



KOLKATA METRO RAIL CORPORATION LIMITED

East West Corridor of Kolkata Metro

CONTRACT: Design, Fabrication, Supply & Erection of Prefabricated Steel Roof structure including Roof Portals, Purlins, Sheeting etc. for 6 Elevated stations and Foot Over Bridges for 2 stations, Cable Runner for 1 station of East West Corridor of Kolkata Metro.

CONTRACT NO: EWSR

TENDER DOCUMENTS

VOLUME 1

SPECIAL CONDITIONS OF CONTRACT

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SPECIAL CONDITIONS OF CONTRACT

CI No	DESCRIPTIONS (supplement to GCC sub clause)	SPECIAL CONDITIONS OF CONTRACT
1.	Sub clause 3.1 Duties and Responsibilities of Engineer	In case The Engineer is employee of any agency hired by the Employer, the Engineer shall take the approval of the Employer for all technical and financial matters otherwise he shall be deemed to have taken the approval of the Employer.
2.	Sub clause 5.4 Specifications and Drawings	<p>2.1 Specifications</p> <p>One copy of Special specifications shall be supplied to the Contractor. CPWD specification/other Specifications viz. IS, IRS, IRC, DSR etc. shall be procured by the Contractor from the market.</p> <p>2.2 Drawings for Permanent Works.</p> <p>Preliminary Drawings showing general dimensions & details elaborating the scope of work (not based on detailed design) will be supplied along with the tender documents.</p> <p>For the detailed design and drawings of permanent structure in scope (detailed in NIT), Contractor is required to submit design certificate for permanent works.</p> <p>2.3 Design, Drawings and Specifications.</p> <p>2.3.1 The contractor shall design the false work, formwork, staging scheme etc. and shall get the same and related working drawings approved by the Engineer. The contractor would supply 6 sets of these drawings to the Engineer for the latter's use.</p> <p>2.3.2 On completion of the Works, the Contractor shall arrange to furnish to the Employer two bound sets of all "as-constructed" working drawings for every component of the Works, all such copies being on polyester film of quality to be approved by the Engineer or his authorized Representative. The Certificate of Completion of Works shall not be issued by the Engineer in the event of Contractor's failure to furnish aforesaid "as-constructed" drawings for the entire works.</p> <p>2.3.3 It shall be the responsibility of the Contractor to promptly bring to the notice of Engineer any error or discrepancies in the contract documents and obtain his orders thereon. Only stated dimensions are to be taken and not those obtained from scaling drawings. In case any feature of the work</p>

		<p>is not fully described and set forth in the drawings and specifications, the Contractor shall forthwith apply to the Engineer for further instructions, drawings or specifications.</p> <p>2.3.4 In case of errors, omissions and/or disagreement on the drawings or between the drawings and specifications the following principles shall be followed:</p> <p>a. As between the written description or written dimensions on the drawing and the corresponding one in the specifications, the former shall apply.</p> <p>b. As between the written description of the item in Bill of Quantities and the detailed description in the specification of the same item, the former shall prevail.</p> <p>c. The drawings on a large scale shall have precedence over those on small scale</p> <p>d. Drawings approved as construction drawings from time to time shall supercede corresponding drawing approved earlier</p>
3.	Sub clause 4.22 Temporary Works	<p>The Contractor's proposals for erection of all ancillary and temporary works shall be in conformity with the proposals submitted along with the tender and modifications thereto as approved by the Engineer.</p> <p>The Contractor shall submit drawings, supporting design calculations where called for by the Engineer and other relevant details of all such works to the Engineer for approval at least one month before he desires to commence such works. Approval by the Engineer of any such proposal shall not relieve the Contractor of his responsibility for the sufficiency of such works.</p> <p>Contractor is to provide design certificate for temporary works.</p> <p>No extra payment will be made for complying with the provisions of this clause and the cost of the work under this element shall be deemed to be included in the Bill of Quantities</p>
4.	Clause 7 Quality Assurance Manual	<p>The Contractor shall submit a detailed Quality Assurance Manual demonstrating the proposed method of achieving the required quality standards of the Employer. The quality manual should address the quality system as required by ISO 9001-2008</p> <p>Quality manual should clearly list out the procedures, activities, checks, standards and any such thing such as schedule of tests, which he proposes to carry out during the progress of the works and are necessary to comply with the quality objectives of the Employer.</p> <p>Manual should also list the corporate policy adopted by the Contractors</p>

		<p>firm</p> <p>No extra payment will be made for complying with the provisions of this clause and the cost of the work under this element shall be deemed to be included in the Bill of Quantities</p>
5.	<p>Sub clause 4.16, 6.7 Safety, Health and Environment</p>	<p>The Contractor shall be responsible for total compliance of Safety, Health and Environmental Protection safeguards as elaborated in combined Safety, Health, and Environmental Manual (SHE) of the Employer.</p> <p>The Contractor shall provide all necessary access, assistance and facilities to enable the Engineer and Employer to carry out surveillance to verify that the site safety and safety assurance plans are being properly and fully implemented in accordance with the Contract.</p> <p>No extra payment will be made for complying with the provisions of this clause and the cost of the work under this element shall be deemed to be included in the Bill of Quantities.</p> <p>a) Contractor may note that house keeping at Work sites and safe surrounding are very important. Mishandling of materials, spillage, any activity amounting to bad housekeeping is strictly prohibited. Noncompliance of same shall attract a liquidated damage as follows:</p> <ol style="list-style-type: none"> i. On first observation –Warning ii. On second observation- Rs 10000/- per day till remedied. iii. On third and each subsequent observations- Rs one lac <p>b) Penalties as provided in the conditions of contract on safety, health and environment shall be levied to the contractor for any violation to the provisions.</p>
6.	<p>Sub clause 4.9, Site Data and Inspection of Site</p>	<p>The responsibility of Contractor under sub-clause 4.17 of General Conditions of Contract is full and final and no claim by the Contractor for additional payment or extension of time shall be allowed on the ground that of any misunderstanding or misapprehension by the contractor or that incorrect or insufficient information was given to the Contractor or that he failed to obtain correct and sufficient information</p>
7.	<p>Sub clause 4.15 Plans And Drawings For Layout Of Plant And Equipment</p>	<p>The Contractor shall submit the following information, in triplicate, to the Engineer, for approval, within the time stipulated against each item given below :</p>

