



IROAF
GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS

Indian Railways Organization for Alternate Fuels

GLOBAL TENDER
SETTING UP OF A 30 TPD
BIO-DIESEL PLANT
(Corrigendum-III)

In Two Packet System
Bid Documents
Part – I, II & III
Tender No. IROAF/BIO-DIESEL/P3/09
JANUARY, 2010

Indian Railways Organisation for Alternate Fuels
12th Floor, Core-I,
Scope Minar, Laxmi Nagar,
New Delhi

(CME/BIO-DIESEL, IROAF)



IROAF
GOVERNMENT OF INDIA
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Indian Railways Organization for Alternate Fuels

**SPECIAL CONDITIONS OF
CONTRACT FOR THE WORK OF
SETTING UP OF A 30 TPD
BIO-DIESEL PLANT**

In Two Packet System

Bid Documents

Part - I

Tender No. IROAF/BIO-DIESEL/P3/09
JANUARY, 2010

Indian Railways Organisation for Alternate Fuels
12th Floor, Core-I,
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IROAF / INDIAN RAILWAYS

TOP SHEET

TENDER DOCUMENT NO. IROAF/BIO-DIESEL/P3/09

Tender Notice No.	IROAF/BIO-DIESEL/P3/09
Name of work	Setting up of a 30 TPD Bio-Diesel Plant
Approx. Cost	Rs.25,00,00,000
Cost of Tender Documents	Rs.10,000
Completion Period	24 months
Earnest Money	14.0 lakhs
Last Date / time of receipt of Tenders	Up to 12.30 hrs. on 26 th May, 2010 in the office of IROAF, 12 th Floor, Core-I, Scope Minar, Laxmi Nagar, New Delhi
Date of opening of Tender	At 14.00 hrs. on 26 th May, 2010

Please furnish the following information (supported by documents) along with the tender documents.

I. Organizational Structure of the Tenderer

- a) (Whether the entity is a partnership firm or A Private Limited Company or A Public Limited Company, or a co-operative society or any other type of organization or a consortium of two or more such organizations.**
- b) Attested copies of all relevant documents to authenticate the identity of the entity, such as Partnership Deed Registration Certificate. Certificate of incorporation of the company, etc.**

- c) If the Tenderer is a consortium of two or more entities, details of all the entities which constitute the consortium must be provided separately.

Documents to substantiate and support qualifying requirements as per para 2 of part I of bid document.

- II. Identify the authorized signatory representing the Tenderer with the relevant documents such as, Power of Attorney, Board Resolution etc.

DEFINITIONS

For the purpose of this tender notification, the following words shall have the meanings given hereunder.

- 1) **WORK** : The installation , commissioning, operation , maintenance of a 30 TPD Bio-Diesel Plant and supply of produced biodiesel to Railway diesel sheds..
- 2) **ENTITY** : A generic term to denote any form of business organization such as; a proprietary concern, Partnership Firm, Limited Company, Co-operative Society, or a Joint Venture or a Consortium of two or more of such organizations.
- 3) **CONTRACT** : The compendium of documents or part thereof,
- 4) **ITCC**- Income tax clearance Certificate.
- 5) **EMD**- Earnest Money Deposit
- 6) **JV**-Joint Venture
- 7) **LOA** – Letter of Acceptance

Which spells out the methodology of execution of this Project; as well as determines the rights and liabilities of the tenderer and the Railways.

N.B.: The above information may please be furnished invariably, otherwise the tender is likely to be rejected.

Signature of the Tenderer/s

INSTRUCTIONS TO TENDERERS

1. General Instructions:

On behalf of the President of India, the CME/BIO-DIESEL, Indian Railway Organisation for the Alternate Fuel (Hereinafter referred to as the First Party or the “Railways”), invites tenders for the Project as set forth in the **“Schedule of Work”** which is enumerated in part-II of the Bid Documents.

All the offers in prescribed format along with the required tender documents should be submitted before the time and date fixed for the receipt of offers as set forth in tender papers. Offers received after the stipulated time and date will be summarily rejected.

2. Qualifying Requirements of Tenderers:

2.1 The tenderers shall provide satisfactory evidence acceptable to the First Party to show that they possess adequate technical know-how and financial resources to undertake the **PROJECT**:

Technical eligibility criteria

2.1.a The tenderer should provide satisfactory evidence, acceptable to the First Party to show that it has efficient technology, adequate capability, technical know-how and experience in installing & commissioning satisfactorily Bio-Diesel plant as detailed in **Part-II, Technical specifications** of this tender.

2.1.b They have adequate facilities for design and development of works related to this tender and will be able to execute the supply, installation and commissioning of such works within the delivery schedule.

2.1.c They have established quality control system in their organization to ensure that there is adequate quality control at all stages of the work.

- 2.1.d The Tenderer should be a manufacturer of biodiesel/methyl ester plant of capacity 30 TPD or above and should possess necessary licence/permission from the authorities designated by the Govt. of India.

Financial eligibility criteria

- 2.1.e The tenderer should have adequate financial resources and fiscal stability to meet the obligations under the contract, for which it is required to submit a report from a recognized bank or a financial institution, as the value of the **work** is more than 1 crore. The tenderer is required to submit the revenue/banker's solvency certificate for an amount of not less than 40% of the value of the advertised tender.
- 2.1.f The tenderer should have at least completed from start to finish, in the last three financial years (i.e. current year and three previous financial years) atleast one single work i.e. Setting up of the bio-diesel plant for a minimum value of 35% of advertised tender value of work.
- 2.1.g. The tenderer should have a total contract amount received during the last three years (i.e. current year and three previous financial years) as per current ITCC minimum total contract amount of not less than 150% of the advertised tender value of the work.

2.2 For purpose of Para 2.1 (above), the tenderer should additionally submit:

- a. A performance statement as in **Annexure –D-1** giving the details of atleast one such work executed as per para 2.1.f and also the details as per **Annexure D-2** of contract orders to substantiate 2.1.g.
- b. A statement indicating details of equipment employed and quality control measures adopted as in Annexure-E.

2.3 The offers of Tenderers who do not submit the requisite information may be rejected..

Note: For JV entities bidding for this tender should follow the clause 5.16 .

IROAF

TENDER FORM (FIRST SHEET)

**The President of India,
Acting through the
Chief Mechanical Engineer – BIO-DIESEL
IROAF, 12th Floor, Core-I,
Scope Minar, Laxmi Nagar
New Delhi**

1. I/We _____ have read the various conditions to tender attached here to and hereby agree to abide by the said conditions. I/We also agree to keep this tender open for acceptance for a period of 180 days (one hundred eighty 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 of Setting Up of one 30 TPD Bio-Diesel Plant.

I/we hereby bind myself/ourselves to complete the work in all respects within 24 months from the date of issue of letter of acceptance of tender at the rates quoted in the attached schedule.

2. I/We also hereby agree to abide by the General conditions of Contract Part III and to carry out the work according to the Special Conditions of Contract Part-I and Technical specifications of this Project Part-II.
3. Earnest money of Rupees. Fourteen Lakhs for 30 TPD Bio diesel plant in the form of cash deposit/ bank draft in favour of FA&CAO, Northern Railways/Delhi is enclosed. The full value of the earnest money shall stand forfeited without prejudice to any other rights or remedies if:-
- a) I/We do not execute the **Contract** documents within seven days after receipt of the notice issued by the **Railway** that such documents are ready.
 - b) I/We do not commence the work within fifteen days after acceptance of **Contract Agreement**. The work shall be deemed to have commenced from the date of acceptance of **Contract Agreement** and submission of work schedule.

4. We have clearly noted that the earnest money in the form of Bank Guarantee Bond is not acceptable
5. Until a formal agreement is prepared and executed, acceptance of the tender shall constitute a binding contract between us and the Railways.

Date

Signature of the Tenderer/s

Signature of Witness:- 1.....

2.....

IROAF / INDIAN RAILWAYS
SPECIAL TENDER CONDITIONS AND INSTRUCTION TO
TENDERER

1.0 DETAILS OF WORKS

On behalf of the President of India, The CME/BIO-DIESEL, Indian Railway Organisation for the Alternate Fuel (Hereinafter referred to as the First Party or the Railways), invites tenders for the Project of Setting Up of one 30 TPD Bio diesel Plant at Raipur (Chattisgarh).

All the offers in prescribed format along with the required tender documents should be submitted before the time and date fixed for the receipt of offers as set forth in the tender documents. Offers received after the stipulated time and date will be summarily rejected.

2.0 TENDER DOCUMENTS

2.1 SUBMISSION OF TENDERS

2.1.1 The tender documents consist of **Part I - Special tender conditions and instructions to tenderer/s, Part II - Technical Specification for Setting Up of one 30 TPD Bio diesel Plant, Part III – IROAF General Conditions of Contract.**

2.1.2 Tender documents can be had from IROAF, 12th Floor, Core-I, Scope Minar, Laxmi Nagar, New Delhi on any working day from 1030 hrs. to 1530 hrs on cash payment of Rs.10,000/- per set. If the same is required by post an additional sum of Rs.500/- per set should be deposited towards postal charges. The cost of this tender form is not transferable or refundable

Tender documents are also available on Indian Railway website www.indianrailways.gov.in. In case the tenderer is using the tender document downloaded from Indian railway website, he/they shall deposit Bank draft (payable to F&CAO /Northern Rly Delhi)/ Cash deposit receipt (from cash office Northern Railway Baroda house Delhi) of Rs.10,000/- along with the tender documents. Failure to do so, may lead to disqualification of the tenderer.

