

other personnel and resources as required to ensure effective operation of the quality assurance system. The said manager shall carry out audits of the application of the quality assurance system, and ensure effective quality control and delivery of quality assurance.

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

- 19      **Sub-Clause 8.5**      **Liquidated Damages**  
The total contract value used in the GCC sub-clause 8.5 shall for the purpose of levy of liquidated damages mean the 'Fixed Lump Sum Price'. Ceiling limit of Liquidated Damage is 10% of Fixed Lump Sum Price accepted for Schedule A of Pricing Document.
- 20      **Sub-Clause 10.1**      **Defect Liability Period**  
This shall be for a period of 52 weeks from the date of the Completion of the whole of the Works as certified in the latest Taking Over Certificate subject to the conditions laid down in GCC Clause 10.1. During the Defects Liability Period the Contractor shall provide, free of cost, competent and skilled personnel and maintain adequate stock of spares so as to promptly fulfil his obligations during the Defects Liability Period as laid down in GCC and Employer's Requirements.
- 20.1      **Sub-Clause 10.1**      **Work by persons other than the Contractor**  
If by reason of any accident or failure or other event occurring to, in, or in connection with the Works any remedial or other work shall, in the opinion of the Engineer, be urgently necessary and the Contractor is unable or unwilling at once to do such remedial or other work, the Engineer may authorise the carrying out of such remedial or other work by a person other than the Contractor. If the remedial or other work so authorised by the Engineer is work, which, in the Engineer's opinion, the Contractor was liable to do under the Contract, all expenses properly incurred in carrying out the same shall be recoverable by the Employer from the Contractor. Provided that the Engineer shall, as soon after the occurrence of any such emergency as may be reasonably practicable, notify the Contractor thereof in writing.
- 21      **Sub-Clause 11.1.1**      Changes in cost due to legislation  
  
"Change in Law" means the occurrence or coming into force of the following, at any time after the Date of submission of tender.
- (a) any new tax which is imposed after the due date of submission of tender and which impacts the performance of the Contractor with increased cost or which results in extra financial gains to the Contractor due to decreased cost in execution of Works.
  - (b) change in any law pertaining to work having the above said impact.

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

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

- (a) the same shall have been reflected in the indexing of any of the inputs to the Price Adjustment Formula in accordance with the provisions of sub Clause 20.1 of "Special Conditions of Contract," or
- (b) the same shall have been taken into account under any other clause of the Contract, or
- (c) In case Price Variation formula based on Reserve bank of India Indices is proposed to be adopted, no addition/reduction in cost due to "Change in Law" will be allowed, or
- (d) there are fluctuations in the rates of exchange between the foreign currencies of the Contract and Indian Rupees from the last date of submission of tender, or
- (e) the Contractor fails to take the required action to obtain refund, the Employer may take action in accordance with Sub-Clauses 11.1 and 11.2 of General Conditions of Contract.

**21.1 Sub-Clause 11.1.1 The Contract Price**

- (i) Not Used .
- (ii) The Tenderer is required to carefully study the provisions and consider them while preparing his offer. Tenderer shall be solely responsible for obtaining the benefits that they have considered in their tender and in case of failure to receive such benefit the Employer shall not compensate the Tenderers. It will be the responsibility of the Contractor to avail the maximum benefit available to KMRCL in terms of the above provisions.
- (iii) Further, it shall be the responsibility of the Tenderer to request the Employer in time giving full details of the items for which certificate is requested including reference to the items of the Pricing Document, value, amount, financial implications of tax exemption etc to satisfy the employer the exemption certificate being requested are as being required for items to be used for the Employer's project. A details procedure order in this regard will be made after award of the Contract.

- (iv) The rates and prices quoted for each item in the Pricing Document shall be inclusive of all taxes, levies, duties and any other charges leviable, including tax deducted at sources, except
- Not used.
  - VAT/CST/Local Sales Tax (if applicable) paid on all indigenous equipments including machinery and rolling stock, procured for this contract will be reimbursed to the contractor on the basis of actual on submission of documentary proof of payment, in addition to the unit rates quoted.
  - Sales Tax on Works Contract as applicable to the contract shall be paid to the Contractor on the basis of actual on submission of documentary proof of payment, in addition to the unit rates quoted.
- (v) The Tenderer should note that the Employer will not make any separate payment towards Excise Duty and Customs Duty. The Tenderer is therefore required to study the above provisions carefully and take advantage of the above provisions to the fullest possible extent.

21.2     **Sub-Clause 11.1.1     Variation In Rates of Taxes/Duties**  
Variation in rates of taxes/duties, applicable at the time of tender submission, will not be considered for price adjustment. Reimbursement of any new tax or variation of existing tax, introduced after date of tender submission, shall be paid in actual on submission of documentary evidence. However, change in tax/duties on account of change in interpretation shall not be paid.

21.3     **Sub-Clause 11.1.2     Price Variation**  
The rates as per the accepted Bill of Quantities, shall be applicable till the completion of the Work and will be varied only to the extent of permissible price variation under this Clause. However, this adjustment shall be to the extent that full compensation for any rise or fall in costs to the Contractor is not covered by the Price variation formula, the rates in the accepted Bill of Quantities shall be deemed to include amounts to cover the contingency of such rise or fall of costs.