		<p>(a) A general layout plan for construction plant and equipment required for execution of work, within thirty days from the date of issue of "Letter of Acceptance".</p> <p>(b) drawings or prints showing the locations of major facilities which he proposes to put up at site, at least fourteen days prior to the commencement of the respective work; and</p> <p>any other details and drawings as required under the contract, within the time as specified in the contract.</p>
8.	Sub clause 4.8 Setting Out	<p>8.1 The contractor shall survey and fix the alignment, mark pier locations, maintaining vertical & horizontal clearances and keeping in view important site references and obligatory locations in consultation with Engineer. GTS bench mark, temporary bench marks and three control points on all straights & other details shall be handed over by the Engineer.</p> <p>8.2 The Contractor shall establish at his cost, at suitable points, additional reference lines and bench marks as may be necessary. The Contractor shall remain responsible for the sufficiency and accuracy of all his benchmarks and reference lines. He shall take precautions to see that lines, points and bench marks fixed by the Engineer are not disturbed by his work and shall make good any damage thereto.</p>
9.	Sub clause 4.19 SUPPLY OF MATERIALS TOOLS, PLANT AND EQUIPMENT BY THE EMPLOYER	No material, tools, plant and equipment shall be supplied by the Employer. The Contractor has to arrange all tools, plant, equipment as well as construction materials required for the work.
10.	Sub clause 4.26, 4.17 USE AND CARE OF SITE	All garbage shall removed from site daily or as they accumulate. All surface and sub-soil drains shall be maintained in a clean, sound and satisfactory state of performance.
11.	Sub clause 11.1 DUTIES, TAXES, OCTROI, ROYALTY ETC.	There is no exemption of Custom/Excise duties, taxes or other levies for this contract.
		The Contractor shall ensure full compliance with tax laws of India with regard to this contract and shall be solely responsible for the same. He shall submit copies of acknowledgements evidencing filling of returns every year and shall keep the Employer fully indemnified against liability of tax, interest, penalty etc, of the Contractor's in respect thereof, which may arise.
12.	Sub clause 11.1	The Contractor shall provide a valid registration certificate and clearance

	Registration certificate under WB VAT	certificate under W.B. state in absence of which no payment including release of any advance shall be made by the Employer to the Contractor.
13.	Sub clause 1.3: Governing Law CHANGES IN COST DUE TO LEGISLATION	<p>CHANGES IN COST DUE TO LEGISLATION:</p> <p>“Change in Law” means the occurrence or coming into force of any of the following, at any time after the Date of submission of tender.</p> <ol style="list-style-type: none"> 1. 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 2. change in any law pertaining to work having the above said impact <p>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.</p> <p>However change in the rate of any existing tax will not be considered a Change in Law. Any risk of change of tax rate whatsoever related to the work lies with the Contractor.</p> <p>Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if,</p> <ol style="list-style-type: none"> (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 Clause 13.0 of “General Conditions of Contract”, or (b) the same shall have been taken into account under any other clause of the Contract. (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.
14.	Sub clause 4.11, 4.12: Right of Ways and facilities-Avoidance of Interference and Safety of Public and Extraordinary Traffic	<p>Existing roads and other public roads may be used by the Contractor at his risk and cost to carry out construction activities, with prior approval of the competent authority.</p> <p>The Contractor’s heavy construction traffic or tracked equipment shall not travel on any public road or bridge, unless the Contractor has made arrangements with the authority concerned and has obtained the approval of the Engineer to such arrangements. The Contractor shall include in his price the cost of strengthening any such public road or bridge if he considers it would be necessary</p> <p>The Contractor shall repair any damage to the road or bear the cost thereof due to movement of contractor’s plants and equipment, vehicles</p>