2.1.3 The Tenderers are requested to carefully peruse the tender documents as the tender will be on “TWO PACKET SYSTEM”.

- a. The tenderer may visit the site of **work** and ascertain himself the availability/supply of raw materials and the conditions of work viz. approach roads and accessibility, electric power supply, water for work and drinking purposes, site for labour camps, stores, godowns, extent of lead/lift in work, availability of skilled and unskilled labour etc. that may be encountered in the course of execution of **work**. In short, he/they should familiarize himself /themselves fully with the conditions at site.
- b. The tender submitted by the tenderer/s will consist of TWO BIDS i.e. Packet-I i.e. “TECHNICAL BID” AND and Packet-II i.e. “PRICE BID”. Both bids duly sealed separately in smaller envelopes super scribed as Packet-I (Technical Bid) and Packet-II (Price Bid) respectively along with the name of the **Work** and further sealed in a larger envelope super scribing name of the **Work** should be put in the tender box allotted for the purpose in the office of Chief Administrative Officer/IROAF/Laxmi Nagar, Delhi as per specified time and date.
- c. Tenderer should submit their offer in triplicate (one set containing hard copy and CD containing soft copy) in two packet system.
- d. “ During the tender opening date on 26th May, 2010 at 14:00 hours tender envelope containing of two envelopes having technical bid and price bid, will be opened. Out of these two envelopes only the TECHNICAL BID will be opened on the tender opening day. This BID shall contain the documents as listed below. Tenderers are requested to ensure that all such documents as listed are submitted duly filled, in all respects in their technical bid failing which his/their offer is likely to be summarily rejected.

1. Packet-I (Technical bid):

This shall include various documents mentioned in the tender conditions which are as under:-

- (i) Earnest money in the form of cash deposit/bank draft

- (ii) Proforma as given in Annex.A, B-I, B-II, C, D, E & F duly filled in all respects
- (iii) The first packet of tender shall accompany the design criteria, detailed design, calculations and general arrangement drawings for Setting Up of one 30 TPD Bio diesel Plant and sufficient details to enable the technical evaluation performance specification. The tender not accompanied by these documents will be summarily rejected. However, the tenderer whose tender is accepted shall have to submit elaborately, the detailed design, detailed drawings, calculations, etc. later.
- (iv) The Technology proposed alongwith layout drawing of building and structures and list of equipment to be supplied during the various stages of work.
- (v) Work schedule in the form of CPM/PERT/Bar Chart indicating the major activities and the programme for completion of work within the stipulated period for completion.
- (vi) Documents in support of financial capability as per para 2.1 (e) of instructions of tender.
- (vii) Power of Attorney duly attested by Notary Public with his seal and official stamp thereon (Photocopy using both sides of the paper issued by stamp vender).
- (viii) Partnership or JV/Consortium documents as per details given in Para-5 of this part-I /special conditions.
- (ix) Performance record for the last 3 years of the entity, as per Annexure-D stating whether-
 - (a) Was awarded all contracts where the entity's bid price was lowest.
 - (b) Was awarded some contracts even though the entity's bid was lowest.

- (c) Was denied any contract when the the entity's bid was lowest.
- (d) Was denied credit, bond or bank guarantee.
- (e) Was incapable of performance of contract resulting in rescinding of the contract at the entity's risk and cost.
- (f) Was unable to complete awarded work.
- (g) Was penalized for failure to adhere to completion date.
- (h) Earned bonus for early completion.
- (i) Took recourse to arbitration for settlement of disputes.

In addition tenderer/s may submit documents reflecting its credentials as per Para-4 of special conditions or any other documents which they would like to be considered.

Technical proposal would be evaluated by the **Railways** to verify whether the work could be carried out successfully by the tenderer. During evaluation stage, Railways might ask for additional details and tenderer shall provide these details to the satisfaction of the **Railways**. Subsequent to award of contract also the complete design will have to be got approved from **Railways** and intermediate and final inspections and tests as decided will be adhered.

2. SECOND PACKET (PRICE BID)

The price bid of only those tenderer/s will be opened whose technical bids are found acceptable by Indian Railways.

The time, date and venue of opening of price bid shall be notified to successful tenderer/s after evaluation of technical bids.

The price bid should be in consonance with the items listed in the scope of supply as in the technical bid which should include the work at various stages. The price bid should be comprehensive to include all the elements of supply and work at various stages and indicating clearly the amount of payment due at each stage. Railway, however will adhere to para 12.1 for each payment due.

The tenderer/s may note that the **Railway** reserves its right to either accept or reject any bid/s without assigning any reasons whatsoever and tenderer/s shall have no claim/s on this account.

Territorial jurisdiction shall be the place of signing of contract.

Payments to the tenderer residing in the countries other than India will be made in foreign exchange only. The exchange rate for International tenderer(s) residing outside India who quote in foreign exchange will be computed on the basis of the converted rate in the Indian Rupees as on the date of opening of the tender. The conversion rate will be taken as standard rate of conversion of the currency on the day of opening of the tender as per rate approved by RBI. Joint Ventures of international firm with Indian partner will be needed to quote in Rupees.

Prospective tenderer/s may contact Chief Mechanical Engineer/BIO-DIESEL/IROAF/Laxmi Nagar, Delhi for obtaining further clarification, if required.

The tenderer/s is/are advised to submit all documents in one go with the offer i.e. Technical Bid.

Tenders which are received after the closure time and date specified above may not be considered. In case the intended date for opening of tenders is declared a holiday, the tenders will be opened on the next working day at the same time.

- 2.1.4 Tenders sealed and super scribed as aforesaid can also be sent by registered post addressed to the CME/ BIO-DIESEL/ IROAF, 12th Floor, Core-I, Scope Minar, Laxmi Nagar, Delhi but a tender which is received after the time and date specified , may not be considered. Any tender delivered or sent otherwise will be at the risk of the tenderers.

3.0 COMPLETION OF TENDER DOCUMENTS:

- 3.1 Every possible fluctuation, in the rate of labour material and general commodities and other contingencies which might affect the rates, should be considered and kept in view before quoting the rates and no claim on this account shall be entertained by the **Railways** under any circumstances except the price escalation payable as per price escalation clause, if any, provided separately in the tender documents.
- 3.2 The rate should be quoted in figures as well as in words, if there is variation between the rates quoted in figures and in words, the rates quoted in 'Words' shall be taken as correct. If more than one or improper rates are tendered for the same items, the tender is liable to be rejected.
- 3.3 Each page of the tender papers has to be signed and dated by the authorized signatory of the tenderer/s
- 3.4 Tenders containing erasures and alterations of the tender documents are liable to be rejected. Any corrections made by the tenderer/s in his / their entries should be in Ink and must be attested by him / them under full signature and date.
- 3.5 Additional conditions or stipulations if any must be made by the tenderer/s in the covering letter with the tender. The **Railway** reserves the right not to consider conditional

tenders and reject the same without assigning any reason. Only those additional conditions, which are explicitly accepted by the **Railway**, shall form part of the **Contract**.

4.0 CONSTITUTION OF THE ENTITY:

- 4.1 The entities who are the tenderer/s irrespective of whether it is a Partnership firm, company co-operative society association or society must forward attested copies of the constitution of the entity and power of Attorney authorising a person to represent the entity in all matters with respect to the tender. Tender documents in such cases are to be signed by such persons as may be legally competent to sign them on behalf of the firm, company association or society as the case may be. Co-operative societies must likewise submit an attested copy of their certificate of registration along with the documents as above mentioned.

The **Railways** will not be bound by any power of attorney granted by the tenderer/s or by changes in the composition of the entity made subsequent to the execution of the contract. The **Railway** may however, recognize such power of attorney and change after obtaining proper legal advice, cost of which will be chargeable to the bidder.

- 4.2 (a) If a tenderer who is the sole proprietor of the entity expires after the submission of his tender or after the acceptance of his tender, the Railways shall deem such **tender contract** as cancelled. If a partner of firm expires after the submission of their tender, the **Railways** shall deem such tender as cancelled unless the Partnership firm retains its basic character.
- 4.2 (b) If the bidder's Partnership is dissolved on account of death, retirement of any partners or for any other reason whatsoever before fully completing the whole work or any part of it, undertaken by the principal agreement, the surviving partners shall remain jointly / severally and personally liable to complete the whole work to the satisfaction of the Railway. If any work is incomplete as a result thereof IROAF will have the right of getting the work completed at the risk and cost of the tenderer and claim such amount.

- 4.2 (c) The cancellation of any documents such as power of attorney, partnership deed etc., shall be communicated to the **Railway** in writing, failing which the **Railway** shall have no responsibility or liability for any action taken on the strength of the said documents.

5.0 GUIDELINES FOR PARTICIPATION OF JOINT VENTURE ENTITIES OR CONSORTIUMS IN WORKS TENDER

- 5.1 Apart from the identity /names of the Joint Venture Partners a separate identity/name shall be given to the Joint Venture firm.
- 5.2 Number of partners in a JV firm shall not be more than three if the work involves only one department (say Civil or S&T or Electrical) and shall not be more than five if the work involves more than one department.
- 5.3 A partner of a JV firm shall not be permitted to participate either in individual capacity or as a Partner of another JV firm in the same tender.
- 5.4 The tender form shall be purchased and submitted only in the name of the JV firm and not in the name of any constituent Partner.
- 5.5 Normally EMD shall be submitted only in the name of the JV and not in the name of constituent Partners. However, in exceptional cases EMD in the name of lead partner can be accepted subject to submission of specific request letter from lead partner stating the reasons for not submitting the EMD in the name of JV and giving written confirmation from the JV partners to the effect that the EMD submitted by the lead partner may be deemed as EMD submitted by the JV firm.
- 5.6. CONSTITUTION OF JOINT VENTURE (JV)
- a) If all the Partners of the JV are Indian entities, one of the Partners shall be the lead Partner who shall have a majority

(at least 51%) equity shares in it. The other Partners shall have a share of not less than 20% each in case of JV firms with up to Two Partners along with lead Partner.

b) In case the JV constitute of four partners the lead partner shall have a majority (at least 51%) equity shares in it and the other three partners shall not hold less than 10% of the shares in the JV.

c) In case of JV with foreign Partners the lead Partner has to be an Indian entity with a minimum share of 5%.

