works**

- (a) Measurements shall be recorded on the basis of day-to-day records maintained by way of check list or any other methodology provided in the Bid documents.
- (b) The Contractor shall be paid for the works/services at the rates in the accepted Schedule of Rates and for extra services at rates determined under Clause 4.42.1 of these Conditions on the measurements taken by the Manager or the Manager's representative in accordance with the rules prescribed for the purpose by the Railway. The quantities for items the unit of which in the accepted Schedule of Rates is 100 or 1000 shall be calculated to the nearest whole number, any fraction below half being dropped and half and above being taken as one; for items, the unit of which in the accepted Schedule of Rates is single, the quantities shall be calculated to two places of decimals. Such measurements will be taken of the work in progress from time to time and at such intervals as in the opinion of the Manager shall be proper having regard

to the progress of work. The date and time on which 'on account' or 'final' measurements are to be made shall be communicated to the Contractor who shall be present at the site and shall sign the results of the measurements (which shall also be signed by the Manager or the Manager's representative) recorded in the official measurements book as an acknowledgement of her acceptance of the accuracy of the measurements.

- (c) Failing the Contractor's attendance, the service may be measured up in her absence and such measurements shall, notwithstanding such absence, be binding upon the Contractor whether or not she shall have signed the measurement books provided always that any objection made by her to measurement shall be duly investigated and considered in the manner set out as following:

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

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

## **5.6 PAYMENTS**

### **5.6."On-Account" Payments**

The Contractor shall be entitled to be paid from time to time by way of "On-Account" payment only for such works as in the opinion of the Manager she has executed in terms of the contract. All payments due on the Manager's or the Manager's Representative's certificates of measurements shall be subject to any deductions which may be made under these presents provided always that the Manager may by any certificate make any correction or modification in any previous certificate which shall have been issued by her and that the Manager may withhold any certificate, if the services or any part thereof are not being carried out to her satisfaction.

#### **5.6.2 Rounding of Amounts**

The total amount due on each certificate shall be rounded off to the nearest rupee, i.e. sum less than 50 paise shall be omitted and sums of 50 paise and more upto Rs.1 will be reckoned as Rs. 1.

#### **5.6.3 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 service having been executed nor of the manner of its execution being satisfactory.

**5.6.4 Manner of Payment:** The payments would be released in the manner as specified by the Railway Board time to time.

#### **5.6.5. Points to be ensured while passing the Bills**

- (a) Railways shall ensure that all relevant records are to be certified by the contractor and the employee nominated by Principal Employer, before passing the bills of the contractor including but not limited to those provided in the Annexures III — IV GCC for Services 2018.

## **5.9 Maintenance of Works contemplated in the Services**

Service contracts may have an element of work included to provide services. In such cases the content of this para shall be applicable —

The Contractor shall at all times during the progress and continuance of the service and also for the period of maintenance of Works contemplated in the Service specified, if any in the Bid Form after the date of passing of the certificate of completion by the Manager or any other earlier date subsequent to the completion of the work that may be fixed by the Manager be responsible for and effectively maintain and uphold in good substantial, sound and perfect condition all and every part of the work and shall make good from time to time and at all times as often as the Manager shall require, any damage or defect that may during the above period arise in or be discovered or be in



any way connected with the work, provided that such damage or defect is not directly caused by errors in the contract documents, act of providence or insurrection or civil riot, and the Contractor shall be liable for and shall pay and make good to the Railway or other persons legally entitled thereto whenever required by the Manager so to do, all losses, damages, costs and expenses they or any of them may incur or be put or be liable to by reasons or in consequence of the operations of the Contractor or of her failure in any respect.

**5.9.1 Certificate of Completion of Works contemplated in Service:** As soon as in the opinion of the Manager, the work has been completed and has satisfactorily passed any final test or tests that may be prescribed, the Manager shall issue a certificate of completion duly indicating the date of completion in respect of the work and the period of maintenance of the work, if applicable, shall commence from the date of completion mentioned in such certificate. The Manager may also issue such a certificate indicating date of completion with respect to any part of the work (before the completion of the whole of work), which has been both completed to the satisfaction of the Manager and occupied or used by the Railway. When any such certificate is given in respect of part of a work, such part shall be considered as completed and the period of maintenance, if any shall commence from the date of completion mentioned in the completion certificate issued for that part of the work.

**5.9.2 Maintenance Certificate:** In case maintenance period is specified in the contract, for any part the Contract, it shall not be considered as completed until a Maintenance Certificate shall have been signed by the Manager stating that the works have been completed and maintained to her satisfaction. The maintenance Certificate shall be given by the Manager upon the expiration of the period of maintenance or as soon thereafter as any works ordered during such period pursuant to Clause 5.9.1 of these Conditions shall have been completed to the satisfaction of the Manager and full effect shall be given to this Clause notwithstanding the taking possession of or using the works/ services or any part thereof by the Railway.

**5.9.3 Contractor Not Absolved By Completion Certificate:** The Certificate of Completion in respect of the works referred to in Sub-Clause 5.9.1 of this Clause shall not absolve the Contractor from her liability to make good any defects imperfections, shrinkages or faults which may appear during the period of maintenance specified in the Bid arising in the opinion of the Manager from materials or quality of workers not in accordance with the drawings or specifications or instruction of the Manager, which defects, imperfections, shrinkages or faults shall upon the direction in writing of the Manager be amended and made good by the Contractor at her own cost; and in case of default on the part of Contractor, the Manager 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 her under the contract.

**5.9.4 Approval Only by Maintenance Certificate:** No certificate other than Maintenance certificate referred to in Clause 5.9.3 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 Manager nor shall any other certificate conclude or prejudice any of the powers of the Manager.

#### **5.10 Certificate of Completion of Services:**

As soon as in the opinion of the Manager, the service has been completed and has satisfactorily passed any final test or tests that may be prescribed, the Manager shall issue a certificate of completion duly indicating the date of completion. The Manager may also issue such a certificate indicating date of completion with respect to any part of the service (before the completion of the whole of service), which has been completed to the satisfaction of the Manager. When any such certificate is given in respect of part of a service, such part shall be considered as completed.

**5.10.1 Approval Only by Completion Certificate:** No certificate other than completion certificate referred to in Clause 5.10 of the Conditions shall be deemed to constitute approval of any service 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 Manager nor shall any other certificate conclude or prejudice any of the powers of the Manager.

**5.11 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/ services unless the Contractor shall have made a claim in writing in respect thereof before the issue of the Completion Certificate for service / Maintenance Certificate for works contemplated in service, as the case may be under this clause.

**5.12 Unfulfilled Obligations:** Notwithstanding the issue of Completion Certificate for service / Maintenance Certificate for works contemplated in service as the case may be the Contractor and (subject to Clause 5.11) the Railway shall remain liable for the fulfillment of any obligation incurred under the provision of the contract prior to the issue of the Completion Certificate for service / Maintenance Certificate for works contemplated in service which remains unperformed at the time such certificate is issued and for the purposes of determining the nature and extent of any such obligations, the contract shall be deemed to remain in force between the parties thereto.

### **5.13 Final Payment**

On the Manager's certificate of completion in respect of the services, adjustment shall be made and the balance of account based on the Manager or the Manager's representative's certified measurements of the total quantity of service executed by the Contractor upto the date of completion and on the accepted schedule of rates and for extra works on rates determined under Clause 4.42.1 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 Manager either a full account in detail of all claims she may have on the Railway in respect of the works or having delivered "No Claim Certificate" and the Manager 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 her 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 services have been properly replaced and made good and all expenses and demands incurred by or made upon the Railway for or in the respect of damage or loss by from or in consequence of the services, have been satisfied agreeably and in conformity with the contract.

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

**5.13.2 Production of Vouchers etc. by the Contractor:** For a contract of more than Rs 2 crore, the contractor shall, whenever required, produce or cause to be produced for examination by the Manager 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 Manager 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 Manager, that materials supplied by her, are in accordance with the specifications laid down in the contract.

**5.13.3** If any portion of the service in a contract of value more than Rs 2 crore be carried out by a sub-contractor or any subsidiary or allied firm or company (as per Clause 4.5 of the General Conditions of Contract), the Manager 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 her inspection.

**5.13.4** The obligations imposed by Sub Clause 5.13.2 & 5.13.2 is without prejudice to the obligations of the contractor under any statute, rules or orders binding on the contractor.

**5.13.5 Signature on Receipts for Amounts:** Every receipt for money which may become payable or for any security which may become transferable to the Contractors under these presents, shall, if signed in the partnership name by 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 anyone of the surviving Contractor partners shall if so signed as aforesaid be good and sufficient discharge as aforesaid provided that nothing in this Clause contained shall be deemed to prejudice or effect any claim which the Railway may hereafter have against the legal representative of any contractor partner so dying for or in respect to any breach of any of the conditions of the contract, provided also that nothing in this clause contained shall be deemed to prejudice or effect the respective rights or obligations of the Contractor Partners and of the legal representatives of any deceased contractors inter se.