		<p>etc. to the specifications and satisfaction of road authorities as well as of Engineer.</p> <p>The Contractor shall plan transportation of construction materials to work site in accordance with traffic regulations enforced by local traffic authorities from time to time and in such a way that road accidents are avoided.</p> <p>No claim whatsoever shall be entertained on this account. The transportation of certain equipments and materials and launching may not be possible during day and may have to be carried out within time schedule specified by traffic police.</p> <p>No extra payment will be made for construction and maintenance of temporary haul roads if any needed including any special protection or strengthening required and all cost of such works shall be deemed to have been included in the costs of items in Bill of Quantities.</p>
15.	Sub clause 6.5: Working Hours	<p>Lighting and Fire Protection: Where night working is permitted by the Engineer to facilitate the Contractor's Work operations, temporary lighting equipment as per approved layout shall be provided, installed, maintained for the duration of the contract and removed after completion of work by and at the expense of the Contractor.</p> <p>The Contractor shall provide and maintain adequate fire fighting equipment and take adequate fire precautions for the safety of all personnel and temporary and permanent works and shall take action to prevent damage to or destruction by fire of trees, shrubs and grasses.</p> <p>No extra payment will be made to the Contractor for the provision of temporary lighting and fire prevention measures.</p>
16.	Sub clause 11.12, 11.14, 11.18 Deductions	<p>Following deductions shall be made separately every month from the Contractor's on account bills, final bills and other payments as follows:</p> <ol style="list-style-type: none"> a. Amount due for recovery on account of hire charges of Employer's Machinery and other facilities (if provided) as also for other services and electricity charges and expenditure, if any, incurred by the Employer on Contractor's behalf on labour, materials and equipment which may become due from the Contractor as per terms of this contract as well as under any other prevailing laws will be recovered from the payments to the Contractor as and when due. b. Deduction towards Income Tax, and any other tax will be made at source from each on-account progress bill by the Employer as may be directed by Income-Tax Department and other statutory or as provided in statute, relevant acts, rules and circulars and

		directions issued there under.												
17.	Sub Clause 4.13: Programme of Work	<p>The stations shall be handed over to the Contractor progressively.</p> <p>The Contractor shall prepare and submit his detailed Programme of Work so as to achieve key dates of various activities, if any achieved on time. The Contractor shall complete the work in a phased manner fixing priorities to the different stretches of the work to give access to other interfacing contracts as per the requirement of project from time to time and as milestone indicated below.</p> <p>Intermediate Milestones:</p> <p>Delivery schedule for all fabricated parts of station, entry structure roof, Foot Over bridges and Cable runner including erecting of roof portals with purlins etc complete</p> <table border="1"> <tr> <td>SALT LAKE STADIUM</td> <td>10 months from receipt of LoA</td> </tr> <tr> <td>BENGAL CHEMICAL</td> <td>12 months from receipt of LoA</td> </tr> <tr> <td>CITY CENTRE</td> <td>6 months from receipt of LoA</td> </tr> <tr> <td>CENTRAL PARK</td> <td>8 months from receipt of LoA</td> </tr> <tr> <td>KARUNAMOYEE</td> <td>11 months from receipt of LoA</td> </tr> <tr> <td>SALT LAKE SEC- V</td> <td>12 months from receipt of LoA</td> </tr> </table> <p>For sheeting of roof with down take pipes, gutters etc complete, 2 month addition should be granted over above each of above intermediate milestones.</p>	SALT LAKE STADIUM	10 months from receipt of LoA	BENGAL CHEMICAL	12 months from receipt of LoA	CITY CENTRE	6 months from receipt of LoA	CENTRAL PARK	8 months from receipt of LoA	KARUNAMOYEE	11 months from receipt of LoA	SALT LAKE SEC- V	12 months from receipt of LoA
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		<p>Liquidated Damages (LD)</p> <p>Liquidated Damages for not achieving milestones will be levied separately and it shall be Rs 10,000/- per day for each milestone mentioned above, Contractor is in default, subject to a maximum of 10% of the particular milestone/portion of works only.</p> <p>This liquidated damages shall not relieve the contractor from his obligation to complete the Works or from any other of his obligations and liabilities under the Contract.</p> <p>These penalties shall be in addition to the liquidated damages as mentioned in Sub-Clause 8.5 of General Conditions of Contract.</p> <p>The Contractor shall co-ordinate his programme to the extent feasible with the programmes of other contractors to be engaged at the Site or in the</p>												

		vicinity of the Site as furnished by the Engineer so tat the project can be completed in time as per the overall programme.
18.	Sub clause 12.2 Variation in Bills of Quantities	<p>Group of items mean all items covered in a Sub-head.</p> <p>The quantities of items shown in the Bill of Quantities are approximate, and liable to vary during the actual execution of the Work. Some items / group of items may have to be altered, added or omitted The Contractor shall be bound to carry out and complete the stipulated work as instructed by the Engineer, irrespective of the magnitude of variations including additions, alternations or omissions in the Bill of Quantities (Price Bid Document), individual items or group of items, specified in the Bill of Quantities.</p> <p>There shall be no variations allowed till 25% variation of the contracted price for the total price and till 100% variation for individual item.</p>
18A	Sub clause 11.2: Mobilisation Advance	Mobilisation Advance shall be paid upto 10% of original contract value payable in one installment when the contract becomes effective
19.	Clause 11: Payment	<p>19.1 The Contractor shall maintain complete records in respect of payments made for taxes, duties, octroi and other levies payable to various authorities and advise the Employer complete details of such payment every month</p> <p>These records shall remain open for inspection by the Employer or the Engineer at any time and shall be made available to them as and when required.</p> <p>19.2 In case, the Employer receives approval for exemption, refund, waiver or reimbursement in any of the taxes applicable to the Contract, including but not limited to the Central Excise Duty, Custom W.B. VAT in full or part thereof; the Contractor will be advised on the process to be followed to obtain such exemption/refund/reimbursement of such taxes etc. from the concerned authority. The Contractor shall arrange for the remittance of the refund so obtained to the Employer immediately. Alternatively the Employer at its discretion may require to tell the Contractor to submit all the documentary evidences of having paid the taxes for Employer to take the refund from statutory authorities. The Contractor will forthwith comply with any of the above requests of the Employer and in case of the failure of the Contractor, the amount of refund in picture shall be recovered by the Employer from the amounts due for payment to the Contractor or as debt due from the Contractor</p>
20.	Sub clause 4.13: Programme of	The Contractor shall submit to the Engineer each month a detailed list by