5.7 A copy of the Memorandum of Understanding (MOU) executed by the JV Partners shall be submitted by the JV along with the tender. The complete details of the Partners of the JV, their shares and responsibility in the JV etc. particularly with reference to financial, technical and other obligations shall be specified in the MOU. (The structure of the MOU for this purpose shall be in compliance with the format approved by the Railway; The MOU shall be enclosed along with the tender).

5.8 Once the tender is submitted, the MOU shall not be modified/altered/terminated during the validity of the tender. In case the tenderer fails to observe/comply with this stipulation, the full Earnest Money Deposit (EMD) shall be forfeited. In case of successful tenderer, the validity of this MOU shall be extended till the currency of the contract expires.

5.9 Approval for change of constitution of the JV entity shall be at the sole discretion of the **Railways**. The constitution of the JV entity shall not be allowed to be modified after submission of the tender bid by the JV entity except when modification becomes inevitable due to succession laws etc. and in any case the minimum eligibility criteria should not get vitiated. In any case the Lead Partner should continue to be the Lead Partner of the JV entity. Failure to observe this requirement would render the offer invalid.

- 5.10 Similarly, after the contract is awarded, the constitution of the JV entity shall not be allowed to be altered during the currency of the contract except when modification become inevitable due to succession laws etc and in any case the minimum eligibility criteria should not get vitiated. Failure to observe this stipulation shall be deemed to be a breach of contract with all consequential penal action as per the **contract** conditions.
- 5.11 In the event of the Contract being awarded to a JV entity, a single Performance Guarantee shall be required to be submitted by the JV entity as per the tender conditions. All the Guarantees like Performance Guarantee, Bank Guarantee for Mobilization advance, Advance for procurement of machinery etc. shall be accepted only in the name of the JV entity and no splitting of guarantee amongst the members of the JV entity shall be permitted.
- 5.12 On issue of LOA, an agreement between the Partners of the JV entity (to whom the work has been awarded) has to be executed and got registered before the concerned authorities, such as the Registrar of the Companies under Companies Act or before the Registrar / Sub-Registrar under the Registration Act, 1908. This agreement shall be submitted by the JV entity to the Railways before signing the contract agreement for the work. (This agreement should invariably become part of the tender conditions). In case the tenderer fails to observe/comply with this stipulation, the full Earnest Money Deposit (EMD) shall be forfeited and other penal actions shall be taken against the partners of the JV and the JV entity. This joint venture agreement shall have, inter-alia, the following clauses:
- 5.12.1 Joint and several liability – The partners of the JV entity to which the contract is awarded, shall be jointly and severally liable to the **Railways** for

execution of the work in accordance with the General and Special Conditions of the contract. The JV Partners shall also be liable jointly and severally for the loss, damages caused to the **Railways** during the course of execution of the contract or due to non-execution of the contract or part thereof.

5.12.2 Duration of the Joint Venture Agreement – It shall be valid during the entire currency of the contract including the period of extension if any and the statutory period for maintenance after the completion of the project.

5.12.3 Governing Laws – The Joint Venture Agreement shall in all respect be governed by and interpreted in accordance with Indian Laws.

5.13. Authorized Partner – Joint Venture Partners shall authorize one of the Partner on behalf of the Joint Venture entity to deal with the tender, sign the agreement or enter into contract in respect of the said tender, to receive payment, to witness joint measurement of work done, to sign measurement books and do similar such acts in respect of the said tender/contract. All notices /correspondences with respect to the contract would be sent only to this authorized Partners of the JV entity.

5.14. No Partners of the Joint Venture entity shall have the right to assign or transfer the interest right or liability in the **contract** without the written consent of the other Partners and that of the **Railways** in respect of the said tender/contract.

5.15. Documents to be enclosed by the JV entity along with the tender:

5.15.1 In the case of one or more Partners of the of the JV entity is/are partnership firm(s), the following documents shall be submitted:

- (a) Notary certified copy of the Partnership Deed,
- (b) Consent of all the partners to enter into the Joint Venture Agreement on a stamp paper of appropriate value (in original).
- (c) Power of Attorney (duly registered as per prevailing law) in favour of one of the partners to sign the MOU and JV Agreement on behalf of the partners and create liability against the Partnership firm.

5.15.2 In the case of one or more Partners is/are Proprietary Concern or HUF, the following documents shall be enclosed:

Affidavit on Stamp Paper of appropriate value declaring that his/her Concern is a Proprietary Concern and he is the sole proprietor of the Concern OR he is in the position of “KARTA” of Hindu Undivided Family and he has the authority, power and consent given by other family members to act on behalf of HUF.

5.15.3 In the case of one or more Partners is/are limited companies, the following documents shall be submitted:

- (a) Notary certified copy of the resolutions of the Directors of the Company, permitting the company to enter into a JV agreement, authorizing the MD or one of the Directors or Managers of the Company to sign the MOU, JV Agreement, such other documents required to be signed on behalf of the Company and enter into any agreement creating liability against the company and/or do any other act on behalf of the company.

(b) Copy of the Memorandum and Articles of Association of the Company.

(c) Power of Attorney (duly registered as per prevailing law) by the Company authorizing the person to do/act as mentioned in the para (a) above.

5.15.4 All the Partners of the JV shall certify that they have not been black listed or debarred by **Railways** or any other Ministry/Department of the Govt. of India/State Govt. from participation in tenders/contract on the date of opening of the bid, either in their individual capacity or the JV entity or partnership firm in which they were partners.

5.16. Technical and Financial Credentials & Qualifying Criteria for JV entities

Either the JV entity or any one of the Partners of the JV entity must fulfil the Technical and financial eligibility criteria as laid down in clause 2 of part 1.

6.0 EARNEST MONEY:

6.1. The tender must be accompanied by a sum of Rs.14 Lakhs as earnest money in the manner prescribed in para 6.4, failing which, the tender shall be summarily rejected.

6.2 Labour Co-operatives are required to deposit only 50% of the earnest money as referred to in clause 6.1 above.

6.3 The tenderer/s shall keep the offer open for a prescribed period of 180 days from the date of opening of the tender in which period tenderer/s cannot withdraw his / their offer

subject to the period being extended further, if required by mutual agreement from time to time. It is understood that

tender documents have been sold / issued to the tenderer/s and the tenderer/s is / are being permitted to tender in consideration of stipulation on his / their part that after submitting his / their tender he / they will not resile from his / their offer or modify the terms and conditions thereof in a manner not acceptable to IROAF. Should the tenderer/s fail to observe or comply with the foregoing stipulation the amount deposited as security against due performance of the stipulation and to keep the offer open for the specified period shall be forfeited by the **Railways**. If the tender is accepted, the amount of the earnest money will be held as initial security deposit for due and faithful fulfilment of the **Contract**. The Earnest money of unsuccessful tenders will, save as herein before provided, be returned to the unsuccessful tenderers within reasonable time. The **Railways** shall not be responsible for any loss or depreciation in value of the security for the due performance of stipulation and to keep the offer open for a period stipulated in the tender documents or to the earnest money, while in the possession of the **Railway** nor will be liable to pay interest thereon.

- 6.4 The earnest money of requisite amount referred to in para 6.1 above is required to be deposited as per para 4 of first sheet of tender form.
- (a) Deposit receipts, pay order and demand drafts, of the State Bank of India, or any of the nationalized banks or any of the schedule commercial bank, must have an endorsement from the authority issuing such FDR / pay Order / DD that 'received **from M/s / Shri_____ and pledged in favour of FA&CAO/Northern Railway/Delhi**
 - (b) The official cash receipt mentioning the entity / individual who has deposited the cash or the deposit receipt mentioned in 6.4 (a) above etc., as the case may be, must be attached with the tender, failing which, the tender will be rejected.

NOTE:-

1. No interest shall be payable on the earnest money.
2. Earnest money in the form of Guarantee Bonds shall not be accepted.

7.0 ACCEPTANCE OF TENDER:

7.1 ‘IF THE TENDERER/S DELIBERATELY GIVES A WRONG INFORMATION / WHOSE CREDENTIALS / DOCUMENTS IN HIS / THEIR TENDERS AND THEREBY CREATE(S) CIRCUMSTANCES FOR ACCEPTANCE OF HIS / THEIR TENDER. RAILWAYS RESERVES THE RIGHT TO REJECT SUCH TENDER AT ANY STAGE, BESIDES, SHALL SUSPEND THE TENDER FROM DOING BUSINESS WITH THE RAILWAYS FOR ONE YEAR.’

7.2 The authority for acceptance of tender rests with the competent authority of the Ministry of Railways, who does not undertake to assign reasons for declining to consider any particular tender or tenders. He also reserves the right to accept the tender in whole or in part or to divide the tender amongst more than one tenderer, if deemed necessary.

7.3 The successful tenderer/s shall be required to execute an agreement with the President of India acting through the CME/BIO-DIESEL, IROAF, 12th Floor, Core 1, Scope Minar, Laxmi Nagar, Delhi for carrying out of the work as per agreed conditions. The cost of stamp for the agreement will be borne by the Railways.

7.4 The bidders operation and proceedings of the bidders in connection with the **works** shall at all times be conducted during the continuance of the contract in accordance with the laws, ordinance, rules and regulations of the **Railways** for the time being in force and the bidder shall further observe and comply with the bye-laws and regulations of the Govt. of India, State Govt. and of the Municipal and other authorities having jurisdiction in connection with the **works** or site over operations such as being carried out by the bidder/s and shall abide by the conditions stipulated in such bye-laws and regulations. The regulations vis-a-vis the

medical cover for workmen in force for the time being, shall also be complied with by the bidder/s and his/its workmen.