## **VI. LABOUR LAWS AND RELATED OBLIGATIONS**

### **6.2 Legal Obligations**

The contractor shall be responsible for carrying out all legal obligations as may be required by the law. Broadly they are as under:

- Contractor Labour (Regulation and Abolition) Act, 1970
- Minimum Wages Act, 1948
- Payment of Wages Act, 1936
- The Workman's Compensation Act, 1923
- Provisions of Employees Provident Fund and Miscellaneous Provisions Act, 1952
- Employees' State Insurance Act, 1948
- Employees' Pension Scheme, 1995
- Factories Act, 194.
- Enforcement of Employment of manual Scavengers and construction of Dry Latrines
- (Prohibitions) Act, 1993
- Child Labour Act, 1986
- Apprentices Act, 1961
- Equal Remuneration Act , 1976
- Safai Karamcharis Act, 1993
- Industrial Disputes Act, 1947
- Maternity Benefit Act, 1961
- Trade Unions Act, 1961
- Payment of Bonus Act, 1965
- Payment of Gratuity Act, 1972
- Industrial Employment (Standing Orders) Act, 1946
- Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

#### **6.4.11 Payment of Wages:**

- a. The responsibility for payment of wages lies with the contractor (Section 21) who shall be responsible for payment of wages to each worker employed by her as contract labour and such wages shall be paid before the expiry of such period as may be prescribed.
- b. Every Principal Employer shall nominate a representative duly authorized by her to be present at the time of Disbursement of wages by the contractor and it shall be the duty of such representative to certify the amounts paid as wages in such manner as may be prescribed.
- c. In case the contractor fails to make payment of wages within the prescribed period or makes short payment, then the principal employer shall be liable to make payment of wages in full or the unpaid balance due, as the case may be. to the contract labour employed by the contractor and recover the amount so paid from the contractor.
- d. The Minimum Rate of Wages for all Workers as notified by Regional Labour Commissioner shall be paid through Nationalized Banks.
- e. The Contractor shall ensure the Bank remittance of salaries for all her employees and necessary documents in this connection shall be furnished to the Railways for claiming monthly bills.
- f. In case of revision of rates of minimum wages, the contractor must also submit documents regarding revision notifications of Minimum wages (Wages and VDA) and proof of payment to the labour with revised rates.
- g. Date of payment of wages to workers by the Contractor must be as follows-

Employees less than one thousand (1000)	Employees more than one thousand (1000)
Before expiry of the seventh (7) day after the last day of wage period	Before the expiry of tenth (10) day after the last day of wage period

- h. Any worker terminated by the contractor, the wages earned by the worker shall be paid before expiry of second working day from the day on which their employment is terminated.
- i. All payments of wages shall be made on a working day at the work place and during the working hours. Final payment shall be made within 48 hours of the last working day.
- j. **Deductions:** Wages shall be paid without any deductions of any kind except those specified by the state government and permissible under the payment of wages act 1936.

## 6.5 Minimum Wages Act, 1948/ Rules 1950

The Contractor shall be responsible for ensuring compliance with the provision of the *Minimum Wages Act, 1948* (hereinafter referred to as the "said Act") and the Rules made there under in respect of any employees directly or through petty contractors or sub- contractors employed by her/them.

Following are the salient features of the Minimum Wages Act, 1948 for which the **contractor shall produce a certificate of compliance which shall be verified by the railway manager and placed on record.**

### 6.5.1 Wages to Labour:

- (a) The Contractor shall display of Notices in English and Hindi/Local vernacular language in the workplace and other wise make all workers aware regarding the minimum rates of wages fixed, hours of work, wage period, abstract of laws & rules made there under, date & place of payment, Name, address & contact details of the Labour Enforcement Officer.
- (b) The contractor shall maintain the Register of Muster Roll, Register of Wages (Form XVII as provided in the Annexure VI of GCC), Register of Fines, Register of deductions for damages/loss, Register of Overtime at the workplace in the prescribed formats under the law.
- (c) The contractor shall issue monthly wage slips as per **Form XIX provided in Annexure VII of GCC-Services 2018** to all workers showing the details of the gross wages, deductions if any and the net wages.
- (d) The Contractor shall submit Annual Return in the prescribed form to the concerned Labour Enforcement Officer (Central).

**6.5.2 Proof of Payment of Wages:** Bank remittance of salaries of all the Contractor's workers and to produce the documents to the effect to Railways for claiming monthly bills.

**6.5.3 Weekly Rest:** The contractor shall also provide weekly rest on staggered basis to all workers and comply with all other provisions of the law.

## VII. DETERMINATION OF CONTRACT

### 7.1 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/ or 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 therefore shall be conclusive evidence thereof.

### 7.2 Payment on Determination of Contract

Should the contract be determined under clause 7.1 and the Contractor claims payment for expenditure incurred by her 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 Manager. The Railway's decision on the necessity and propriety of such expenditure shall be final and conclusive.

### 7.3 No Claim on Compensation

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

#### **7.4 Determination of Contract Owing to Default of Contractor**

If the Contractor should —

- (a) Become bankrupt or insolvent, or
- (b) Make an arrangement with or assignment in favour of her creditors, or agree to carry out the contract under a Committee of Inspection of her creditors, or
- (c) Being a Company or Corporation, go into liquidation (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), or
- (d) Have an execution levied on her goods or property on the services, or
- (e) Assign the contract or any part thereof otherwise than as provided in Clause 4.5 of these Conditions, or
- (f) Abandon the contract, or
- (g) Persistently disregard the instructions of the Manager, or contravene any provisions of the contract, or
- (h) Fail to adhere to the agreed programme of work by a margin of 10% of the stipulated period, or
- (i) Have been imposed with maximum cumulative penalty as per Clause 4.17.1, or
- (j) Fail to remove materials from the site or to pull down and rectify service wherever applicable after receiving from the Manager notice to the effect that the said materials or works have been condemned or rejected under Clause 4.25, 4.27 and 4.28 of these Conditions, or
- (k) Fail to take steps to employ competent or additional staff and labour as required under Clause 4.26 of the Conditions, or
- (l) Fail to afford the Manager or Manager's representative proper facilities for inspecting the services or any part thereof as required under Clause 4.29 of the Conditions, or
- (m) Promise, offer or give any bribe, commission, gift or advantage either herself or through her partner, agent or servant to any officer or employee of the Railway or to any person on her or on their behalf in relation to the execution of this or any other contract with this Railway.
- (n) At any time after the Bid relating to the contract, has been signed and submitted by the Contractor, being a partnership firm admits as one of its partners or employees under it, or being an incorporated company elect or nominate or allow to act as one of its directors or employee under it in any capacity whatsoever, any retired officer of the Gazetted rank or any other retired Gazetted officer working before her retirement, whether in the executive or administrative capacity, or whether holding any pensionable post or not, in the Railways for the time being owned and administered by the President of India before the expiry of one year from the date of retirement from the said service of such officer, unless such officer has obtained permission from the President of India or any officer duly authorised by her in this behalf, to become a partner or a director or to take employment under the contract as the case may be, or
- (o) Fail to give at the time of submitting the said bid:
  - (i) The correct information as to the date of retirement of such retired officer from the said service, or as to whether any such retired officer was under the employment of the Contractor at the time of submitting the said Bid, or
  - (ii) The correct information as to such officers obtaining permission to take employment under the Contractor, or
  - (iii) Being a partnership firm, the correct information as to, whether any of its partners was such a retired officer, or
  - (iv) Being in incorporated company, correct information as to whether any of its directors was such a retired officer, or
  - (v) Being such a retired officer suppress and not disclose at the time of submitting the said Bid the fact of her being such a retired officer or make at the time of submitting the said Bid a wrong statement in relation to her obtaining permission to take the contract or if the Contractor be a partnership firm or an incorporated company to be a partner or director of such firm or company as the case may be or to seek employment under the Contractor.

Then and in any of the said clause, the Manager on behalf of the Railway may serve the Contractor with notices stipulated in the clauses 7.4.1, 7.4.2 & 7.4.3.