	Works	trade classification, of manpower employed during the report period as also a list of all serviceable major items of construction plant and equipment on site.
21.	Clause 10: Definition of Defects Liability Period	Defects Liability Period shall be as mentioned in Clause 1.2 (c) of 'Instructions to Tenderers'.
22.	Sub clause 12.2: Price Variation	<p>Price variation</p> <p>Normally, no price variation clause shall be applicable to any extra item/new rates not originally included in the accepted Bill of Quantities and for which the rates are fixed separately under Clause 12 of GCC. It shall, however, be open to the Engineer to accept price variation clause in such cases where the rates are not based on actuals and the work is likely to continue for more than one year.</p> <p>There shall be no variations allowed till 25% variation of the contracted price for the total price and till 100% variation for individual item.</p> <p>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.</p> <p>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.</p>
		<p>22.1.1: Price Variation Formula</p> <p>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:</p> <p>$V = VI + Vs + Vc + Vf + Vm$</p> <p>Where,</p> <p>= Total adjustment on account of all factors</p> <p>VI = Adjustment on account of labour component = $p \times R \times (I - I_0) / I_0$</p> <p>Vs = Adjustment on account of Steel component = $q \times R \times (X \text{ SAIL } (b) - X \text{ SAIL } (a))$</p> <p>Vc = Adjustment on account of Cement component = $r \times R \times (Wc - Wc_0) / Wc_0$</p> <p>Vf = Adjustment on account of Fuel/Lubricant component</p>

		<p>= $s \times R \times (W_f - W_{fo}) / W_{fo}$</p> <p>Vm = Adjustment on account of Machinery and Machine Tools</p> <p>= $t \times R \times (W_m - W_{mo}) / W_{mo}$</p> <p>p = Cost Coefficient of Labour to the Total Cost</p> <p>= 0.15</p> <p>q = Cost Coefficient of Steel to the Total Cost</p> <p>= 0.50</p> <p>r = Cost Coefficient of Cement to the Total Cost</p> <p>= 0.0</p> <p>s = Cost Coefficient of Fuel and Lubricant to the Total Cost</p> <p>= 0.05</p> <p>t = Cost Coefficient of other Machinery and Machine Tools to the Total Cost</p> <p>= 0.15</p> <p>Note: $p + q + r + s + t = 0.85$, balance 0.15 shall be fixed component</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>X sail (a)= Price of SAIL (20-32mm dia bar), for the month in which the tender was opened.</p> <p>X sail (b)= Price of SAIL (20-32mm dia bar), for the bill month.</p> <p>Wco = Whole Sale Price Index (Averages) for Cement as published in the RBI Bulletin, for the month in which the tender was opened.</p> <p>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.</p> <p>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.</p> <p>Wf = Average of the monthly Whole Sale Price Index (Averages) for Fuel, Power, Light and Lubricants as published in the RBI</p>
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23.	<p>Sub clause 4.13: PROJECT MONITORING</p>	<p>Activities in the initial works programme would be arranged as per the Works Break Down Structure (WBS) of the work developed by the contractor in consultation with and approved by the Engineer.</p> <p>The contractor will prepare Construction Programme based on Computerized CPM network using the Precedence Diagramming Method within 30 days of award for approval as 'Baseline Programme' The base line program shall clearly reflect interface and access dates for other civil/ system-wide contracts.</p> <p>After the work has started, the Contractor shall deliver in the first week of every month to the Engineer an update of the Construction Programme showing changes, if any, in planning or progress scheduling and reflecting the progress of all the activities of the network and the project status as at the end of previous month.</p> <p>If the Contractor falls behind the approved Construction Programme by more than one month, he shall, within fourteen days of the date of such information, submit for approval, a revision of the construction programme showing the proposed measures, including augmentation of plant, labour and material resources to complete the works on time.</p> <p>Whenever the Contractor proposes to change the construction programme he shall immediately advise the Engineer in writing and, if the Engineer considers the change a major one, the Contractor shall submit a revised programme for approval.</p> <p>Detailed Network Plan (Works Programme)</p> <p>Detailed Network Plan shall be prepared by the Contractor for each and every activity within the same time frame and in the same sequence as indicated in the master network plan. Activity at this level shall not be more</p>