The price variation will be payable only on the Indian currency component (no adjustment for Foreign currency component) of the Contract Price as per the price variation formula.

21.3.1

**Price Variation Formula**

Payment as per the contract shall be subject to adjustment in accordance with the following Price Variation formula, and other terms given herein, to provide for variation in the market rates of inputs like labour, materials and fuel / energy during the currency of the Contract:

$$V = VI + Vs + Vc + Vf + Vm$$

Where,

= Total adjustment on account of all factors

VI = Adjustment on account of labour component

$$= p \times R \times (I - I_0) / I_0$$

Vs = Adjustment on account of Steel component

$$= q \times R \times (Ws - W_{so}) / W_{so}$$

Vc = Adjustment on account of Cement component

$$= r \times R \times (Wc - W_{co}) / W_{co}$$

Vf = Adjustment on account of Fuel/Lubricant component

$$= s \times R \times (Wf - W_{fo}) / W_{fo}$$

Vm = Adjustment on account of Machinery and Machine Tools

$$= t \times R \times (Wm - W_{mo}) / W_{mo}$$

p = Cost Coefficient of Labour to the Total Cost

$$= 0.22$$

q = Cost Coefficient of Steel to the Total Cost

$$= 0.25$$

r = Cost Coefficient of Cement to the Total Cost

$$= 0.15$$

s = Cost Coefficient of Fuel and Lubricant to the Total Cost

$$= 0.05$$

t = Cost Coefficient of other Machinery and Machine Tools to the Total Cost

$$= 0.18$$

**Note:**  $p + q + r + s + t = 0.85$ , balance 0.15 shall be fixed component

R = Gross value of the work done by the Contractor for the period of work under consideration, after excluding therefrom the cost of any materials supplied free or at fixed rate to the Contractor as also any specific payments to be made to the Consultants engaged by the Contractor, which shall be indicated in the Contractor's offer letter.

- Io = Consumer Price Index for Industrial workers, published in the Reserve Bank of India Bulletin, as applicable to Kolkata area for the month in which the tender was opened.
- I = Average of monthly Consumer Price Index for Industrial workers published in the Reserve Bank of India Bulletins as applicable to Kolkata area for the period of work under consideration.
- Wso = Wholesale Price Index (Averages) for Iron & Steel items as published in the RBI "Bulletin", for the month in which the tender was opened.
- Ws = Average of the monthly Whole Sale Price Index (Averages) for Iron & Steel items as published in the RBI Bulletins, for the period of work under consideration.
- Wco = Whole Sale Price Index (Averages) for Cement as published in the RBI Bulletin, for the month in which the tender was opened.
- Wc = Average of the monthly Whole Sale Price Index (Averages) for Cement as published in the RBI Bulletins, for the period of work under consideration.
- Wfo = Whole Sale Price Index (Averages) for Fuel, Power, Light and Lubricants, as published in the RBI Bulletin, for the month in which the tender was opened.
- Wf = Average of the monthly Whole Sale Price Index (Averages) for Fuel, Power, Light and Lubricants as published in the RBI Bulletins for the period of work under consideration.
- Wmo = Whole Sale Price Index (Averages) for Machinery and Machine Tools as published in the RBI Bulletin, for the month in which the tender was opened.
- Wm = Average of the monthly Whole Sale Price Index for (Averages) Machinery and Machine Tools as published in the RBI Bulletins for the period of work under consideration.

**Period of Work under consideration will mean as under:**

- (a) In the case of first "On-account Bill" the period from the date of receipt of "Letter of Acceptance" to the date of measurement of the first bill.
- (b) In the case of second and subsequent "On-account" and Final bills, the Period from the date of measurement for previous bill to the date of measurement of that bill.

**Note :** Responsibility of arranging the RBI Bulletins desired by the Employer or the Engineer shall rest with the Contractor.

### **Procedure in case of delay in Availability of Final RBI Indices**

Where the final Price Indices are not available in the Reserve Bank of India Bulletins, while making payment towards on-account bills, payment towards Price Variation will be made on provisional basis based on the indices available, to be adjusted in subsequent bills as and when the final Indices figures become available.

### **Adjustment on Account of Price Variation**

Adjustment on account of Price Variations may be positive (in which case extra amount shall be paid to the Contractor), or negative (in which case the amount of Price Variation shall be recovered from the Contractor). Adjustment on account of Price Variation shall be calculated separately, for each period, between two successive dates of measurements for bills and paid along with each bill.

After verifying the bill, the Engineer shall certify the adjustment amount and advise the same to the Employer along with the 'On Account' bill. Should any extra amount be due to Contractor, the Employer shall pay the same as far as possible within 28 days of certification by Engineer. Any amount due from Contractor on account of negative adjustment shall be recovered from his pending or other bills at the earliest.