#### **7.4.1. Performance Notice**

- (a) In the event of the above and in any of the said clauses, the Manager on behalf of the Railway may serve the Contractor with a Performance notice as per **Annexure-XII GCCS of 2018** in writing to the effect to make good the default as well as initiation of bidding process for the balance service.
- (b) Railways reserves the right to float a new tender and invite bids for the delivery of services to replace the contractor put on notice, from the date on which this notice is served. The existing contractor shall not be allowed to participate in any bid which includes delivery of balance services of subject contract. However, in case the existing contractor's performance has improved to the satisfaction of the Manager, then Railways may terminate the bid proceedings, at any stage of the bid process.
- (c) Notwithstanding Railway's initiation of the bidding process, the financial bids shall be opened only after the termination of the subject contract.
- (d) After the issue of this notice, the performance of contractor shall be assessed on a weekly basis by the manager. Manager, if satisfied with the improvement in the performance of contractor, may issue a letter of revocation of the performance notice as per **Annexure-XIII of GCCS 2018**. If the performance is found unsatisfactory after the first week or thereafter, then Railways will be at liberty to issue the 7-day notice, which will be governed by Section 7.4.2.

#### **7.4.2. Seven Days' Notice**

After delivery of the performance notice to the contractor, if she does not proceed to make good her default and carry on the services or comply with such directions as aforesaid, to the entire satisfaction of the Manager, the Railway shall be entitled to serve 7 days' notice as per **Annexure-XIV of GCCS 2018**, further in writing to either commence the service or improve quality of services to the prescribed standard. The failure to do so shall entail a termination notice being served under the hand of the Manager, to rescind the contract as a whole or in part or parts (as may be specified in such notice).

#### **7.4.3. Termination Notice**

If no action to commence the service or improve the quality thereof is taken by the contractor within the 7 days' notice period, then a final termination notice as per **Annexure — XV of GCCS 2018** shall be issued.

#### **7.5 Right of Railway After Rescission of Contract Owing to Default of Contractor**

In the event of any or several of the courses, referred to in clause 7.4.3, being adopted:

**7.5.1.** The Contractor shall have no claim to compensation for any loss sustained by her by reason of her having purchased or procured any materials or entered into any commitments or made any advances on account of or with a view to the delivery of the services wherever applicable or the performance of the contract and Contractor shall not be entitled to recover or be paid any sum for the services wherever applicable thereto actually performed under the contract unless and until the Manager shall have certified the performance of such services wherever applicable and the value payable in respect thereof and the Contractor shall only be entitled to be paid the value so certified.

**7.5.2.** The Manager or the Manager's Representative shall be entitled to take possession of any materials, tools, implements, machinery and buildings on the services wherever applicable 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 services wherever applicable or any part thereof until the completion of the services without the Contractor being entitled to any compensation for the use and employment thereof or for wear and tear or destruction thereof.

**7.5.3.** The Manager 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 she may consider fit to make or institute and shall certify what amount (if any) had at the time of rescission of the contract been reasonably earned by or would reasonably accrue to the Contractor in respect of the services then actually done by her under the contract and what was the value of any unused, or partially used materials, any tools and plants and any temporary works upon the site. The legitimate amount due to the contractor after making necessary deductions and certified by the Manager should be released expeditiously.

## **VIII. DISPUTES - INDIAN RAILWAY ARBITRATION RULES**

### **8.1 Matters Finally Determined by the Railways**

All disputes and differences of any kind whatsoever arising out of or in connection with the contract, whether during the progress of the work or after its completion and whether before or after the determination of the contract, shall be referred by the contractor to the GM and the GM shall, within 120 days after receipt of the contractor's representation, make and notify decisions on all matters referred to by the contractor in writing provided that matters for which provision has been made in Clauses **3.5, 4.13, 4.22.4, 4.41.1, 5.4.2, 5.5.2. (c), 6.5, 6.6, 6.7, 6.8, 7.1, 7.2, and 7.4 and sub clauses thereof** of General Conditions of Contract for Services or in any Clause of the Special Conditions of the Contract shall be deemed as 'excepted matters' (matters not arbitrable) and decisions of the Railway authority, thereon shall be final and binding on the contractor; provided further that 'excepted matters' shall stand specifically excluded from the purview of the Arbitration Clause.

### **8.2 Demand for Arbitration**

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

8.2.1.1 (a) The demand for arbitration shall specify the matters which are in question, or subject of the dispute or difference as also the amount of claim item-wise. Only such dispute or difference, in respect of which the demand has been made, together with counter claims or set off, given by the Railway, shall be referred to arbitration and other matters shall not be included in the reference.

(b) The parties may waive off the applicability of sub-section 12(5) of Arbitration and Conciliation (Amendment) Act 2015, if they agree for such waiver, in writing, after dispute having arisen between them, in the format given under Annexure XII of these conditions (GCC-Services).

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

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

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

(d) Place of Arbitration: The place of arbitration would be within the geographical limits of the Division of the Railway where the cause of action arose or the Headquarters of the concerned Railway or any other place with the written consent of both the parties.

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

**8.2.4** If the contractor(s) does/do not prefer her/their specific and final claims in writing, within a period of 90 days of receiving the intimation from the Railways that the final bill is ready for payment, She/they will be deemed to have waived her/their claim(s) and the Railway shall be discharged and released of all liabilities under the contract in respect of these claims.

### **8.3 Obligation During Pendency Of Arbitration**

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

#### **8.4 Appointment of Arbitrator:**

**8.4.1** Appointment of Arbitrator where applicability of section 12 (5) of Arbitration and Conciliation Act has been waived off.

**(a)** In cases where the total value of all claims in question added together does not exceed Rs. 1,00,00,000/- (Rupees One Crore only), the Arbitral Tribunal shall consist of a Sole Arbitrator who shall be a Gazetted Officer of Railway not below JA Grade, nominated by the General Manager. The sole arbitrator shall be appointed within 60 days from the day when a written and valid demand for arbitration is received by GM. In cases not covered by the Clause 8.4.1 (a), the Arbitral Tribunal shall consist of a Panel of three Gazetted Railway Officers not below JA Grade or 2 Railway Gazetted Officers not below JA Grade and a retired Railway Officer, retired not below the rank of SAG Officer, as the arbitrators. For this purpose, the Railway will send a panel of at least four (4) names of Gazetted Railway Officers of one or more departments of the Railway which may also include the name(s) of retired Railway Officer(s) empanelled to work as Railway Arbitrator to the contractor within 60 days from the day when a written and valid demand for arbitration is received by the GM. Contractor will be asked to suggest to General Manager at least 2 names out of the panel for appointment as contractor's nominee within 30 days from the date of dispatch of the request by Railway. The General Manager shall appoint at least one out of them as the contractor's nominee and will, also simultaneously appoint the balance number of arbitrators either from the panel or from outside the panel, duly indicating the 'presiding arbitrator' from amongst the 3 arbitrators so appointed. GM shall complete this exercise of appointing the Arbitral Tribunal within 30 days from the receipt of the names of contractor's nominees. While nominating the arbitrators, it will be necessary to ensure that one of them is from the Accounts Department. An officer of Selection Grade of the Accounts Department shall be considered of equal status to the officers in SA grade of other departments of the Railway for the purpose of appointment of arbitrator.

**8.4.2** Appointment of Arbitrator where applicability of section 12 (5) of A&C Act has not been waived off: The Arbitral Tribunal shall consist of a Panel of three (3) retired Railway Officer, retired not below the rank of SAG Officer, as the arbitrators. For this purpose, the Railway will send a panel of at least four (4) names of retired Railway Officer(s) empanelled to work as Railway Arbitrator duly indicating their retirement date to the contractor within 60 days from the day when a written and valid demand for arbitration is received by the GM. Contractor will be asked to suggest to General Manager at least 2 names out of the panel for appointment as contractor's nominee within 30 days from the date of dispatch of the request by Railway. The General Manager shall appoint at least one out of them as the contractor's nominee and will, also simultaneously appoint the balance number of arbitrators either from the panel or from outside the panel, duly indicating the 'presiding arbitrator' from amongst the 3 arbitrators so appointed. GM shall complete this exercise of appointing the Arbitral Tribunal within 30 days from the receipt of the names of contractor's nominees. While nominating the arbitrators, it will be necessary to ensure that one of them has served in the Accounts Department.

**8.4.3 (a)** : If one or more of the arbitrators appointed as above refuses to act as arbitrator, withdraws from his office as arbitrator, or vacates her/their office/offices or is/are unable or unwilling to perform her 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 her/their place in the same manner in which the earlier arbitrator/arbitrators had been appointed. Such re-constituted Tribunal may, at its discretion, proceed with the reference from the stage at which it was left by the previous arbitrator (s).

**8.4.3.1 (a)** The Arbitral Tribunal shall have power to call for such evidence by way of affidavits or otherwise as the Arbitral Tribunal shall think proper, and it shall be the duty of the parties hereto to do or cause to be done all such things as may be necessary to enable the Arbitral Tribunal to make the award without any delay. The proceedings shall normally be conducted on the basis of documents and written statements.