		<p>than 15 days duration, except for summary items like procurement/mobilization etc.</p> <p>The Contractor shall select a PC-based broad planning and control software on which the two networks shall be implemented. Software selected shall be Microsoft Project, Version-2010 (MSP-2010) or higher version. If any other compatible software is used, approval of the Engineer will be required. The Contractor shall supply one original licensed copy of the software selected along with the Baseline program network and detailed network plan free of cost and load it on the PC system of the Engineer so that uniform monitoring of the project is done and any slippages are identified well in time and corrective action taken.</p> <p>The following reports, in agreed formats and frequency, shall be submitted by the Contractor at his own cost :</p> <ul style="list-style-type: none">(a) Progress Reports(b) Material Status Reports(c) Equipment and Manpower Development Reports <p>Any other Report desired by the Employer or the Engineer</p> <p>The Engineer's monitoring team will have access to all the data/information of the Contractor, required for the assessment of the progress and monitoring. If necessary, the monitoring team will visit the Vendor/Contractor's works in order to assess the status of critical activities.</p> <p>Periodic Project Status Review Meetings will be held by the Employer or the Engineer. The Contractor shall depute his Engineers/Managers at appropriate level as decided by the Engineer to attend the Review Meetings.</p> <p>Progress photographs of the major events shall be submitted by the Contractor along with the Progress Reports.</p> <p>The Contractor shall provide additional inputs whenever the PERT-CPM diagram indicates a possible slippage in the completion schedule. Such additional inputs may require supplementing of equipment, personnel, work in excess of the normal work per day, work in excess of the normal work per week or other resources. Provisions under Sub-Clause 10.6.2 and 10.8.1 of General Conditions of Contract will be applicable in cases of delays due to Contractor.</p>
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24.	Sub clause 4.14: Progress reports CASH FLOW ESTIMATE	The Contractor shall furnish to the Engineer the detailed cash flow estimate in respect of the works within 3 months of the award of the Contract. This shall be up-dated and submitted every three (3) months thereafter till the completion of the works.
25.	Sub clause 1.10: Contractor's Obligation towards Tax Laws	The Contractor shall ensure full compliance with tax laws of India with regard to this contract and shall be solely responsible for the same. He shall submit copies of acknowledgements evidencing filing of returns every year and shall keep the Employer fully indemnified against liability of tax, interest, penalty etc. of the Contractor in respect thereof which may arise.
26.	Sub clause 11.3,11.4 11.5: Stage Payment	In item rate contracts, in cases of delay (to be decided by the Engineer) in the installation and commissioning of equipment/ components brought to site by the Contractor including items like trusses, roofings, pre-engineered buildings and other similar items of item rate contracts, for reasons beyond his control, the Engineer, after recording the reasons, may release part payment to the Contractor equal to the cost of equipment/ components brought to the site subject to maximum of 80% of payable rate of the BOQ item. Such payment is to be treated as stage payment i.e. payment for part of the BOQ item having been completed by him. Necessary indemnity bond (in form prescribed in agreement) equal to the amount of payment released will be taken from the Contractor to safeguard the interest of the KMRCL. Also while releasing such stage payment, declaration from the contractor about his total responsibility from the commissioning of the component/ equipments will be taken and in case of any failure on the part of the contractor on this account, it will be considered as the work being left incomplete by the Contractor and action as per the conditions of the contract will be taken Any such stage payment shall be limited to one month's requirements of the Contractor as decided by the Engineer.

27.	Sub clause 6.6: KMRCL Labour Welfare Fund Rules	<p>1. <u>SOURCES OF THE FUND</u></p> <p>The Labour Welfare fund will be created jointly by KMRCL and the Contractor. The Contractor shall remit a minimum amount of Rs 0.1 Million against every case of death or total incapacitation and KMRCL would also contribute a matching amount.</p> <p>2. <u>OBJECTIVES OF THE FUND</u></p> <p>The objectives of the fund are as follows: -</p> <ul style="list-style-type: none">i) The widow and children of the deceased worker shall be given additional monetary assistance for upbringing of the children on a case-to-case basis wherever required.ii) In case if the children become orphans, their upkeep and educational requirements should be met from the fund till one of the children becomes major and is gainfully employed.iii) If the deceased is having no children or unmarried and is the only supporting member to the elderly parents / sisters / brothers, they should be adequately compensated.iv) If any worker dies wherein compensation is not possible by general rules of contract the dependents of the deceased shall be compensated on humanitarian grounds. <p><u>Note.:</u></p> <ul style="list-style-type: none">i. Any payments made from the KMRCL Labour Welfare Fund to the widow or children or other dependents of the deceased worker are outside the payments to be made by the contractor under the statutory laws of the countryii. As this fund is to further supplement the financial aid to workmen the definition of duty shall be looked into in its broader perspective and as per the general observations made by courts in such cases from time to time apply. <p>3. <u>MANAGEMENT OF THE FUND</u></p> <p>The fund shall be managed and administered by the following two committees.</p> <p>The Standing Committee and Case to case committee consists of following:</p> <p>3.1.1 Committee</p> <ul style="list-style-type: none">1. GM (Admin)
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		<p>2. Chief Engineer 3. Contractor's Representative (Major works in any particular year) 4. Any other representative considered necessary by MD</p> <p>3.2 The above are constitute the committee. However, the Managing Director may at his discretion change the above constitution.</p> <p>4. ADMINISTRATION OF FUND</p> <p>1) <u>Fund Management including source of fund and investment of fund</u></p> <p>Sourcing and management 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 Standing Committee.</p> <p>2) <u>Compensation to individual cases</u></p> <p>Regarding payments to death/incapacitation, the general procedure to be adopted is as follows:</p> <ul style="list-style-type: none">i) A token amount of Rs. 25,000 from contractor's contribution and additional Rs. 25,000 from KMRCL's side totaling to Rs. 50,000/- may be paid to all cases. This amount of Rs. 50,000/- should be paid to the legal heir of the deceased immediately on confirmation of the death.ii) For additional compensation the judgment given under workmen compensation award may be considered as a reference. Depending upon the no. of dependents their age, education and other family background the decision can be made on case-to-case basis. Money shall be deposited on a fixed deposit and the monthly interest can only be made available to dependents on a proportionate basis. The amount and period of deposit for each dependent may be decided on a case-to-case basis.iii) For cases of unmarried workmen or married workmen without any children where the deceased is <u>not the only supporting member</u> to the elderly living parents, sisters or brothers <u>no further payment</u> is admissible under the fund.iv) For all cases the total compensation amount paid including KMRCL labour Welfare Fund amount, should not exceed Rs. 7 Lakhs (Rs. Seven Lakhs) per case <p>5. ACCOUNTS OF THE FUND</p> <p>The accounts of the fund shall be maintained separately in appropriate form by a nominated Officer of the Accounts Department, who will be the Accounts Officer to the fund. Disbursements from the fund shall be made on the recommendation of the above-nominated Committee. Periodical statement of accounts shall be prepared by the nominated Accounts Officer and put up to the Managing Director with the approval of the</p>
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		<p>Committee.</p> <p>6. BANKERS</p> <p>An Account shall be opened in a nationalized bank in the name of “KMRCL LABOUR WELFARE FUND A/c”. All cheques for disbursement shall be signed jointly by the Chairman and the nominated Accounts officer as mentioned in Item 6 above.</p> <p>7. AUDIT</p> <p>The accounts of the fund shall be audited annually by an Auditor appointed by the Committee.</p> <p>8. GENERAL</p> <ul style="list-style-type: none"> i) In case of death due to accident, the immediate relative of the deceased should be given an ex-gratia payment by the contractor to take care of funeral and other related expenses. ii) The contractor should also provide employment to one of the dependents of the deceased under the ongoing contract, if the family of the deceased has no other means of livelihood and the family was dependent on the income of the deceased. iii) In case of any major accident, an enquiry must be ordered by the Head of Project / Department of KMRCL within 24 hours and report made available to the Committee within 72 hours. The enquiry committee should consist of one officer from KMRCL and one from contractor’s side. iv) All decisions taken by a majority shall prevail. However, the Managing Director, KMRCL is competent to alter, modify or cancel any decision taken by the Committee.
28.	Guarantees, Warranties and Undertakings	<p>The forms of Performance Guarantee indicated in ITT, while that Parent Company Undertaking, Parent Company Guarantee and warranty shall be in the formats given in the Schedules 1, 2, and 3 respectively to these Special Conditions of Contract.</p>