### **Price Variation during Extended Period of Completion**

The price adjustment as worked out above i.e. either increase or decrease will be applicable up to the stipulated date of completion of the work including the extended period of completion where such extension has been granted under Sub-Clause 8.4.1 of GCC. However, where extension has been granted under Sub-Clause 8.4.3 of GCC, price adjustment will be due as follows:

In case the indices increase above the indices applicable to a bill made on the last date of original completion period or the extended period under Sub-Clauses 8.4.1 of GCC, the price adjustment for the period of extension under Sub-Clause 8.4.3 of GCC will be limited to the amount payable as per the indices applicable to a bill made on the last date of the original completion period or the extended period under Sub-Clauses 8.4.1 of GCC as the case may be.

In case the indices fall below the indices applicable to a bill made on the last date of the original or extended period of completion, then the lower indices will be adopted for Price Adjustment for the period of extension under Clause 8.4 of GCC unless the extension has been granted due to Contractor's fault.

22      **Sub-Clause 11.2.1      Mobilisation Advance**

Interest free Mobilisation Advance Payment shall be paid up to 5% of the original contract value payable in one instalment when the Contract becomes effective. The advance shall be paid on receipt of 12 acceptable Bank Guarantees of equal amount from a Scheduled Commercial Bank of India.

22.1      **Sub-Clause 11.2.2      Interest free advance Against Plant & Machinery**

This advance is payable for plant, equipment and machinery, provided the same have reached the site, or in the case of new items meant specifically for the works, firm purchase order has been placed and the invoices received. The plant and machinery shall be valued by the Engineer as follows:

- 25      **Additional Clause**      **Retention Money**
- Retention money equal to 10 percent of the amount due to the Contractor from each on account payment will be retained, so as to maintain a reserve in the hands of the Employer equal to 5 percent of the Contract Price.
- The Retention money shall be held by the Employer without obligation to invest them or account for interest thereon or to place them in a designated account. No interest of whatsoever nature and type will be payable by the Employer in respect of Retention monies.
- One half of the Retention monies shall become due to the Contractor on the date of issue of the Taking Over Certificate. Balance of the Retention monies shall become due to the Contractor on the date of Issue of the Performance Certificate.
- The Employer will, however, release this balance of the Retention Money (one half of the Retention Money) also on the date of issue of the Performance Certificate for the whole of Works against a Bank Guarantee for an equal amount and currencies from an Indian Nationalised Bank.
- 26      **Additional Clause**      **Supervision of Maintenance**
- The Contractor shall provide Experts for Supervision of Maintenance. The deployment of these Experts may not be continuous and they may be required to supervise the maintenance in short periods at a time. The number of man-months of Experts shall, however, be the same as provided in the Contract. These Experts shall work under the administrative control of the Employer. These Experts shall ensure that the Client's maintenance staff acquire necessary skills and follow correct procedures and practices in the maintenance, overhaul and repair of various components for the system as well as for the maintenance of the related software (if any). The qualification and experience of the Experts to be deployed by the Contractor shall be as prescribed in the Employer's Requirements. Prior approval of the Employer shall be necessary before the Experts are deployed for supervision of maintenance. The Contractor shall replace promptly, Contractor's experts who are not considered suitable by the Engineer.
- 27      **Additional Clause**      **Spares**
- The Contractor shall supply spare parts as indicated in the Bill of Quantities at intervals specified by the Employer.
- 28      **Additional Clause**      **Not used**

29      **Additional Clause      Safe Custody Bank Guarantee**

The Contractor shall submit a Safe Custody Bank Guarantee in the format given in Schedule 9 against payments made for Plant and Equipment delivered to Kolkata. The amount of safe custody Bank Guarantee shall be equal to 95% percent of the amount due as per relevant clause of Pricing Document. The value of the Safe Custody Bank Guarantee would be adjusted for the equipments already commissioned.

30      **Additional Clause      KMRCL Labour Welfare Fund Rules**

(a)      **Sources of the Fund**

The Labour Welfare Fund will be created jointly by KMRCL and the Contractor. The Contractor shall remit a minimum amount of Rs 1 lakh against every case of death or total incapacitation and KMRCL would also contribute a matching amount.

(b)      **Objectives of the Fund**

The objectives of the Fund are:-

- (i)      To ensure that widow and children of the deceased worker is given monetary assistance for bringing up of the children.
- (ii)     If the children are orphans, their upkeep and educational requirements should be met with from the fund till one of the children becomes major and is gainfully employed.

(c)      **Allocation of Fund**

Allocation of fund for the various activities shall be decided by the Committee at the beginning of each financial year. Any reallocation during the year, if necessitated, will also be decided by the Committee.

(d)      **Accounts of the Fund**

The accounts of the Fund shall be maintained separately in appropriate form. An account shall be opened in a nationalised bank in the name of "KMRCL LABOUR WELFAER FUND A/c".

(e)      **Audit**

The accounts of the Fund shall be audited annually by an Auditor appointed by the Committee.

(f)      **General**

In case of death due to accident, the immediate relative of the deceased should be given an ex-gratia payment by the Contractor. The Contractor should also provide employment to