**(b)** Before proceeding into the merits of any dispute, the Arbitral Tribunal shall first decide and pass its orders over any plea submitted/objections raised by any party, if any, regarding appointment of Arbitral Tribunal, validity of arbitration agreement, jurisdiction and scope of the Tribunal to deal with the dispute (s) submitted to arbitration, applicability of time 'limitation' to any dispute, any violation of agreed procedure regarding conduct of the arbitral



proceedings or plea for interim measures of protection and record its orders in day to day proceedings. A copy of the proceedings duly signed by all the members of tribunal should be provided to both the parties.

(c) Qualification of Arbitrator(s): (a) Serving Gazetted Railway Officers of not below JA Grade level. (b) Retired Railway Officers not below SA Grade level, three years after his date of retirement. (c) Age of arbitrator at the time of appointment shall be below 70 years. (i) An arbitrator may be appointed notwithstanding the total number of arbitration cases in which he has been appointed in the past. (ii) While appointing arbitrator(s) under Sub-Clause 8.4.1 (a), 8.4.1 (b) and 8.4.2 above, due care shall be taken that she/they is/are not the one/those who had an opportunity to deal with the matters to which the contract relates or who in the course of her/their duties as Railway servant(s) expressed views on all or any of the matters under dispute or differences. The proceedings of the Arbitral Tribunal or the award made by such Tribunal will, however, not be invalid merely for the reason that one or more arbitrator had, in the course of his service, opportunity to deal with the matters to which the contract relates or who in the course of her/their duties expressed views on all or any of the matters under dispute.

(d) (i) The arbitral award shall state item wise, the sum and reasons upon which it is based. The analysis and reasons shall be detailed enough so that the award could be inferred there from. (ii) A party may apply for corrections of any computational errors, any typographical or clerical errors or any other error of similar nature occurring in the award of a Tribunal and interpretation of a specific point of award to Tribunal within 60 days of receipt of the award. (iii) A party may apply to Tribunal within 60 days of receipt of award to make an additional award as to claims presented in the arbitral proceedings but omitted from the arbitral award.

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

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

8.4.6 (a) The cost of arbitration shall be borne by the respective parties. The cost shall interalia include fee of the arbitrator(s), as per the rates fixed by Railway Board from time to time and the fee shall be borne equally by both the parties, provided parties sign an agreement in the prescribed format after/ while referring these disputes to Arbitration. Further, the fee payable to the arbitrator(s) would be governed by the instructions issued on the subject by Railway Board from time to time irrespective of the fact whether the arbitrator(s) is/are appointed by the Railway Administration or by the court of law unless specifically directed by Honible court otherwise on the matter.

(b) (i) Sole Arbitrator shall be entitled for 25% extra fee over the fee prescribed by Railway Board from time to time. (ii) Arbitrator tribunal shall be entitled to 50% extra fee if Award is decided within six months.

8.4.7 Subject to the provisions of the aforesaid Arbitration and Conciliation Act 1996 and the rules there under and relevant para of General Conditions of Contract (GCC) and any statutory modifications thereof shall apply to the appointment of arbitrators and arbitration proceedings under this clause.

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## **SPECIAL CONDITIONS OF CONTRACT:**

Contract: Comprehensive Annual Maintenance contract for Electronic In-Motion Weighbridge (EIMWB) at Malur (MLO) station (Railway owned) for a period of 10 years.

**1. COMPLIANCE WITH GCC**

The provisions contained in Indian Railways GCC for Service Contracts-2018 and latest amendments issued from time to time shall be applicable to this contract unless specifically modified herein.

**2. SAFETY REQUIREMENTS**

The contractor shall observe all safety rules, regulations and instructions issued by Railways from time to time. Adequate safety precautions shall be taken to safeguard Railway property, personnel and contractor's workforce during execution of maintenance activities.

**3. LIABILITY FOR DAMAGES**

The contractor shall be solely responsible for any loss, damage, accident, injury or death arising out of execution of the contract and shall indemnify the Railway Administration against all claims, liabilities and legal proceedings.

**4. DEPLOYMENT OF PERSONNEL**

The contractor shall deploy qualified and trained service engineers/technicians having adequate experience in maintenance of EIMWB systems. Identity Cards shall be issued to all personnel deployed for maintenance activities.

**5. PREVENTIVE MAINTENANCE**

The contractor shall carry out preventive maintenance visits as per OEM recommendations and approved maintenance schedule. Dates of preventive maintenance shall be finalized mutually between Railways and the contractor.

**6. COMPREHENSIVE COVERAGE**

The CAMC shall be comprehensive and shall include repair/replacement of all defective parts, assemblies, modules, sensors, electronic cards, cables, connectors and consumables required for proper functioning of the EIMWB system without any additional cost to Railways.

**7. SPARES AND CONSUMABLES**

a) All spares and consumables required during the contract period shall be supplied by the contractor at no extra cost.

b) The contractor shall maintain adequate inventory of critical spares for prompt restoration of the system.

c) All replaced parts shall be genuine OEM parts or OEM-approved equivalents.

**8. SOFTWARE SUPPORT**

The contractor shall provide software support, bug rectification, updates, configuration assistance and restoration of database/software functionality wherever applicable.

**9. CALIBRATION AND ACCURACY**

The contractor shall ensure that the EIMWB maintains the prescribed weighing accuracy and shall provide necessary support for calibration, verification and certification as required under applicable statutory provisions and OEM recommendations.

**10. TRAINING**

The contractor shall impart operation and maintenance training to a minimum of four Railway staff during the contract period without any additional cost.

**11. TOOLS AND TEST EQUIPMENT**

All tools, tackles, measuring instruments, testing equipment, laptops and software utilities required for maintenance shall be arranged by the contractor at his own cost.

**12. RAILWAY COORDINATION**

All maintenance activities shall be carried out in consultation with SSE/SGT or authorized Railway representative without causing infringement to Railway operations.

**13. SERVICE REPORTS**

After every preventive maintenance visit and breakdown attendance, the contractor shall submit a detailed service report indicating observations, repairs carried out, spares replaced and recommendations. The report shall be jointly signed by the contractor's representative and SSE/SGT or authorized representative.

**14. INSPECTION**

Railway representatives shall have the right to inspect maintenance activities, replaced components, records and performance of the EIMWB system at any time during the contract period.

**15. REMOVAL OF COMPONENTS**

Where repair at site is not feasible, defective components may be removed to the contractor's service centre only after joint inspection and written approval of SSE/SGT or authorized representative.

**16. EXCLUSIONS OF ADDITIONAL PAYMENT**

No separate payment shall be admissible towards:

- a) Cost of spares and consumables.
- b) Labour charges.
- c) Boarding, lodging and conveyance of service personnel.
- d) Freight, transportation or logistics.
- e) Emergency visits and breakdown calls.

**17. STATUTORY COMPLIANCE**

The contractor shall comply with all applicable labour laws, Contract Labour (Regulation & Abolition) Act, Minimum Wages Act, EPF Act, ESI Act, Workmen Compensation Act, GST provisions and all statutory requirements as amended from time to time.

**18. PERFORMANCE REQUIREMENT**

The contractor shall maintain the EIMWB system in fully operational condition throughout the contract period. Failure to maintain satisfactory performance may attract penalties as provided in the contract.

**19. PENALTY FOR DOWNTIME**

For delays attributable to the contractor beyond the prescribed restoration period, penalties shall be levied as specified in the Schedule of Rates/Tender Conditions, subject to maximum limits prescribed under GCC.

**20. PAYMENT TERMS**

- 20.1 The contractor shall submit invoices/bills after completion of each scheduled maintenance visit along with duly signed service reports, maintenance certificates and other relevant documents, if any, as required under the contract.
- 20.2 Payment shall be made for services satisfactorily rendered as per the Schedule of Rates and Scope of Work on submission of bills in triplicate, duly supported by joint service reports signed by the contractor's representative and SSE/SGT or authorized Railway representative.
- 20.3 The contractor shall submit quarterly bills for the CAMC services rendered during the quarter. Payment shall be processed only after certification of satisfactory performance by SSE/SGT and approval by Sr.DME/SBC or ADME/SBC.
- 20.4 Any penalties, recoveries or deductions arising out of non-performance, delays, downtime or any other contractual liabilities shall be recovered from the contractor's running bills or any other dues payable under the contract.
- 20.5 Payments shall be made through NEFT/RTGS/ECS or any other electronic mode adopted by Indian Railways from time to time.
- 20.6 Delay, if any, in settlement of bills by the Railway Administration shall not absolve the contractor from fulfilling contractual obligations and shall not be accepted as a reason for suspension, slowdown or discontinuance of maintenance services.
- 20.7 The contractor shall be responsible for payment of Goods and Services Tax (GST) and all other statutory taxes, duties, levies and cess as applicable under the prevailing laws. Railway shall make statutory deductions from the bills as per extant rules and Government notifications.
- 20.8 The contractor shall submit a duly completed mandate form for electronic transfer of payments and furnish complete bank account details, including:
  - a) Name of Bank.
  - b) Branch Name and Address.
  - c) Account Number.
  - d) Account Type.
  - e) IFSC Code/MICR Code.
  - f) Any other details as required by Railway Administration.A certificate from the contractor's banker confirming the correctness of the above details shall be submitted before release of payment.
- 20.9 No interest shall be payable by the Railway Administration on account of delay in payment of bills under any circumstances.