Schedule 1
PARENT COMPANY GUARANTEE

(refer SCC Clause 2)

THIS GUARANTEE is made the day of

BETWEEN:-

- (1) [] whose registered office is at [] [and [] whose registered office is at []] ("the Guarantor").
- (2) The Kolkata Metro Rail Corporation Limited (together with its successors and assigns, "the Employer") of:
HRBC Bhawan,
Munshi Premchand Sarani,
4th Floor, Kolkata 700 021,
India.

WHEREAS

- (A) By a contract (dated [] ("the Contract") made between (1) the Kolkata Metro Rail Corporation Limited ("the Employer") and
(2) [] ("the Contractor"), the Contractor has agreed to design, execute, complete and remedy any defects in the Works upon the terms and conditions contained in the Contract.
- (B) Pursuant to the terms of the Contract, the Contractor has agreed to procure the provision of a guarantee in the terms hereof. [see Note 1].
- (C) At the request of the Contractor, the Guarantor has agreed to guarantee performance of the Contract by the [Contractor] [see Note 2] as set out herein.

IT IS HEREBY AGREED AS FOLLOWS:

1. In consideration of the Employer entering into the Contract with the Contractor, the Guarantor irrevocably and unconditionally guarantees to the Employer as a primary obligation and not as a surety due performance by the [Contractor] [see Note 2] of all of its obligations and liabilities under and in accordance with the Contract save that nothing herein shall be construed as imposing greater obligations or liabilities on the Guarantor than are imposed on the [Contractor] [see Note 2] in the Contract.

2. The obligations of the Guarantor under this Guarantee shall remain in full force and effect and shall not be affected or discharged in any way by and the Guarantor hereby waives notice of:-
 - (a) any suspension of the Works, variation to or amendment of the Contract (including without limitation extension of time for performance) or any concession or waiver by the Employer in respect of the Contractor's obligations [and/or the obligations of []] [see Note 3] under the Contract;
 - (b) any provision of the Contract being or becoming illegal, invalid, void, voidable or unenforceable;
 - (c) the termination of the Contract or of the engagement of the Contractor [and / or [....]] [see Note 3] under the Contract for any reason;
 - (d) any forbearance or waiver of any right of action or remedy the Employer may have against the Contractor [and / or [....]] [see Note 3] or negligence by the Employer in enforcing any such right of action or remedy;
 - (e) any bond, undertaking, security or other guarantee held or obtained by the Employer for any of the obligations of the Contractor [and / or [.....] [see Note 3] under the Contract or any release or waiver thereof.
3. This Guarantee shall extend to any variation of or amendment to the Contract and to any agreement supplemental thereto agreed between the Employer and the Contractor [and/or []] [see Note 3] and for the avoidance of doubt the Guarantor hereby authorises the Employer and the Contractor [and/or []] [see Note 3] to make any such amendment, variation or supplemental agreement.
4. This Guarantee is a continuing guarantee and accordingly shall cover all of the obligations and liabilities of the [Contractor] [see Note 2] under the Contract and remain in full force and effect until all the said obligations and liabilities of the Contractor shall have been carried out, completed and discharged in accordance with the Contract. This Guarantee is in addition to any other security which the Employer may at any time hold and may be enforced without first having recourse to any such security or taking any steps or proceedings against the Contractor.
5. Until expiry of the Maintenance and Defects Liability Period (as defined in the Contract) for the whole and every part of the Works, the Guarantor shall not on any ground whatsoever make any claim or threaten to make any claim whether by proceedings or otherwise against the Contractor [and/or []] [see Note 3] for the recovery of any sum paid by the Guarantor pursuant to this Guarantee. Any such claim shall be subordinate to any claims (contingent or otherwise) which the Employer may have against the Contractor [and/or []] [see Note 3] arising out of or in connection with the Contract until such time as such claims shall be satisfied by the Contractor [and/or []] [see Note 3] or the Guarantor as the case may be. To that intent the Guarantor shall not claim or have the benefit of any security which the Employer holds or may hold for any monies or liabilities due or incurred by the Contractor