- 7.5 Whereas, the Railways are entitled to negotiate for reduction of rates the tenderer/s are not entitled to enhance the rates. Such negotiations shall not amount to cancellation or withdrawals of the original offer; and rates originally quoted will be binding on the tenderer/s.
- 7.6 The tenderer/s shall submit an analysis of rates if called upon to do so.
- 7.7 Non-compliance with any of the conditions set forth herein above is liable to result in the tender being rejected.

8.0 WARRANTY, OPERATION AND MAINTENANCE OF PLANT

- 8.1 The plant will be initially under a warranty period for three years after commissioning. The successful tenderer will furnish bank guaranty of 10% value of the contract valid for three years from the date of commissioning. The submission of the bank guarantee is a prerequisite of the final settlement of bill after completion of the **work**.
- 8.2 The successful tenderer apart from running the plant for the warranty period of three years shall give an undertaking for running the plant for a further period of 7 years (total ten years from the date of commissioning) if Railways so desire. The tenderer will be required to extend the Bank Guarantee for every year thereafter for a period of further seven years.
This will include
- (i) Procurement of raw material
 - (ii) Operation & maintenance of the plant.
 - (iii) Compliance with all statutory requirement of the plant.

After successful operation of the plant for three years the **Railways** will have the option to review and decide each year whether to continue to run the plant by the successful tenderer or by any other agency or themselves as deemed fit by the **Railways**.

The Tenderer will have to give an undertaking for operation and maintenance of the plant for a period of ten years on the terms and conditions as specified in Part-II of the tender document.

However, the **Railways** reserve the right to take over the entire set up of the plant after three years of commissioning with a notice period of six months.

9.0 INTERPRETATION OF CONTRACT:

In the event of any conflict/ commonality between **Special Conditions of Contract (Part I)** and **General Conditions of Contract (Part III)** stipulations given in the Special Conditions of Contract as given in **Part I** shall prevail.

10.0 STUDY OF DRAWINGS AND GROUND REALITIES

The tenderer/s is / are advised to visit the site of **work** as given in **Annexure 1 of Part II** of the tender document and investigate actual conditions, difficulties involved due to inadequate space, due to built up area around the site, availability of materials, water and labour, probable sites for labour camps, stores, godowns, etc. They should also satisfy themselves as to the sources of supply and adequacy for their respective purpose of different materials referred in the specifications and indicated in the drawings. The extent of lead and lift involved in the execution of **works** and any other difficulties involved in the execution of work should also be examined before formulating the rates for complete items of **work** described in the schedule.

11.0 PERIOD OF COMPLETION:

11.1 The entire work is required to be completed in all respects within 24 months from the date of issue of the acceptance letter. Time is the essence of the contract. The bidder/s will be required to maintain speedy and steady progress to the satisfaction of IROAF to ensure that the work will be completed in all respects within the stipulated period, failing which action may be taken by the Railway Administration in terms of the General Conditions of Contract (Part III).

The bidder/s shall arrange to execute the different items of works in close consultation with and as per directions of the IROAF.

11.2 The bidder/s will be required to give the Chief Mechanical Engineer/Bio-Diesel/IROAF progress report of the work done every fifteen days. He will also give to the Chief

Mechanical Engineer/Bio-Diesel/IROAF the program of work to be done in the next fifteen days on the tenth day of the preceding period. The programme will be subject to alteration or modification at the direction of the Chief Mechanical Engineer/Bio-Diesel/IROAF, who may discuss such modifications or alterations with the bidder as considered necessary. Approval of any program shall not in any way relieve the bidder from any of the obligations to complete the entire work within the prescribed time or extended time, if any.

12.0 PAYMENT TERMS

- 12.1 Payment of the 90% of the value of work done for each stage will be made on completion of that stage, as laid down in the work schedule, in Part-II (Para 7) of the specification/Offer of the tender.
- 12.2 Balance 10% of the accrued payment of each stage will be cleared after successful completion of the period of three years of operation and maintenance after commissioning of the plant.
- 12.3 The mode of payment in indigenous contract will be made through Electronic Fund Transfer (EFT) Scheme. The bidders have to furnish the following information in the bid offer in order to facilitate payments through EFT. Presently, the arrangement for EFT is with AXIS Bank.
 - 1. Beneficiary Name.
 - 2. Bank Name & Account No.
 - 3. Beneficiary's Account No.
 - 4. 9 digit MICR code:
 - 5. Type of Account (Current A/c Cash credit Account)

13.0 EMERGENCY WORK:

In the event of any accident or failure adversely affecting the completion or maintenance of the work which in the opinion of the Authorized Railway Official requires immediate attention, the Railway may be with its own workmen or other agency execute the necessary work or carry out repairs if the Authorized Railway Official considers that the bidder is not in a Position to do so in time and charge the cost

thereof, as to be determined by the CME/BIO-DIESEL, IROAF to the bidder.

14.0 DISPOSAL OF SURPLUS OR EXCAVATED MATERIALS

14.1 The bidder shall at all times keep the site free from all surplus materials, and all rubbish which might accumulate from the works and should dispose of the surplus materials as ordered by the Authorized Railway Official failing which, it will be done at the cost of the bidder and the cost incurred will be deducted from his dues.

14.2 The bidder shall within 15 days of completion of the entire work, remove all unused and surplus materials, tools and plants, staging and refuge or other debris left over by his operations and shall leave the site in a clean and tidy conditions.

15.0 SALES TAX/TURN OVER TAX/LOCAL TAX ETC.

Sales tax / VAT including turn over tax on works contract, octroi, royalty, toll tax, local tax, excise duties / levies as well service tax and any other tax levied by Central Government, State Government or local bodies, as applicable on the date of quoting the rates shall be reimbursed by the IROAF on production of proof of payment of such levies by the tenderer. Custom duty and clearance charges at ports paid on the material by international tenderers will not be reimbursed.

16.0 The successful tenderer shall ensure that the plant is insured for all kinds of damages such as fire, accident, natural calamities, theft etc before from the completion of first stage of the work till final completion and thereafter also ensure for each year of operation.

**CME/BIO-DIESEL, IROAF
12th Floor, Core-I, Scope Minar,
Laxmi Nagar, Delhi
For & on behalf of the President of
India**

ANNEXURE-A

To,

**Chief Mechanical Engineer,
BIO-DIESEL,
IROAF,
12th Floor, Core 1,
Scope Minar,
Laxmi Nagar,
Delhi**

Sub: Earnest Money.

I/We the bidders participating in this works Tender have already deposited Rs_____ earnest money vide receipt No_____ dated_____ to cover for tendering of Work of Setting up of a 30 TPD Bio diesel Plant.

I/We agree that the aforesaid amount deposited as earnest money by me/us shall be available for forfeiture if I/we fail to keep the offer open for the period specified therein.

-Sd-
(Authorized signatory of the firm with stamp)

CONSTITUTION OF THE ENTITY

1.	Full name of bidder/s constitution of the entity and year of establishment	
2.	Registered Head Office and address	
3.	Branch offices in India	
4.	Address to which correspondence regarding this tender should be made	
5.	Constitution of the entity: Give full details including name of partners, share holders, Directors, executives and power of attorney holders etc.	
6.	Particulars of registration with Govt/Semi Govt. Organizations PSUs and local bogies bodies.	

ANNEXURE – D-2

Details of Contract /work executed by the bidder/s for the last three years
(refer to para 2.1.g of Financial eligibility criteria) :

S. No .	Contract No.	Date of start	Date of complete	Value of work	Details of work/ contract
1					
2					
3					
Total value					

JOINT VENTURE AGREEMENT

THIS JOINT VENTURE AGREEMENT EXECUTED _____
ON THIS _____ DAY of _____ between M/s _____
Registered Office at _____ as the first party, M/s _____
Registered Office at _____ as the second
party, M/s _____ Registered Office at _____ as the
third party and M/s _____ registered office at _____
as fourth party represented through their constituted
attorneys Shri _____, (The expression and words of the first,
second, third and fourth parties shall mean and include their heirs, successors,
assigns, nominees' executors, administrators and legal representatives
respectively).

WHEREAS all the parties are engaged mainly in the business of execution of
Engineering and General Contracts for various Government Departments and
organizations:

WHEREAS the parties herein above mentioned are desirous of entering into a
Joint Venture for carrying out Engineering and/or contract works, in connection
with Setting up a 30 TPD Bio diesel Plant mentioned in Tender Notice No.
IROAF/BIO-DIESEL/P3/09 dated January, 2010 of Indian Railway
Organization for Alternate Fuels, as mutually decided between the parties to this
Joint Venture.

Whereas all the parties are desirous of recording the terms and conditions of this
Joint Venture to avoid future disputes.

NOW THIS AGREEMENT WITNESSETH AS UNDER:

That as per the terms and conditions of this Joint Venture agreement the work
will be done jointly by the First Party, Second Party, Third Party and Fourth
Party in the name and style of M/s _____ (Joint Venture) M/s
_____, M/s _____, M/s _____
and M/s _____).

That all the parties shall be legally liable, severally and or jointly responsible for the satisfactory/successful execution/completion of the work in all respects and in accordance with the terms and conditions of the contract.

That the role of each constituent of the said Joint Venture in details shall be as under: -

The First Party shall be responsible for _____

The Second Party shall be responsible for _____

The Third Party shall be responsible for _____

The Fourth Party shall be responsible for _____

The share of profit and loss of each constituent of the aid Joint Venture shall be as under: -

That all the parties of this Joint Venture shall depute their experienced staff as committed by them commensurate with their role and responsibility and as required for the successful completion of **works** in close consultation with each other.