- 20.10 All other provisions relating to billing, payment, taxation, recoveries and financial matters shall be governed by the Indian Railways GCC for Service Contracts-2018 and its latest amendments issued from time to time.
21. **PRICE VARIATION**  
Price Variation Clause (PVC) shall not be applicable to this contract. Rates shall remain firm throughout the contract period except for statutory variation in GST, if admissible under Railway rules.
22. **BILL PASSING AUTHORITY**  
Sr.DME/SBC will be the bill-passing authority and Sr.DFM/SBC shall be the Bill Paying Authority. Payment shall be made through NEFT/RTGS as per extant Railway procedures.
23. **OEM RESPONSIBILITY**  
The OEM/Authorized Service Provider shall adopt the latest maintenance practices, technical bulletins, software updates and maintenance instructions issued by the OEM during the currency of the contract.
24. **ARBITRATION**  
Any dispute arising out of the contract shall be dealt with in accordance with the Arbitration provisions contained in the GCC for Service Contracts and latest Railway Board instructions issued thereon.
25. **JURISDICTION**  
The courts having jurisdiction over Bengaluru shall alone have jurisdiction in matters arising out of this contract.
26. **CONSIGNEE**  
Consignee for the EIMWB system shall be SSE/SGT.
27. **COMPLETION OF CONTRACT**  
The contract shall be deemed satisfactorily completed only after fulfilment of all contractual obligations and certification by Sr.DME/SBC or ADME/SBC.
28. **CONSERVANCY CHARGES**  
As per Railway Board letter No. F (X) 1/95/I/1 Dated: 07.09.2021 or its latest or correction / corrigendum if any issued from time to time, "Conservancy cess charges" will be deducted at the rates given below from the contractor's bills based on the average number of labourers/workmen employed per day by the contractor for the work.

Average no. of laborers / work men employed per day	Conservancy cess charges to be recovered per month
1 to 5	Rs. 159/-
6 to 10	Rs. 312/-
11 to 25	Rs. 785/-
26 to 50	Rs. 1143/-

## SCOPE OF WORK

**Name of the work:** “Comprehensive Annual Maintenance contract for Electronic In-Motion Weighbridge (EIMWB) at Malur (MLO) station (Railway owned) for a period of 10 years”.

The contractor shall undertake Comprehensive Annual Maintenance Contract (CAMC) of the Electronic In-Motion Weigh Bridge (EIMWB) including preventive maintenance, breakdown maintenance, supply and replacement of all spares, consumables, assemblies, sub-assemblies, software support, calibration assistance and all services required for ensuring satisfactory performance of the system throughout the contract period.

1. Maintenance against break down and at least one visit in a quarter for preventive maintenance/inspection. Thus, there will be at least 4 visits during a year, 3 for quarterly routine maintenance and 1 maintenance service visit during the year during which necessary verification and stamping by the weights and measures authority would also be carried out. Railways take no responsibility of providing tools and tackles for the said work.
2. Any material required for repairs/maintenance in case of any break-down during preventive maintenance under comprehensive scheme shall be part of the CAMC and no extra charges are payable by Railways.
3. The charges are inclusive of the stamping and certification charges payable by the contractor to the Weights & Measures Department as and when required during the currency of the contract. The railway will have no responsibility for payment of taxes including service tax, if any.
4. Test wagon for testing/certification will be made available by the railway. Routine calibration tests shall be carried out by the Railways and records made available to the contractor as and when required. However, test weights if required shall have to be arranged by the contractor.
5. The contract does not include replacement of the parts damaged due to fire and accidents/derailments. Parts damaged due to fire and/or accidents/derailments shall be replaced by the contractor on payment of extra charges by the railway. The period of break down in this case would not be considered for calculation of penalty.
6. The CAMC will be inclusive of maintenance of UPS, PC and the printer forming part of the complete electronic in-motion weighbridge. However, replacement of consumables like printing stationery, ribbon, printer head and floppies does not form part of the contract.
7. Maintenance of Track for a distance of about 50m on either side of weigh rails to the mainline standards and power supply as per regulations of The Electricity Act will be the responsibility of the Railway. Maintenance of Air Conditioners, if any, will also be the responsibility of the railway. However, earthing of weighbridges and maintenance of the earth pits will be the responsibility of the contractor.
8. Cost of travel and lodging & boarding of the Service Engineers is to be borne by the contractor and no extra payment or arrangement in this regard is to be made by the railway. However, the Division concerned will request its Zonal Railway Headquarters to provide reservation to the Service Engineers against Emergency Quota, if necessary. But the railways do not make commitment in this regard and non-availability of reservation in the train will not be considered as an excuse for delay in attending to the break downs for calculating the penalty.
9. Break down shall be intimated to the contractor or his representative by the railway through telephone or message or e-mail and proper records shall be maintained by the railway. The break down shall be considered from the time it is reported to the contractor. The complaint shall be treated as closed on the day the contractor's Service Engineer rectifies the system i.e. bringing the display and checking by simulation.  
Delay in testing due to delay on part of the railway in arranging the test wagon/test train will not be counted for calculation of availability/penalty.
10. In order to close the complaints promptly, the Engineer of the contractor may need to work after office hours at site. The weighing system and the railway officials should also be available. If they are not available, this period should be deleted for the purpose of calculating the break down period/non - availability. A logbook to be jointly signed shall be maintained for this purpose.
11. If railways detect incorrect weightment on a particular day, it should be reported immediately and the same shall be treated as normal break down complaint on the date of reporting of complaint. Such break down calls will be attended and demonstrated with test wagon to be provided by railways. The incorrect weightment detected at a later stage shall not be treated as break down.
12. Railways shall clearly advise of the details and documents to be furnished by the contractor at the time of submitting the bills to avoid any ambiguity and to ensure timely payment of bills.

13. No performance guarantee is required from the contractor. However, payment would be made in 6 monthly arrears ( i.e at the end of every 6 months)
14. Where stamping is overdue prior to finalizing AMC, the railway will be responsible for depositing the legal fees/penalty imposed by Department. of Legal Metrology.
15. Penalty Clause

Basis of Calculation

Total days in a year = 365 days

Free maintenance period allowed = 18 days as per RB ltr no ; 99/DEV.CELL/IDEI/2 dated 02.08.2001

Therefore, minimum required available days for 95% availability = 347 days

Considering Annual AMC Value = ₹2,00,000/-

Base Penalty per chargeable day:

$$\frac{₹2,00,000}{347} = ₹576.37 \text{ per day}$$

Accordingly, for every day the weighbridge remains out of order beyond the permissible 18 maintenance days, a penalty of ₹576.37 per day shall be levied.

Availability and Penalty Matrix

Availability (%)	Available Days (Minimum)	Out-of-Order Days (Maximum)	Chargeable Days Beyond Free 18 Days	Penalty Applicable
95% and above	347 to 365 days	0 to 18 days	Nil	No Penalty
95% to 80%	293 to 346 days	1 to 72 days	54 days	Base penalty for chargeable days
70% to below 80%	257 to 292 days	73 to 108 days	55 to 90 days	Base penalty for chargeable days +10%
Below 70%	Less than 257 days	More than 108 days	More than 90 days	Base penalty for chargeable days + 20%
Max. Penalty	-	-	-	Restricted to 20% of Annual Contract Value

Illustrative Examples

Example-1: Availability = 90% (329 days)

Out-of-order days = 365 – 329 = 36 days

Free maintenance days = 18 days

Chargeable days = 36 – 18 = 18 days

Base Penalty 18 × ₹576.37 = ₹10,374

Penalty = ₹10,374/-

Example-2: Availability = 80% (293 days)

Out-of-order days = 72 days

Chargeable days = 72 – 18 = 54 days

Base Penalty: 54 × ₹576.37 = ₹31,124

Penalty = ₹31,124/-

Example-3: Availability = 75% (275 days)

Out-of-order days = 90 days

Chargeable days = 90 – 18 = 72 days

Base Penalty: 72 × ₹576.37 = ₹41,499

Penalty with 10% increase: ₹41,499 × 1.10 = ₹45,649

However, the recoverable penalty shall be limited to ₹40,000/-. As considering Annual CAMC value 2,00,000/-

16. The service engineer of the contractor will report at the site of weighbridge within 3 days of reporting (by the railway the break down. If the service engineer does not report within 3 days, the period in excess of 3 days taken on each occasion shall be deducted from the free period of 18 days in the formula for calculating the penalty.
17. The maintenance will be carried out at site only. In case it is felt necessary to take away any part/assembly or sub-assembly to the contractor's works for repair/calibrations etc., the prior permission from Sr.DME/SBC or ADME/SBC will be obtained ensuring safeguard of railway's interest.
18. **Force Majeure:** Neither Railways nor vendor shall be liable to the other for delay in execution of failure of their respective obligation under this contract caused by occurrence of events beyond the control of railways or vendor as the case may be, including but not limited to fire, explosion, floods, power shortage, acts of God, hostility, acts of public enemy, wars insurrections, riots strikes, lockouts, sabotage, any law status or ordinance-order, action or regulations of the Government, local or other public authorities, either party shall promptly but not later than fifteen days of the commencement of the occurrence of force majeure conditions, notify the other in writing of such contingency and prove that such contingency beyond the control and affect the implementation of this contract adversely and materially. Notice of cessation of force majeure conditions will be given to the other party immediately but not later than fifteen days. If such contingency continues beyond ninety days, both parties agree to discuss and agree upon equitable solution for termination of this contract, or otherwise decide the course of action to be adopted.