- [and/or []] [see Note 3] to the Employer and, in case the Guarantor receives any sum from the Contractor [and/or []] [see Note 3] in respect of any payment by the Guarantor hereunder, the Guarantor shall hold such sum in trust for the Employer for so long as any sum is payable (contingently or otherwise) under this Guarantee.
6. The Employer shall be entitled to assign the benefit of this Guarantee at any time without the consent of the Guarantor or the [Contractor] [see Note 2] being required.
7. All documents arising out of or in connection with this Guarantee shall be served:
- (a) upon the Employer, at [], marked for the attention of [];
- (b) upon the Guarantor, at [] India [Note 4]
8. The Employer and the Guarantor may change their respective nominated addresses for service of documents to another address in India but only by prior written notice to each other. All demands and notices must be in writing.
9. This Guarantee shall be governed by and construed according to the laws for the time being in force in India and the Contractor agrees to submit to the jurisdiction of the courts of India.

IN WITNESS whereof this Guarantee has been executed as a deed on the date first before written.

THE COMMON SEAL of)
[])
was affixed hereto in)
the presence of:-)

Notes (for preparation of but not inclusion in the engrossment of this Guarantee)

1. If the Contractor comprises more than one company, that fact, the joint venture or other relevant agreement and the relationship of the Guarantor to its subsidiary forming part of the Contractor must be recited.
2. If Note 1 applies, replace the word "Contractor" with name of the subsidiary being guaranteed.
3. If Note 1 applies, add additional wording and insert the name of the subsidiary being guaranteed.
4. The address for service shall be in India

Note 3] of the Parent Company [and the other companies referred to in Recital (C)] [see Note 5]; and

- (b) take any action which may result in the Contractor being unable to comply with his obligations or perform in any way his duties under the Contract [or take any action which may result in [the subsidiary forming part of the Contractor] [see Note 3] being unable to comply with his obligations or perform in any way his duties under the [joint venture or other relevant] agreement] [see Note 6]

until such time as the Works shall have been completed, all the Contractor's obligations under the Contract shall have been performed and the Maintenance and Defects Liability Period (as defined in the Contract) for the whole and every part of the Works shall have elapsed and further that it will ensure [that the subsidiary forming part of the Contractor will take all steps necessary to ensure [see Note 6] compliance by the Contractor with the provisions of the Contract.

2. The obligations of the Parent Company under this Undertaking shall remain in full force and effect and shall not be affected or discharged in any way by and the Parent Company hereby waives notice of:-

- (a) any suspension of the Works, variation or amendment to the Contract (including without limitation extension of time for performance) or any concession or waiver by the Employer in respect of the Contractor's obligations [and/or the obligations of [] [see Note 7];
- (b) any provision of the Contract being or becoming illegal, invalid, void, voidable or unenforceable;
- (b) the termination of the Contract or of the employment of the Contractor [and/or [] [see Note 7] under the Contract for any reason;
- (d) any forbearance or waiver of any right of action or remedy the Employer may have against the Contractor [and/or [] [see Note 7] or negligence by the Employer in enforcing any such right of action or remedy;
- (e) any bond, undertaking, security or other guarantee held or obtained by the Employer for any of the obligations of the Contractor [and/or [] [see Note 7] under the Contract or any release or waiver thereof.

3. This Undertaking shall extend to any variation of or amendment to the Contract and to any agreement supplemental thereto agreed between the Employer and the Contractor [and/or [] [see Note 7] and for the avoidance of doubt the Parent Company hereby authorises the Employer and the Contractor [and/or [] [see Note 7] to make any such amendment, variation or supplemental agreement.

4. All documents arising out of or in connection with this Undertaking shall be served:

- (a) upon the Employer, at [] marked for the attention of [];
- (b) upon the Parent Company, at [] India. [Note 8]

5. The Employer and the Parent Company may change their respective nominated addresses for service of documents to another address in India but only by prior written notice to each other. All demands and notices must be in writing.
6. This Undertaking shall be governed by and construed according to the laws for the time being in force in India and the Parent Company agrees to submit to the jurisdiction of the courts of India.

IN WITNESS whereof this Undertaking has been executed as a deed on the date first before written.