That the investment required for the works under this Joint Venture shall be brought in by the parties as agreed to between them from time to time.

That all the Bank Guarantees shall be furnished jointly by all the parties in the name of Joint Venture.

That the party number _____ to this Joint Venture shall be the prime (lead) contractor and will be responsible for timely completion of work and to coordinate with the Railways to receive payments and also to make all correspondence on behalf of this consortium/Joint Venture.

That all the above noted parties i.e. _____ not to make any change in the agreement without prior consent of the Railway.

NOW THE PARTIES HAVE JOINED HANDS TO FORM THIS JOINT VENTURE ON THIS _____ DAY OF _____ TWO THOUSAND _____ FIVE WITH REFERENCE TO AND IN

CONFIRMATION OF THEIR DISCUSSIONS AND UNDERSTANDING
BROUGHT ON RECORD ON _____.

IN WITNESS THEREOF ALL THE ABOVE NAMED PARTIES HAVE SET
THEIR RESPECTIVE HANDS ON THIS JOINT VENTURE AGREEMENT
ON THE DAY, MONTH AND YEAR ABOVE MENTIONED IN THE
PRESENCE OF THE FOLLOWING WITNESSES.

FIRST PARTY SECOND PARTY THIRD PARTY FOURTH PARTY

WITNESSES:

- 1.
- 2.

Signature of Contractor/s

LIST OF ENGINEERS/PERSONNEL ALREADY
AVAILABLE / PROPOSED
TO BE EMPLOYED FOR DEPLOYMENT ON THIS WORK

S.No.	Name & Design.	Qualification	Professional Experience	Orgn. With whom worked
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ANNEXURE-D-1

Statement of works executed/completed by the bidder/s

Place of work	Date of Start	Date of completion (Original/Actual)	Cost	Principal Technical features work in brief.
1	2.	3	4.	5.

ANNEXURE-E

Statement indicating details of equipment employed and quality control measures

Signature of Contractor/s

Signature of Contractor/s



**IROAF
GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS**

Indian Railways Organization for Alternate Fuels

**TECHNICAL SPECIFICATION
FOR
SETTING UP A 30 TPD
BIO-DIESEL PLANTS**

**Bid Documents
Part - II
Tender No. IROAF/BD/P3/09
JANUARY 2010
CORRIGENDUM III**

**Indian Railways Organization for Alternate Fuels
Floor 12, C/o RITES
Scope Tower Core 1
Laxmi Nagar, New Delhi**

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1. PREAMBLE

- i. Fuel expenditure on Indian Railways is substantial and the increasing price of diesel is putting pressure on the financial resources making it imperative to look for alternative cheaper fuels. A small reduction in fuel consumption through use of alternate cheaper fuel, efficient engine and improved technology can result in substantial savings in fuel bills. Besides cost aspects, the alternate fuel needs to be environmental friendly and without requiring any change in the loco motive/engine.
- ii. Railways consume approx. two million KL of diesel every year and would like to blend it with bio-diesel starting from five percent and gradually increasing it up to 20 percent in the years to come.
- iii. Extensive trials have been conducted using bio-diesel in different proportions on railway locomotives and results have been found to be satisfactory.
- iv. It has therefore been decided to use HSD blended with bio-diesel all over the Indian Railway System.
- v. Offers are invited for setting up a project for manufacture of Bio Diesel on the Railway land measuring 6.17 acres by setting up an integrated Bio-Diesel plant near Diesel shed at Raipur (Chattisgarh) and operating it initially, for a period of 10 years.

2. Salient Features:

The salient features of the project are:

S. No.	Description	Covenant
1.	Owner of Land	Indian Railways
2.	Owner of the Plant & Machinery	Indian Railways
3.	Capital Cost of Plant including land and building	To be borne by the Railway
4.	Operating Cost of the Plant including maintenance, procurement of raw-material & its inventory Cost and delivery of bio diesel to sheds.	To be borne by the successful Tenderer

As the unit is located in Railway Land it derives various fiscal and other benefits some of which are as under:

- a) Entire amount for Capital Investment of the Project will be borne by IROAF.
- b) Bio-Diesel production process is completely automated.
- c) Entire land including plant & Machinery (Fixed assets) shall belong to IROAF/Indian Railways and the tenderer shall have no ownership right over it.
- d) Successful Tenderer shall operate the plant.
- e) IROAF/Indian Railways undertake to buy back the entire production of Bio-Diesel at the cost price agreed mutually at the start of each year after commissioning of plant.
- f) The cost price mutually agreed upon shall be lower than the market price of Petro diesel by at least an amount equivalent to the value of interest @ 12% per annum on the capital expenditure. Tenderer should submit detailed assessment indicating the process & operational cost, offset due to by products and final cost of Bio diesel, to be finalized.

3 Product Mix:

The project will be for manufacture of Bio-Diesel as the main product and other revenue yielding by-products which will offset the price of Bio-Diesel.

The main products proposed to be manufactured by the company in the Railway Land:

S.No.	Product	USAGE
1.	Bio-Diesel	As a blend or 100% substitute for Petro Diesel in

all Diesel Engines.		
2.	Refined Glycerin & other products	Sold by the operator to Offset the price of biodiesel.

4. Capacity:

The design of the plant will ensure a rated capacity of 30 Tonne per day for manufacture of Bio-Diesel as main product with other by-products according to the design and technology used by the tenderer. The plant should be so designed that all the systems of the plant should be able to cater to rated capacity of biodiesel i.e. 30 Tonne per Day even with single raw material (e.g. oil with more than 90% fatty acid or other raw material). The tenderer will give all the technical details in the offer for the plant maintenance utilities like water systems like Reverse Osmosis plant, Cooling towers, Boilers, Heaters, DG sets for power backup, Air compressors, field instruments, storage tanks for raw materials and finished goods, electrical transformers and panels, fire fighting system, Effluent Treatment Plant etc.

Note* The manufacturing process should be a continuous operation with hardly any human interface in between raw material to finished product.

(TPD = MTs per Day, TPH = MTs per Hour)

5. Input Raw Material:

The plant must have operational flexibility capable of using a wide variety of raw materials. As per the specifications of the plant & Machinery the plant will be designed to use multi feed stock including traditional tree borne oils like Jatropha Oil, Pongamia Oil and other raw materials including those with above 90% fatty acid content.

The list of some of such inputs and their sources are tabulated as under:

S.No.	Description	Source
1.	Cotton Seed Oil	Cotton Seed
2.	Neem Oil	Neem Seed
3.	Mahua Oil	Mahua Seed
4.	Fish Oil	Fish Meal
5.	Used Cooking Oil	Hotels/Fast food mfrs
6.	Sludge Palm Oil	Palm kernels
7.	Crude Palm Oil	Palm kernels
8.	Animal Fats	Abattoirs
9.	Fatty Acid Distillates	Vanaspati residue
10.	Rubber Seed Oil	Rubber Seed
11.	Jatropha Oil	Jatropha Seed
12.	Pongamia Oil	Pongamia seed
13.	Palm oil Stearin	Palm oil
14.	PFAD (Palm Fatty Acid Distillate), Free Fatty Acid ,other fatty acids and derivatives	Palm oil and other oils

The list is only indicative and not exhaustive. The successful tenderer will be free to use any other raw material that can be used to produce Bio-Diesel conforming to IS 15607/2005.

The versatility of the plant to use any type of oils seeds or oil will enable the successful tenderer to source such raw-material or a combination of raw materials which are available in adequate quantities and according to its price competitiveness. This aspect will be given consideration in technical and economical evaluation.

6. Technology, Technical Consultant, Turnkey supply:

The Plant should be set up applying state-of-the-art technology. It should be be versatile to ensure that all kinds of raw material having triglycerides and Fatty Acids distillates can be utilized for production of Bio-Diesel of quality in-accordance with IS15607/2005.The plant should be so designed that all the systems of the plant should be able

to cater to rated capacity of biodiesel i.e. 30 TPD even with a single raw material(e.g. oil with more than 90% fatty acid or other raw material) .The tenderer should be able to give technology details along with drawings of the plant, machineries and structures for evaluation of the technical bid. The tenderer should indicate all the stages of work from the initial stages to final completion of the plant for operation i.e. turnkey basis. The civil structures should include adequate capacity for laboratory, stores, offices, maintenance shed, plant operation rooms and other ancillary plant buildings and rest rooms. Office and Rest room accommodation for railway officials need to earmarked in the plant.

7. Cost of the Project and Means of Finance

The tenderer will indicate the break up of the cost of setting up the project in respect of various items of expenditure covered under the contract for the turnkey project under various heads as shown below:

S.NO.	Item of Expenditure	Total
1.	Land Development & civil works	
2.	Electricals, amenties and furnishings	
3.	Plant & Machinery	
4.	Misc. Fixed Assets (substation,water supply,DG sets,Effluent treatment etc.	
5.	Preliminary & Pre-Operative Expenses (Design,Drawing and Clearances)	
6.	Contingency & Misc	
	Total	

Details of each heads should be clearly shown as per the stage wise work schedule.