The respective obligations of parties shall be extended for the period of force majeure provided notices as required above are given in time and the contingency established, if so required by the other party.

19. **Arbitration:** In the event of any question, dispute or difference arising under these conditions of or in connection with this contract (except as to any matters the exclusion of which is specially provided for these conditions) the same shall be referred to the sole arbitration of Gazetted Railway Officer appointed to be the Arbitrator by the GM of the respective railway. The Gazetted Railway Officer to be appointed to be appointed as Arbitrator, however, will not be one of those who had an opportunity to deal with the matters to which the contract relates or who in the course of his duties as railway servant has expressed views on all or any of the matters under dispute or difference. The award of the Arbitrator shall be final and binding on the parties to this contract.

In the event of the Arbitrator die, neglecting or refusing to act or resigning or being unable to act for any reason, or his award being set aside by the court for any reason, it shall be lawful for the authority appointing the Arbitrator to appoint another Arbitrator in place of the outgoing Arbitrator in the manner aforesaid. It is further a term of this contract that no person other than the person appointed by the authority as aforesaid should act as Arbitrator and that if for any reason that is not possible the matter is not to be referred to arbitration at all. The Arbitrator may for time to time with the consent of all the parties to the contract enlarge, the time for making the award. Upon every and any such reference, the assessment of the cost incidental to the reference and award respectively shall be in the discretion of the Arbitration. Subject as aforesaid the Arbitration & Conciliation Act, 1996, and the rules thereunder and any statutory modifications thereof for the time being in force shall be deemed to be the Arbitration proceeding under this action.

The venue of Arbitration shall be the place from where acceptance of quotation/tender is issued or such other place as the Arbitrator at his discretion may determine. In this section the authority to appoint the Arbitrator include, if there be no such authority, the officer who is for the time being discharging the functions of the authority where in addition to other function or the otherwise.

20. The railways will give contractor full access to the equipment to enable the contractor to provide maintenance services and will provide suitable working space and suitable storage space for spare parts, free of cost.
21. Maintenance service covered under the contract include all types of repairs required for upkeep and reliable working of the machines. However, input supply (Electric Supply) work will be made available by the Railways and the maintenance contract does not include the electrical work and external accessories and other terms for maintenance of power supply system.
22. Contractor's personnel will follow all security procedures as prescribed by railways for entry of personnel(s) or bringing in or taking out the material(s) concerning this contract.

23. Consumables such as printing stationery, print head, floppy disc and drive, printer ribbon etc. are not covered by this maintenance contract.
24. **Termination:** In the event of any breach of contract which leads to the termination, Railways will have the right to terminate the contract as a part or whole and the contractor shall have no right for compensation, except for the payments for the obligations performed satisfactorily.

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**ACCEPTANCE / DEVIATION STATEMENT**

Clause No	Clause as per the Tender document	Deviation of the Bidder

Name and Signature of the Bidder  
with the Seal and Date

**BID FORM (First Sheet)**  
**SOUTH WESTERN RAILWAY**

Tender No.

Name of the Work:

To,

The President of India,

Acting through the

South Western Railway

1. I/We have read the various conditions to the bid attached hereto and agree to abide by the said conditions. I/We also agree to keep this bid 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 myself / ourselves to complete the work in all respects within months \_\_\_\_ from the date of issue of letter of acceptance of the Bid.
2. I/We also hereby agree to abide by the Indian Railways General Conditions of Contract for Services, with all correction slips up-to-date 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, Schedule of Rates with all correction slips up-to-date for the present contract.
3. A sum of Rs. Is herewith forwarded as Earnest Money. Full value of the Earnest Money shall stand forfeited without prejudice to any other right or remedies in case my/our Bid 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. I/We am/are a Micro and Small Enterprise registered from (body approved by Ministry of MSME) with registration No. \_\_\_\_\_ and terminal validity up to ..... for similar service contracts.
5. Until a formal agreement is prepared and executed, acceptance of this Bid 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/ service.

Signature of Bidder/s Date

Address

## BID FORM (Second Sheet)

- 1. Instructions to bidder and Conditions of bid:** The following documents form part of bid / Contract:
  - (a) Bid forms — First Sheet and Second Sheet
  - (b) Special Conditions/Specifications (enclosed)
  - (c) Schedule of approximate quantities (enclosed)
  - (d) Standard General Conditions of Contract and Standard Specifications for Materials and Works of Indian Railway as amended/corrected up to latest Correction Slips, copies of which can be seen in the office after obtained from the office of the Chief Manager, \_\_\_\_\_ Railway on payment of prescribed charges.
  - (e) Schedule of Rates as amended / corrected up to latest Correction Slips, copies of which can be seen in the office of \_\_\_\_\_ or obtained from the office of the Chief Manager, Railway on payment of prescribed charges.
  - (f) All general and detailed drawings pertaining to this work which will be issued by the Manager or her 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 Manager, Railway at any time during the office hours. The drawings are only for the guidance of Bidder(s). Detailed working drawings (11 required) based generally on the drawing mentioned above, will be given by the Manager or her representative from time to time.
- 3.** The Bidder(s) shall quote her / their rates as a percentage above or below the Schedule of Rates of \_\_\_\_\_ Railway as applicable to Division except where she/they are required to quote item rates and must tender for all the items shown in the Schedule of approximate 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 tender documents are liable to be rejected. Any correction made by tender(s) in her/their entries must be attested by her / 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 bid must be accompanied by a sum of Rs. \_\_\_\_\_ as \_\_\_\_\_ earnest money deposited in cash or in any of the forms as specified, failing which the bid will not be considered. However, registered MSEs in terms of Ministry of MSMEs notification No. 503 are exempted from Earnest Money Deposit.
  - b) The bidder(s) shall keep the offer open for a minimum period of 90 days from the date of opening of the bid. It is understood that the bid documents have been sold/issued to the bidder(s) and the bidder(s), is / are permitted to bid in consideration of the stipulation on her / their part that after submitting her / their bid subject to the period being extended further, if required by mutual agreement from time to time, she will not resile from her offer or modify the terms and conditions thereof in a manner not acceptable to the Chief Manager/Manager. Should the bidder 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 bid is accepted, the amount of Earnest Money will be returned to the successful bidder after the submission of the Performance Guarantees as per clause 4.11, for the due and faithful fulfillment of the contract. This amount of EMD shall be forfeited, if the Bidder(s)/ Contractor(s) fail to execute the Contract Document within 7 days after receipt of notice issued by Railway that such documents are ready or to commence the work within 15 days (unless otherwise specified) after receipt of the order to that effect.
  - d) Earnest Money of the unsuccessful Bidder(s) will, save as here-in-before provided, be returned to the unsuccessful Bidder(s) within 15 days after finalization of the bid / negotiation, 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 bid documents or to the Earnest Money while in their possession nor be liable to pay interest thereon.
- 7. Rights of the Railway 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

bidder(s) shall demand any explanation for the cause of rejection of her/their tender nor the Railway to assign reasons for declining to consider or reject any particular tender or tenders.

8. If the bidder(s) deliberately gives / give wrong information in her / their tender or creates / create circumstances for the acceptance of her / their tender, the Railway reserves the right to reject such tender at any stage.
9. If the bidder(s) expire(s) after the submission of her / their tender or after the acceptance of her / their tender, the Railway shall deem such tender cancelled. If a partner of a firm expires after the submission of their tender or after the acceptance of their tender, the Railway shall deem such tender as cancelled, unless the firm retains its character.
10. **Bidder's Credentials:** Bidder shall submit the documents as demanded under Bid Evaluation criteria along with the bid.
11. **For Manual Bidding: (NOT APPLICABLE)**  
Bid must be enclosed in a sealed cover, superscripted "Bid No. " and must be sent by registered post to the address of railway so as to reach her /their office not later than hours on the or deposited in the special box allotted for the purpose in the office of Railway.