THE COMMON SEAL of)
[])
was affixed hereto)
in the presence of:-)

Notes: (for preparation of but not for inclusion in the engrossment of this Undertaking)

1. If the Parent Company is not the immediate parent company, the chain of ownership must be recited, identifying each company in the chain and the shareholdings or other interests in each subsidiary.
2. If the Contractor comprises more than one company, that fact and the joint venture or other relevant agreement must be recited. In such case, insert the name of the subsidiary forming part of the joint venture, partnership or consortium, and in respect of which the parent company undertaking is being given.
3. If Note 2 applies, refer to the subsidiary of the Parent Company and not the Contractor.
4. If Note 1 applies, use this alternative.
5. If Note 1 applies, add this provision.
6. If Note 2 applies, add this provision.
7. If Note 2 applies, add this provision and insert the name of the subsidiary.
8. The address for service shall be in India.

Schedule 3

CONTRACTOR'S WARRANTY

(SCC Clause 2 refers)

THIS AGREEMENT is made the day of

BETWEEN:

1. [] of [] [and [see Note 1]] ([jointly] "the Contractor")
2. [] [of]/[whose registered office is at] [] (together with its successors and assigns, "the Employer")

WHEREAS

- (A) By a contract (Name of work as mentioned under Clause 1.1.1 of NIT) dated [] ("the Contract") made between (1) the Kolkata Metro Rail Corporation Limited ("the Employer") and (2) the Contractor, the Contractor has agreed to design, execute, complete, test and commission (including Integrated Testing and Commissioning) and remedy any defect in the Works upon the terms and conditions contained in the Contract.
- (B) [See Note 3].
- (C) At the request of the Employer and pursuant to the terms of the Contract the Contractor has agreed to enter into this Warranty.

NOW IT IS AGREED AS FOLLOWS:

1. The Contractor hereby warrants and undertakes that:
 - (a) he will design, execute, complete, test and commission (including Integrated Testing and Commissioning) and remedy any defect in the Works in accordance with the terms of the Contract; and
 - (b) he owes a duty of care to the Employer in relation to the performance of its duties under the Contract.
2. The liability of [the companies comprising [see Note 3]] the Contractor under this Warranty [shall be joint and several and [see Note 3]] shall not be released, diminished or in any way affected by any independent inquiry or investigation into the Works or any matter related to the Contract whether carried out by or on behalf of the Employer or any liability or right of action which may arise out of such inquiry or investigation.
3. Insofar as the copyright or other intellectual property rights in any plans, calculations, drawings, documents, materials, plant, know-how and other information relating to the Works shall be vested in the Contractor, the Contractor grants to the Employer his successors and

assigns a royalty free, non-exclusive and irrevocable licence (carrying the right to grant sub-licences) to use and reproduce any of the works designs or inventions incorporated and referred to in such documents or materials and any such know-how and information for all purposes relating to the Works including without limitation the design, manufacture, installation, completion, testing and commissioning (including Integrated Testing and Commissioning) reinstatement, extension and the remedy of any defect in the Works. To the extent that beneficial ownership of any such copyright or other intellectual property rights is vested in anyone other than the Contractor, the Contractor shall use best endeavours to procure that the beneficial owner thereof shall grant a like licence to the Employer. For the avoidance of doubt, any such licence granted shall not be determined if the Contractor shall for any reason cease to be employed in connection with the Works.

4. The provisions of this Warranty shall be without prejudice to and shall not be deemed or construed so as to limit or exclude any rights or remedies which the Employer may have against the Contractor, whether in tort or otherwise .
5. Nothing contained in this Warranty shall vary or affect the Contractor's rights and obligations under the Contract.
6. The address for service of all documents arising out of or in connection with this Warranty shall be:-
 - (a) upon the Employer at [] India. [Note 4]
 - (b) upon the Contractor at [] India. [Note 4]
7. The Employer and the Contractor may change their respective nominated addresses to another address in India but only by prior written notice to each other. All notices must be in writing.
8. This Warranty shall be governed by and construed according to the laws for the time being in force in India.
9.
 - (1) Any dispute or difference of any kind whatsoever between the Employer and the Contractor arising under out of or in connection with this Warranty shall be referred to arbitration in accordance with the Conciliation and Arbitration rules set out in the General Conditions of Contract. "Dispute" as defined in the Contract shall be deemed to include any such dispute or difference between the Employer and Contractor.
 - (2) In the event that the Employer is of the opinion that the issues in such a dispute or difference will or may touch upon or concern a dispute or difference arising under out of or in connection with the Contract ("the Contract Dispute") then provided that an arbitrator has not already been appointed pursuant to Clause 9(1), the Employer may by notice in writing to the Contractor require and the Contractor shall be deemed to have consented to the referral of such dispute or difference to the arbitrator to whom the Contract Dispute has been or will be referred.

- (3) Save as expressly otherwise provided, the arbitrator shall have full power to open up, review and revise any decision, opinion, instruction, notice, order, direction, withholding of approval or consent, determination, certificate, statement of objections relating to the dispute.
- (4) Subject to the foregoing provisions of this clause 9, the Employer and the Contractor agree to submit to the jurisdiction of the Courts of India at Kolkata.

IN WITNESS whereof this Warranty has been executed as a deed on the date written at the head hereof.

THE COMMON SEAL of)
[])
was affixed hereto in)
the presence of:-)

Notes (for preparation of and not inclusion in the engrossment of this Warranty)

- (1) If the Contractor comprises more than one company, each such company shall be a party and liability under this warranty will be joint and several, with consequential grammatical changes.
- (2) If Note 1 applies, that fact and the joint venture or other relevant agreement must be recited.
- (3) Delete if Note 1 does not apply.
- (4) The address for service shall be in India.