8. Brief Description of the Plant

8.1 Brief description of the functions of each category of plant to be installed in the format given below: (Flow chart of proposed plant's process should be attached)

S. No.	Name of Plant	Application
1.	Crude Oil extraction Plant	Expellers will be required for obtaining oil for seeds (as per details of input raw material as listed in Para.5-Input Raw Material). This will be worked as optional
2.	Crude Oil Physical Refining Plant/deacidification & deodorisation	All crude oils are to be subjected to physical refining involving degumming, bleaching and deodorization so that all solids and non oil contents are removed before sending them to the Bio-Diesel Plant so that quality of Bio-Diesel is maintained.
3.	Crude Oil Chemical Refining Plant	Specially oils like high acid oils, etc. are subjected to chemical refining and then treated with bleaching and deodorization.
4.	Esterification Plant	High FFA crude oils (Animal Fats, Residual Oils etc.) can be treated directly with solid catalyst and then undergo transesterification to produce bio-diesel.
5.	Bio-Diesel Plant along solvent recovery facility (TRANSESTERIFICATION PLANT)	The bio-diesel plant is the main plant where bio-diesel and Glycerin is produced from various oils refined from the other plants. The refined bleached and deodorized oil is then reacted with methanol to yield bio-diesel as main product with Glycerin as by-product. The distillation plant enables recovery of solvent.
7.	Laboratory	Lab is essential to test the product quality as per IS 15607:2005 and for R&D purposes.
8.	Dewaxing plant	For oils having high wax content like rice bran oil
9.	Deaeration section	Air and other volatiles are sucked out from

		the oil stream by means of suitable method
10.	By products extraction sections	Process is used to extract the high value products present in small quantities in the raw material. Extracting such by-products and their disposal by tenderer will result in lowering the operating cost of biodiesel to the extent of the value recovered. Waste products of no value are to be disposed by the tenderer on operating cost.
11.	Effluent treatment plant	The waste streams are to be diverted to collection pits from where the top layer of oil is returned to process as slop oil. The liquid is subjected to primary and secondary treatment as in conventional methods so as to generate treated effluent meeting the prescribed Pollution Control Board standards. The treated water will be used for internal horticulture.

8.2 The entire plant equipments pipe lines valves etc. employed in the process must be made of stainless steel grade 316/304 or of any improved material.

8.3 The part of the system where PFAD or other acids will be processed should have PTFE coated pumps, pipes, flow meters or reservoirs etc. (the list is not exhaustive) or any other acid resistant material may also be used.

9. **Manufacturing process and production factors:**

The plant has to be designed for production of **30 TPD Bio Diesel** as major output with several value added products or derived as other products from the same basic raw material used for manufacture of bio diesel.

Also the plant has to be designed to use multiple feed stock such as non edible vegetable oils, animal Fats and Fish Oil etc.

The various stages involved in the process of manufacture are:

1. Extraction of crude oil from seed if needed.
2. Refining of Crude Vegetable oils by removing the impurities like free fatty acids Gum ,wax and bleching to make it suitable for manufacture of Bio-Diesel.
3. Process some special raw materials like Acid oils, fatty acid distillates, etc., which contain high percentage of free fatty acids, to convert them into crude oil form for bio-diesel production using chemicals like glycerol – this process is called esterification.
4. Process refined and processed oil obtained from the refineries, are taken to trans-Esterification plant, for production of Bio-Diesel and Glycerin.
5. Glycerin obtained as by-product with Bio-Diesel to make it industrial grade.
6. Any other by-product

10. Utilities:

1. Power & Fuel: The power requirements of the entire plant is estimated at 950 KVA. The required power will have to be primarily sourced from the State Government, Private Sector or Railways and will be costed accordingly. The plant should have back power by way of Diesel genset for its crucial operation as it is a continuous process plant involving chemical reactions at various stages. However conservation of power without affecting the process will be a welcome note by IROAF.
2. Water: Water is to be sourced from ground water within the premises, Rlys and municipal sources wherever available. For own ground water resources, facilities is to be created by the successful tenderer. The plant will require water for process

cooling, generation of steam and normal human consumption. The required quantity of water is estimated to be about 100 kl per day which needs to be sourced from the available resources at site and will be costed accordingly. The ground / external water will be treated in the water treatment plant and RO plant/softener to ensure that it is compatible for usage in boiler and other process equipments. In case, Railways resources are used the price charged by Railways will be have to be taken into account as from any other source.

3. Steam: Steam is required in the process at various stages including refining, bio-diesel production etc. The required quantity of steam will be obtained at relevant temperature and pressure from adequate numbers of fluidized bed boilers to be installed to produce required steam. The boilers should be capable to use rice husk / saw dust as fuel with flexibility to take in fire wood and coal.
4. And other utilities like compressed oil free air for field instruments, storage facility for crude and finished products, cooling towers, solvent storage tanks, fire hydrant system, ETP system, thermic fluid heaters, Insulation of equipments, tracings etc has to installed for the continuous operation of the plant.

11. LOCATION OF THE PLANTS

- i. A Trans-esterification & Esterification plant is proposed to be set up at the following tentative location of Indian railways.

Raipur (Chattisgarh) - South East Central Railway

The site plans are enclosed as Annexure -I

- ii. Vendors registered with NSIC shall get exemption up to the monetary limit of their registration for the items tendered. For the balance amount of tender value EMD at the rate of 2% shall be payable.

12. RAILWAY'S CONTRIBUTION.

- i. Railways shall offer land at convenient locations designated for setting up of Trans-esterification & esterification plants. The capital cost of building, plant and machinery shall be borne by the Railways.

About 5-6 acres of land shall be provided by the Railways to the Tenderer. The land & plant shall remain the property of the Railways.

The Railways are and shall at all times be the owner in possession of the said lands including all sub-soil rights (including but not limited to mines, minerals, coals, earth oil, quarries and other things of value, benefits and resources, in and under the said lands, both those which are known to exist and those yet undiscovered) and also the trees standing thereon and has full right and power at all times to do all such acts and deeds which may necessary or expedient for the purposes of this activity.

- ii. Tenderer should further assure and undertake that it shall not create any mortgage or pledge or create charge of any kind whatsoever on the said lands or the other assets of the Railways for securing any loans from any source.

Tenderer should give an undertaking that it shall not remove any part of plant and machineries and any part of capital equipment without prior permission of IROAF authorities.

The above undertaking shall be stipulated in any agreement / deed / document signed by the Tenderer and any institution granting any loan to the Tenderer, absolving CAO / IROAF from any liability vis-à-vis the procurement of any loans by the Tenderer in any manner whatsoever.

Tenderer shall remain bound to and shall indemnify and keep the Railways fully indemnified from and against any claims, demands, actions, proceedings, losses, damages, costs, expenses caused to the Railways on account of such loan/mortgage/charge as aforesaid or its enforcement.

- iii. Request for additional land could be considered, subject to availability.

13. THE TENDERER'S CONTRIBUTION.

- i. The Tenderer will be expected to have sufficient financial strength to operate state-of-the-art 30 TPD Bio-Diesel plant including effluent treatment plant (ETP).
- ii. Tenderer is also expected to have tie-up for sourcing oil-seeds/raw oil for reliable sources for making the bio-diesel available to Indian Railways. Evidence in this respect has to be furnished.
- iii. Tenderer is advised to visit the location earmarked to set up the plant so as to have comprehensive idea about the ground conditions like access, availability of land, electricity, water and most important, the raw material. Accessibility will be necessary for ensuring supply of raw material and also the dispatch of finished product.
- iv. Rail access may be provided to the Tenderer if it is feasible on payment basis. In the absence of the feasibility of rail access, road connection has to be arranged by the Tenderer.
- v. Necessary arrangements for infrastructure of water and electricity shall be arranged by the Tenderer.

14. CARBON CREDITS

The plant design should be such that its operation must result into reduction of GHGs and should be able to qualify for earning CERs. Detailed analysis of reduction of GHGs to justify reduction in terms of emission and financial parameters should be submitted. Carbon credit benefit shall accrue to IROAF.

15 TRAINING

For smooth operation of this plant proper training of its staff shall have to be arranged periodically, evidence of which shall have to be made available to the designated Railway authority.

16. SAFETY, POLLUTION AND OTHER REGULATORY PROVISIONS.

- i. All safety provisions as per prevalent rules against fire hazards and other accidents shall have to be provided by the Tenderer like in any plant of similar nature. Necessary certificates from designated authorities such as, factory inspector are to be obtained by the firm.
- ii. The Tenderer shall provide adequate infrastructure for effluent treatment and obtain all statutory clearances/certificates etc. as required by the Pollution Control Board and other bodies for running such plant.
- iii. Clearances/permission for running the plant in all three shifts (including night shifts) as per prevalent rules and regulations of the land shall have to be obtained by the Tenderer.
- iv. All other statutory obligations/certifications required for the operation of the plant need to be obtained by the Tenderer. These are required to be indicated in the technical offer.

17. QUALITY ASSURANCE SCHEME

- i. The Railways will have the right to test the bio-diesel supplied by the Tenderer in its own laboratories on day to day basis to ensure that it meets the IS specifications laid down for bio- diesel.
- ii. In addition the Tenderer is required to set up its own quality control lab as per IS :15607(2005) for testing of the raw-materials, intermediates and finished products to make sure that the quality is not compromised at any cost. Accreditations of lab from NABL will be preferred.
- iii. The Tenderer is required to submit Quality Assurance Plan (QAP) ensuring quality tests at all stages of production. This should include continuous process check, regular collections of sample from all streams and monitoring.