This Special box will be sealed at \_\_\_\_\_ hours on \_\_\_\_\_. The Bid will be opened \_\_\_\_\_ at hours on \_\_\_\_\_ the same day. The Bid papers will not be sold after hours on \_\_\_\_\_.

13. **For e- bidding:** Relevant guidelines should be followed.
14. Non-compliance with any of the conditions set forth therein above is liable to result in the tender being rejected.
15. **Execution of Contract Documents:** The successful bidder(s) shall be required to execute an agreement with the President of India acting through the \_\_\_\_\_ Railway for carrying out the work according to Standard General Conditions of Contract, Special Conditions / Specifications annexed to the tender and Specification for work and materials of Railway as amended/corrected up to latest Correction Slips, mentioned in tender form (First Sheet).
16. **Partnership Deeds, Power of Attorney Etc.:** The bidder shall clearly specify whether the bid is submitted on her own or on behalf of a partnership concern. If the bid is submitted on behalf of a partnership concern, she should submit the certified copy of partnership deed along with the tender and authorization 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 as having been submitted by individual signing the tender documents. The Railway will not be bound by any power of attorney granted by the bidder or by changes in the composition of the firm made subsequent to the execution of the contract. It may, however, recognize such power of attorney and changes after obtaining proper legal advice, the cost of which will be chargeable to the contractor.
17. The bidder 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 she/they be partner(s) of the firm or any other person specifically authorizing her/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.
- 17.1 The bidder shall clearly specify whether the bid is submitted on her own or on behalf of a Partnership Firm/Joint Venture (JV)/Society etc. The bidder(s) who is/are constituents of Firm, Company, Association or Society shall enclose self-attested copies of the Constitution of their concern, Partnership Deed and Power of Attorney along with their bid. Bid Documents in such cases shall to be signed by such persons as may be legally competent, Association or Society, as the case may be.
- 17.2 The bidder shall give full details of the constitution of the Firm/JV/Company/Society etc. and shall also submit following documents (as applicable), in addition to documents mentioned above:
  - a. Sole Proprietorship Firm: The bidder shall submit the notarized copy of the affidavit.
  - b. Partnership Firm: The bidder shall submit self-attested copies of (i) registered/notarized Partnership Deed and (ii) Power of Attorney duly authorizing one or more of the partners of the firm or any other persons(s), authorized by all the partners to act on behalf of the firm and to submit & sign the Bid, sign the agreement, witness measurements, sign Measurement Books, receive payment, make correspondences, compromise/settle/relinquish any claim (s) preferred by the firm, sign No Claim certificate', refer all or any dispute to arbitration and to take similar action in respect of all Bids/contracts OR said Bid/contract.
  - c. Joint Venture (JV): The Bidder shall submit documents as mentioned in Clause 2.4 to GCC
  - d. Company registered under Companies Act-1956: The Bidder shall submit (I) the copies of MOA (Memorandum of Association) and ACA (Articles of Association) of the Company; and (ii) Power of Attorney

duly registered/notarized by the company (backed by the resolution of Board of Directors) in favour of the individual, signing the Bid on behalf of the Company.

- e. Society: The Bidder shall submit (i) self-attested copy of the Certificate of Registration, (ii) Deed of Formation and (iii) Power of Attorney in favour of the Tender signatory.

**17.3** If it is mentioned in the Bid that it is being submitted on behalf of/by a Sole Proprietorship Firm/Partnership Firm/Joint Venture/Registered Company etc., the aforementioned document/s (as applicable) should be enclosed along with Bid. If it is NOT mentioned in the Bid that it is being submitted on behalf of/by a Sole Proprietorship Firm/Partnership Firm/Joint Venture/Registered Company etc., then the Bid shall be treated as having been submitted by the individual who has signed the Bid.

**17.4** After opening of the Bid, any document pertaining to the Constitution of the Firm/JV/Society etc. shall neither be asked nor be entertained/ considered.

**17.5** A Bid from JV/Consortium/Partnership Firm etc. shall be considered only where permissible as per the Bid/ Tender conditions

**18. Employment/Partnership etc. of Retired Railway Employees:**

(a) Should a bidder be a retired Manager of the Gazetted rank or any other Gazetted Officer working before her retirement, whether in the executive or administrative capacity or whether holding a pensionable post or not, in any department of any of the railways owned and administered by the President of India for the time being, or should a bidder being a partnership firm have as one of its partners a retired Manager or retired Gazetted Officer as aforesaid, or should a bidder being an incorporated company have any such retired Manager or retired officer as one of its Directors or should a bidder have in her employment any retired Manager or retired Gazetted Officer as aforesaid, the full information as to the date of retirement of such Manager or Gazetted Officer from the said service and in case where such Manager 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 bidder or the Manager or Officer, as the case may be from the President of India or any officer, duly authorised by her in this behalf, shall be clearly stated in writing at the time of submitting the bid. Bids without the information above referred to or a statement to the effect that no such retired Manager or retired Gazetted Officer is so associated with the bidder, as the case may be, shall be rejected.

(b) Should a bidder 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 her shareholder(s) or a relative(s) of the shareholder(s) employed in Gazetted capacity in the any 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 provision in Clause 7.4 of Standard General Conditions of Contract.

**Signature of the bidder**

**Signature of the railway**

**UNDERTAKING FOR DOWNLOADED TENDER DOCUMENT**

We here by confirm that, we have downloaded / read the complete set of tender documents (as detailed in NIT Clause 1.3)/addendum/clarifications along with the set of enclosures hosted on e-tendering portal <http://www.ireps.gov.in/>. We confirm that we have gone through the bid documents, addendums and clarifications for this work placed up to the date of opening of bids on the e-tendering portal <http://www.ireps.gov.in/>. We confirm our unconditional acceptance for the same and have considered for these in the submission of our financial bid.

Stamp & Signature of authorized signatory

**Format for furnishing Bank Account Details**

**E-Payment:** Abiding by the changing policies of the Government, Indian Railways shall arrange for the payments to the contractors through Electronic Clearing System. The contractors shall necessarily furnish the information as per the prescribed format along with their offers against tenders.

I/We ----- hereby express our consent for crediting all of the payments that may become due to us towards the tendered work to Electrical Branch, South western railway, Bangalore-23 directly to our following Bank Account through the Electronic Clearing System.

Firm Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone No/Mobile No. \_\_\_\_\_  
E-Mail: \_\_\_\_\_  
Bank Account No: \_\_\_\_\_  
Type of Account: \_\_\_\_\_  
MICR No:/IFSC Code \_\_\_\_\_  
Name of the Bank: \_\_\_\_\_  
PAN No: \_\_\_\_\_

Company's Seal and Signature of  
Authorized Signatory with date

**Note: Any changes in the above particulars if already furnished shall also be intimated.**

## CONTRACT AGREEMENT OF SERVICES SOUTH WESTERN RAILWAY

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

Dated \_\_\_\_\_

ARTICLES OF AGREEMENT made this day of-----20----- between President of India acting through the Railway Administration hereafter called the "Railway" of the one part and \_\_\_\_\_ herein after called the "Contractor of other part.

WHEREAS the Contractor has agreed with the Railway for performance of the Services (Name of work) set forth in the Schedule hereto annexed upon the General Conditions of Contract for Service Contracts corrected up to latest Correction Slips hereinto 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 tome payments to be made by the Railways, the Contractors will duly perform the said Services in the said schedule set forth and shall execute the same with great promptness, care and accuracy in a worker 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 \_\_\_\_\_ 20\_\_ and will observe, fulfill and keep all the conditions therein mentioned (which shall be deemed and taken to be part of this contract, as if the same have been fully set forth herein), AND the Railway, both hereby agree that if the Contractor shall duly perform the said services 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 services on the final completion thereof the amount due in respect thereof at the rates specified in the Schedule hereto annexed.

(Signature) \_\_\_\_\_

Contractor \_\_\_\_\_

Address \_\_\_\_\_

Date \_\_\_\_\_

Signature \_\_\_\_\_

Railway Designation \_\_\_\_\_

(For President of India)

Address \_\_\_\_\_

Date \_\_\_\_\_



PERFORMANCE GUARANTEE BOND

(To be executed on contract being awarded)

BANK GUARANTEE NO:

AMOUNT RS.

VALIDITY FROM

VALID UPTO

LAST DATE FOR LODGEMENT OF CLAIM

1. In consideration of the President of India acting through the ....., Bangalore Division, South Western Railway, Bangalore – 560023 [give full address of the Official/Department] (hereinafter referred to as ‘the Government’) having accepted vide letter No. .... dated....., the tender submitted by ..... [give full address of the Contractor] (hereinafter referred to as “the Contractor”) and agreed to grant a contract for .....[indicate the nature of contract works] (hereinafter called the Contract) and whereas one of the terms agreed by the said contractor is that he should give a Performance Guarantee in the form of an irrevocable bank guarantee amounting to 5% of the contract value in four separate parts of 1.25 % each of the contract value, i.e Rs...../- (Rupees .....only) ) *\*(indicate PBG amount)\** valid upto ..... *\*(Indicate date – Currency period + 60 days)\**, by way of security for the due observance of the terms and conditions, performance and fulfillment of the said contract, we....., [indicate the name and full address of the bank] (hereinafter referred to as ‘the Bank’) at the request of the Contractor do hereby irrevocably and unconditionally guarantee to the Government that the Contractor shall duly perform and discharge their obligations under the said contract to the full satisfaction of the Government and render all necessary and efficient services which may be required to be rendered by the Contractor in connection with and/or for the performance of the works as per the specifications stipulated in the tender No.....dated.....and letter of acceptance No,.....dated.....within the time of .....[up to the expiry of maintenance period] reckoned from the date as per the letter of acceptance and further guarantees that the works which shall be done by the Contractor shall be actually performed in accordance with terms and conditions of the contract to the full satisfaction of the Governments.

2. We, the Bank, do hereby undertake to pay to the Government an amount not exceeding Rs..... against any loss and / or damage caused to or suffered or would be caused to or suffered by the Government by reason of any breach by the said Contractor(s) of any of the terms and conditions contained in the said contract.

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

4. We, the Bank, do hereby undertake to pay to the Government any money so demanded notwithstanding any dispute or disputes raised by the Contractor(s) in any suit or proceeding pending before any Court, Tribunal or Arbitrator(s) relating thereto our liability under this present being absolute and unequivocal. The payment so made by us under this Bond shall be a valid discharge of our liability for payment there under and the contractor (s) shall have no claim against us for making such payment.

5. We, the Bank, do further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of the Government under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till the Government certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said contractor(s) and accordingly discharges the Guarantee. Unless a demand or claim under this Guarantee is made on us in writing on before the ....., we shall be discharged from all liability under thus Guarantee thereafter.

6. We, the Bank, do further agree with the Government that the Government shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extend time of performance by the said Contractor(s) from time to time or to postpone

for any time or from time to time any of the powers exercisable by the Government against the said Contractor(s) and to forbear or enforce any of the terms and conditions relating to the said Agreement and we shall not be relieved from out liability by reason of any such variation or extension being granted to the said Contractor (s) or for any forbearance, act or omission on the part of the Government or any indulgence by the Government to the said Contractor(s) or by any such matter or thing whatsoever which under the law related to sureties would but for this provision have effect of so relieving us.

7. The Guarantee will not be discharged due to the change in the constitution of the Bank or the Contractor(s).

8. We, ..... [indicate the name of the Bank]  
lastly undertake not to revoke this Guarantee during its currency except with the previous consent of the Government in writing.

Dated the .....day of .....20.....  
for.....

Seal & Signature(s) of the authorized Officer (s) With designation

Note - Words appearing between [ ] Box Bracket marks are for guidance only and not to be typed in the final / fair document of Bank Guarantee} \*

**FORMAT FOR UNDERTAKING CERTIFICATE BY THE BIDDER FOR TRUTHFULNESS OF  
DOCUMENTS UPLOADED**

I.....(*Name and designation*)\*\*appointed as the attorney/authorized signatory of the tenderer (including its constituents), M/s\_\_\_\_\_ (hereinafter called the tenderer) for the purpose of the Tender documents for the work of \_\_\_\_\_ as per the tender No. \_\_\_\_\_ of \_\_\_\_\_(*Railway*)\*\*, do hereby solemnly affirm and state on the behalf of the tenderer including its constituents as under:

1. I/we the tenderer (s) am/are signing this document after carefully reading the contents.
2. I/We the tenderer(s) also accept all the conditions of the tender and have signed all the pages in confirmation thereof.
3. I/we hereby declare that I/we have downloaded the tender documents from Indian Railway website www.GeM.gov.in . I/we have verified the content of the document from the website and there is no addition, no deletion or no alteration to the content of the tender document. In case of any discrepancy noticed at any stage i.e. evaluation of tenders, execution of work or final payment of the contract, the master copy available with the railway Administration shall be final and binding upon me/us.
4. I/we declare and certify that I/we have not made any misleading or false representation in the forms, statements and attachments in proof of the qualification requirements.
5. I/We also understand that my/our offer will be evaluated based on the documents/credentials submitted along with the offer and same shall be binding upon me/us.
6. I/We declare that the information and documents submitted along with the tender by me/us are correct and I/we are fully responsible for the correctness of the information and documents, submitted by us.
7. I/we understand that if the contents of the certificate submitted by us are found to be forged/false or incorrect at any time during process for evaluation of tenders, it shall lead to forfeiture of the Bid Security besides banning of business for a period of up to five year. Further, I/we (insert name of the tenderer) \*\*\_\_\_\_\_and all my/our constituents understand that my/our offer shall be summarily rejected.
8. I/we also understand that if the contents of the certificate submitted by us are found to be false/forged or incorrect at any time after the award of the contract, it will lead to termination of the contract, along with forfeiture of Bid Security/Security Deposit and Performance guarantee besides any other action provided in the contract including banning of business for a period of up to five year.

Name and Signature of the Tenderer  
with the Seal and Date

\*\* The contents in Italics are only for guidance purpose. Details as appropriate are to be filled in suitably by bidder.  
Attestation before Magistrate/Notary Public.

**DECLARATION AS PER GCC SERVICE**

I \_\_\_\_\_ (Name and designation) appointed as the attorney /authorized signatory of the tender (including its constituents),M/s. \_\_\_\_\_ (here in after called as the tenderer) for the purpose of the Tender documents for the work of \_\_\_\_\_ as per the tender No. \_\_\_\_\_ of \_\_\_\_\_ (Railway),do hereby solemnly affirm and state on the behalf of the tenderer including its constituents as under:

1. I/We here by confirm and declare that being an individual on the list of approved contractors, **have NO relative** (s) or in the case of partnership firm or company of contractors one or more of her shareholder(s) or a relatives(s) of the shareholders(s) employed in gazette capacity in any department of Indian Railways, **if having relatives**, I/We will inform the same to the authority inviting bids of the fact at the at the time of submission of Bid, failing which our bid may be disqualified / rejected or if such fact subsequently comes to light, the contract may be rescinded in accordance with the provision in clause 7.4 of the General conditions of contract.
2. I/We here by confirm and declare that, being a bidder or any of our constituents **has NOT been levied with a penalty** for violation of labour laws for three times in the last two years (from the date of opening of tender) by the appropriate enforcing agency like Labour commissioners etc.
3. I/We here by confirm and declare that my/our firm/company/any of our constituents have not been terminated under GCC SERVICE clause 7.4 in this railway division with in the previous 02 years from the date of submission of bids.
4. I/We here by confirm and declare that my/our firm/company/any of our constituents have not been imposed a penalty equivalent to the maximum penalty that can be imposed under a previous contract with in a previous 02 years from the date of submission of bids.(Period of 02 years shall be reckoned from the date of on which the total accrued amount of penalties has reached the maximum penalty that can be imposed under the contract, as specified by the competent authority)

Name and Signature of the Tenderer  
with the Seal and Date

**DECLARATION REGARDING ASSOCIATION OF RAILWAY OFFICERS OR RETIRED RAILWAY  
OFFICERS WITH TENDERER(S)**

We are hereby declared that any Ex-railway employee or director or retired manager of the gazette rank or any other gazette railway officer has not associated with M/s. \_\_\_\_\_. We further declare that no relative of myself (individual contractor)/shareholders/relative of shareholders (partnership firm) employed in gazette capacity in any department of Indian railway.

**Note:**

If a bidder have in her employment any retired Manager or retired Gazette Officer as aforesaid, then the full information as to the date of retirement of such Manager or Gazette Officer from the said service and in case where such Manager or Officer had not retired from Government service at least **one** year prior to the date of submission of the Bid 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 Bidder or the Manager or Officer, as the case may be from the President of India or any officer, duly authorized by her in this behalf, shall be clearly stated in writing at the time of submitting the Bid.

Bids without the information above referred to or a statement to the effect that no such retired Manager or retired Gazette Officer is so associated with the Bidder, as the case may be, shall be rejected.

Name and Signature of the Tenderer  
with the Seal and Date

**END OF THE DOCUMENT**