IROAF
GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS

**Indian Railways Organization for Alternate
Fuels**

**IROAF GENERAL CONDITIONS
OF CONTRACT
FOR**

Bid Documents
Part - III
Tender No. IROAF/

Railway Board Letter No. 94/CE-/CT/4 dt. 17.10.02 & 2008/CE-1/CT/1 dt. 12.09.08
Incorporating Correction Slip No. 1 to 5 and amendments issued vide Bd's letter
No.2003/CE-I/CT/4/Pt-I dt.12-05-06, 07-12-06, 23-05-07 and dated 23.01.08 and letter
no. 2007/CE.1/CT/18 dt. 28-09-2007 and dated 07-03-08

Indian Railways Organization for Alternate Fuels
12th Floor, C/o RITES, Scope Minar Core 1
Laxmi Nagar, New Delhi-92

PART-I

REGULATIONS FOR TENDERS AND CONTRACTS FOR THE GUIDANCE OF BIDDERS/ BIDDERS FOR WORKS

MEANING OF TERMS

- 1.1 These Regulations for Tenders and Contracts shall be read in conjunction with the General Conditions of Contract which are referred to herein and shall be subject to modifications additions or supersession by special conditions of contract and/or special specifications, if any, annexed to the Tender Forms.
- 1.2 Definition:- In these Regulations for Tenders and Contracts the following terms shall have the meanings assigned hereunder except where the context otherwise requires.
- a) “Railway” shall mean the President of the Republic of India or the Administrative Officers of the Successor Railway authorized to deal with any matters, which these presents are concerned on his behalf.
 - b) “Chief Administrative Officer” shall mean the Officer-in-Charge of the general superintendence and control of the Indian Railway Organization for Alternative Fuels and shall mean and include their successors.,
 - c) “Chief Mechanical Engineer, IROAF” shall mean the Officer in-charge of the Projects cell of Indian Railways Organization for Alternative Fuels.
 - d) “Tenderer” shall mean the person / the firm / co-operative or company whether incorporated or not who tenders for the works with a view to execute the works on contract with the Railway and shall include their personal representatives, successors and permitted assigns.
 - e) “Engineer” shall be means as a Mechanical Engineer deputed by CME/IROAF for supervising or inspecting the execution of the work.
 - f) “Railway Official” shall be means as a Mechanical Engineer deputed by CME/IROAF for supervising or inspecting the execution of the work.

- g) “Open Tenders” shall mean the tenders invited in open and public manner and with adequate notice.
 - h) “Works” shall mean the works contemplated in the drawings and schedules set forth in the tender forms and required to be executed according the specifications.
 - i) “Specifications” shall mean the specifications for Materials and works of IROAF as specified in Part-II of the Works Hand Book issued under the authority of the Chief Mechanical Engineer, IROAF or as amplified, added to or superseded by special specifications if any, appended to the Tender Forms.
 - j) “Drawings” shall mean the maps, drawings, plans and tracings or prints thereof annexed to the Tender Forms.
- 1.3 Words importing the singular number shall also include the plural and vice versa where the context requires.
- 2.1 Bidding for the Tender:- Works of construction and of supply of material shall be entrusted for execution to Bidders whose capabilities and financial status have been investigated and approved to the satisfaction of the Railway.

A Bidder while giving his offer will be required to furnish the following details:-

- (a) his position as an independent organization
- (b) Details or Partners / Staff / Engineers employed with qualifications and experience;
- (c) his capacity to undertake and carry out works satisfactorily as vouched for by a responsible official or firm, with details about the transport equipments, tools and plants etc., required for the work maintained by him;
- (d) his previous experience of works similar to that to be contracted for, in proof of which original certificates or testimonials may be called for and their genuineness verified if needs be, by reference to the signatories thereof;
- (e) his knowledge from actual personal investigation of the

resources of the area in which he offers to work;

- (f) his ability to supervise the work personally or by competent and duly authorized agent;
- (g) his financial position;
- (h) Authorized copy of the current income-tax Clearance Certificate.

TENDERS FOR WORKS

3. Tender Form:- Tender Forms shall embody the contents of the contract documents either directly or by reference and shall be as per specimen form, Annexure-1. Tender Forms shall be issued on payment of the prescribed fees to the appropriate Bidders. Bidders shall be required to submit evidence regarding their financial status, previous experience and ability to execute the works, and an authorized copy of the current Income Tax Clearance Certificate without which their tenders will not be considered.
4. Omissions & Discrepancies:- Should a tenderer find discrepancies in or omissions from the drawings or any of the Tender Forms or should he be in doubt as to their meaning, he should at once notify the authority inviting tenders who may send a written instruction to all tenderers. It shall be understood that every endeavor has been made to avoid any error which can materially affect the basis of the tender and the successful tenderer shall take upon himself and provide for the risk of any error which may subsequently be discovered and shall make no subsequent claim on account thereof.
5. Earnest Money:-
 - (1)(a) The tenderer shall be required to deposit earnest money with the tender for the due performance with the stipulation to keep the offer open till such date as specified in the tender, under the conditions of tender. The earnest money shall be as under:
As per Railway Board Letter No. 2003/CE-1/CT/18 dt. 28.09.2007

	Value of the work	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 lakhs plus 1/2% (half percent)of the excess of the estimated cost of work beyond Rs1 crore subject to a maximum of Rs 1 crore.

The earnest money shall be rounded to the nearest Rs.10. This earnest money shall be applicable for all modes of tendering.

- (b) It shall be understood that the tender documents have been sold/issued to the tenderer and the tenderer is permitted to tender in consideration of stipulation on his part, that after submitting his tender he will not resile from his offer or modify the terms and conditions thereof in manner not acceptable to the CME, IROAF. Should the tenderer fail to observe or comply with the said stipulation, the aforesaid amount shall be liable to be forfeited to the Railway.
- (c) If his tender is accepted this earnest money mentioned in sub clause (a) above will be retained as part security for the due and faithful fulfillment of the contract in terms of Clause 16 of the General Conditions of Contract. The Earnest Money of other Tenderers shall, save as here before in 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.

(2) The Earnest Money should be in cash or in any of the following forms:-

As per Railway Board Letter No. 2003/CE-1/CT/4/Part-I dt. 04.04.08

- a) Deposit receipts, pay orders, demand drafts. These forms of earnest money could be either of the State Bank of India or

of any of the nationalized banks. No confirmatory advice from the Reserve Bank of India will be necessary.

- b) Deposit receipts executed by the Scheduled Banks (other than the State Bank of India and the Nationalized Banks) approved by the Reserve Bank of India for this purpose.

6. Care in Submission of Tenders:- (a) Before submitting a tender, the tenderer will be deemed to have satisfied himself by actual inspection of the site and locality of the works, that all conditions liable to be encountered during the execution of the works are taken into account and that the rates he enters in the tender forms are adequate and all inclusive to accord with the provisions in Clause-36 of the General Conditions of Contract for the completion of works to the entire satisfaction of the IROAF.

When work is tendered for by a firm or company of Bidders, the tender shall be signed by the individual legally authorized to enter into commitments on their behalf.

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

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

CONTRACT DOCUMENTS

8. Execution of Contract Document:- The Tenderer whose tender is accepted shall be required to appear in person at the office of the Chief Mechanical Engineer, IROAF, or if a firm or corporation, a duly authorized representative shall so appear and execute the contract documents within 7 days after notice that the contract has been awarded to him. Failure to do so shall constitute a breach of the agreement affected by the acceptance of

the tender in which case the full value of the earnest money accompanying the tender shall stand forfeited without prejudice to any other rights or remedies.

In the event of any tenderer whose tender is accepted shall refuse to execute the contract document as here in before provided, the Railway may determine that such tenderer has abandoned the contract and there upon his tender and acceptance thereof shall be treated as cancelled and the Railway shall be entitled to forfeit the full amount of the Earnest Money and to recover the damages for such default.

9. Form of Contract Document: Every contract shall be complete in respect of the document it shall so constitute. Not less than 2 copies of the contract document shall be signed by the competent authority and the Bidder and one copy given to the Bidder.
 - (a) For contracts for specific works, valued at more than Rs.10,000/- the contract document required to be executed by the tenderer whose tender is accepted shall be either an Agreement as per specimen form Annexure -2, or a work order as per specimen form Annexure -3 as may be prescribed by IROAFs.

ANNEXURE 1
.....RAILWAY
TENDER FORMS (FIRST SHEET)

Tender

No.....

Name of work

.....

To

The President of India

Acting through the

.....

.....

.....Railway

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

2. I/We also hereby agree to abide by the General Conditions of contract corrected up to printed/advance correction slip No..... datedand to carry out the work according the Special Conditions of Contract and Specifications of materials and works at laid down by Railway in the annexed Special Condition/Specifications and the Railway Works Hand Book Part I/II for the present contract.

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

- (a) I/We do not execute the contract documents within seven days after receipt of notice issued by the Railway that such documents are ready; and
- (b) I/We do not commence the work within fifteen days after

receipt of orders to that effect.

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

Signature of Witness:-

.....

.....

Signature of Tender(s)

(1).....

(2).....

Date.....

Address of the Tender(s)

ANNEXURE I (Contd...)

TENDER FORMS (SECOND SHEET)

1. Instructions to tenders and conditions of tender:- The following documents form part of Tender / Contract:-
 - (a) Tender forms – First Sheet and Second Sheet
 - (b) Special Conditions of Contract (Part I, enclosed)
 - (c) Technical Specifications (Part II, enclosed)
 - (d) General Conditions of Contract
 - (e) All general and detailed drawings pertaining to this work which will be issued by CME, IROAF or his representatives (from time to time) with all changes and modifications.
2. Drawings for the work:- Drawings are only for the guidance of Tender(s).
3. Tenders containing erasures and / or alterations of tender documents are liable to be rejected. Any correction made by tender(s) in his their entries must be attested by him / them.
4. The works are required to be completed within a period of months from the date of issue of acceptance letter.
5. Earnest Money: (a) The tender must be accompanied by a sum of Rs..... as earnest money deposited in cash or in any of the forms as mentioned in Regulations for tenders and Contracts for the guidance of the Engineers and Bidders, failing which the tender will not be considered.

(b) The Tender(s) shall keep the offer open for a minimum period of Days from the date of opening of the Tender. It is understood that the tender documents has been sold/issued to the Tender(s) and the Tender(s), is / are permitted to tender in consideration of the stipulation on his / their part that after submitting his / their tender subject to the period being extended further if required by mutual agreement from time to time, he will not resile from his offer or modify the terms and conditions thereof in a manner not acceptable to the CME, IROAF. Should the tenderer fail to observe or comply with the foregoing stipulation, the amount deposited as Earnest Money for the due performance of the above stipulation shall be forfeited to the Railway.

(c) If the tender is accepted, the amount of Earnest Money will be

retained and adjusted as security Deposit for the due and faithful fulfillment of the contract. This amount of Security Deposit shall be forfeited if the tenderer(s)/Bidder(s) fail to execute the Agreement Bond within 7 days after receipt of notice issued by Railway that such documents are ready or to commence the work within 15 days after receipt of the order to that effect.

(d) The Earnest Money of the unsuccessful tender(s) will, save as here-in-before provided be returned to the unsuccessful tender(s) within a reasonable time but the Railway shall not be responsible for any loss or depreciation that may happen to the Security for the due performance of the stipulation to keep the offer open for the period specified in the tender documents or to the Earnest Money while in their possession nor be liable to pay interest thereon.

6. 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 on tenderer(s) shall demand any explanation for the cause of rejection of his/their tender nor the Railway to assign reasons for declining to consider or reject any particular tender or tenders.
7. If the tender(s) deliberately gives / give wrong information in his / their tender or creates / create circumstances for the acceptance of his / their tender, the Railway reserves the right to reject such tender at any stage.
8. If the tenderer(s) expires after the submission of his / their tender or after the acceptance of his their tender, the Railway shall deem such tender cancelled. If a partner of a firm expires after the submission of their tender or after the acceptance of their tender, the Railway shall deem such tender as cancelled, unless the firm retains its character.

(No more required)

9. Tenderer's Credentials:- Documents testifying tender's previously experience and financial status should be produced along with the tender or when desired by competent authority, i.e. CME/IROAF.

Tenderer(s) should submit along with his / their tender credentials to establish.

- (i) His capacity to carry out the works satisfactorily.
- (ii) His financial status supported by Bank reference and other documents.
- (iii) Certificates duly attested and testimonials regarding contracting experience for the type of job for which tender is invited with list of works carried out in the past.

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

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

12. Execution of Contract Documents: The successful Tender(s) shall be required to execute an agreement with the President of India acting through the CAO, IROAF for carrying out the work according to General conditions of Contract, Special conditions of contract & Technical specifications for Works and Materials annexed to the tender.

13. Partnership deeds, Power of Attorney Etc:- The tenderer shall clearly specify whether the tender is submitted on his own or on behalf of a partnership concern. If the tender is submitted on behalf of a partnership concern, he 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 tenderer 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 Bidder.

14. The tenderer whether sole proprietor, a limited company or a partnership firm if they want to act through agent or individual partner(s) should submit along with the tender or at a later stage, a power of attorney duly stamped and authenticated by a Notary Public or by Magistrate in favour of the specific person whether he/they be partner(s) of the firm or any other person specifically authorising him/them to submit the tender, sign the agreement, receive money, witness measurements, sign measurement books, compromise, settle, relinquish any claim(s) preferred by the firm and sign "No Claim Certificate" and refer all or any disputes to arbitration.
15. Employment/Partnership, etc., of Retired Railway Employees:- (a) should a tenderer be a retired Railway Official of the Gazetted rank or any other Gazetted officer Working before his retirement, whether in the executive or administrative capacity, or whether holding a pensionable post or not, in the.....department of any of the railways owned and administered by the President of India for the time being, or should a tenderer being partnership firm have as one of its partners a retired Railway Official or retired Gazetted Officer as aforesaid, or should a tenderer being an incorporated company have any such retired engineer or retired officer as one of its Directors, or should a tenderer have in his employment any retired Railway Official or retired Gazetted Officer as aforesaid, the full information as to the date of retirement of such Railway Official or Gazetted Officer from the said service and in case where such Railway Official 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 Bidder 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 Bidder, has been obtained by the tenderer or the Railway Official or Officer, as the case may be from the President of India or any officer, duly authorised by him in this behalf, shall be clearly stated in writing at the time of submitting the tender. Tenders without the information above referred to or a statement to the effect that no such retired Railway Official or retired Gazetted Officer is so associated with the tenderer, as the case may be, shall be rejected.

(b) Should a tenderer or Bidder being an individual on the list of approved Bidders, have a relative(s) or in the case of partnership firm or company of Bidders one or more of his shareholder(s) or a relative(s) of the shareholder(s) employed in gazetted capacity in the department of theRailway, the authority inviting tenders shall be informed of the fact at the time of submission of tender, failing which the tender may be disqualified/rejected or if such fact subsequently comes to light, the contract may be rescinded in accordance with the provision in clause 59 of the General Conditions of Contract.

Signature of

Tenderer(s)

Date.....

.....

(Signature)

(Designation)

IROAF

ANNEXURE II

IROAF

CONTRACT AGREEMENT NO

DATED.

.....

ARTICLES OF AGREEMENT made this day of20 between the President of India acting through the Railway Administration here after called the "IROAF" of the one part and herein after called the "Bidder" of the other part.

WHERE AS the Bidder has agreed with the Railway for the performance, set forth in the Special conditions of contract (Part I of the Bid documents) and the Technical Condition of the Works (Part II of the Bid documents) hereto annexed along with the General Conditions of contract Of IROAF any, and in conformity with the drawings here-into annexed AND WHEREAS the performance of the said works is an act in which the public are interested.

Whereas the Bidder has agreed with the Railways to perform this Work at the rates accepted by the accepting authority and quoted by the bidder in the initial / negotiated offer. Details of rates with the total value of the contract and the schedule of Work are enclosed with this agreement.

NOW THIS INDENTURE WITNESSETH that in consideration of the payments to be made by the Railways, the Bidders will duly perform the said works in the said Conditions and Specifications set forth and shall execute the same with great promptness, care and accuracy in a workman like manner to the satisfaction of the IROAF and will complete the same accordance with the said specifications and said drawings and said conditions of contract on or before the day of20 and will maintain the said works for a period of Calendar months from the certified date of their completion 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 has been fully set forth herein), AND the IROAF, both hereby agree that if the Bidder shall duly perform the said works in the manner aforesaid and observe and keep the said terms and conditions the Railway will pay or cause to be paid to the Bidder for the said works on the final completion thereof the amount due in respect thereof at the rates agreed upon in the Contract.

Bidder

Address

Date

Signature of witnesses with address
to

Signature of Bidder

Date.....

Witness

Designation
IROAF
(for President of India)

ANNEXURE- III
ACCEPTANCE ORDER FOR WORKS
(Valued at over Rs.10,000/-)

ACCEPTANCE ORDER NO.

.....DATED.....

Name of work..... (site)

.....

Schedule of drawings.. ..

Authority..... Allocation

Mr / Messes.....Bidder/Bidders
having agreed with the Railway is/are hereby ordered to carry out the
Works set forth in the schedule below in accordance with the
General Conditions of Contract corrected up to Printed/Advance
Correction, Slip No..... dated and the Contract IROAF contained
in Works Technical Specifications of the Bid documents, Part II
dated.....and special conditions of contract Part I and in
conformity with drawings Annexed herewith and to complete the same on
or before the day ofand maintain the said works for
the period as specified in the Bid document.

PART II

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

DEFINITIONS AND INTERPRETATION

- a) “Railway” shall mean the President of the Republic of India or the Administrative Officers of the Successor Railway authorized to deal with any matters, which these presents are concerned on his behalf.
- b) “Chief Administrative Officer” shall mean the Officer-in-Charge of the general superintendence and control of the Indian Railway Organization for Alternative Fuels and shall mean and include their successors.,
- c) “Chief Mechanical Engineer, IROAF” shall mean the Officer in-charge of the Projects cell of Indian Railways Organization for Alternative Fuels.
- d) “Tenderer” shall mean the person / the firm / co-operative or company whether incorporated or not who tenders for the works with a view to execute the works on contract with the Railway and shall include their personal representatives, successors and permitted assigns.
- e) “Engineer” shall be means as a Mechanical Engineer deputed by CME/IROAF for supervising or inspecting the execution of the work.
- f) “Railway Official” shall be means as a Mechanical Engineer deputed by CME/IROAF for supervising or inspecting the execution of the work.
- g) “Open Tenders” shall mean the tenders invited in open and public manner and with adequate notice.
- h) “Works” shall mean the works contemplated in the drawings and schedules set forth in the tender forms and required to be executed according the specifications.
- i) “Specifications” shall mean the specifications for

Materials and works of IROAF as specified in Part-II of the Works Hand Book issued under the authority of the Chief Mechanical Engineer, IROAF or as amplified, added to or superseded by special specifications if any, appended to the Tender Forms.

- j) “Drawings” shall mean the maps, drawings, plans and tracings or prints thereof annexed to the Tender Forms.

GENERAL OBLIGATIONS

2. (1) Execution Co-relation and intent of contract Documents:- The contract documents be signed in triplicate by the Railway and the Bidder. 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, equipments and transportation necessary for the proper execution of work. Materials or work not covered by or properly inferable from any heading or class of the specifications shall not be supplied by the Railway to the Bidders unless distinctly specified in the contract documents. Materials or works described in words which so applied have a well known technical or trade meaning shall be held to refer to such recognised standards.

(2) If a work 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 Bidder and the Successor Railway/Project in the same manner & take effect in all respects as if the Bidder 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.

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

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

(2) Compliance to regulations and bye-laws:- The Bidder shall conform to the provision of any statute relating to the works and regulations and bye- laws of any local authority and of any water and lighting companies or undertakings, with whose system the work is proposed to be connected and shall before making any variation from the drawings or the specifications that may be necessitated by so

confirming give to the Railway Official notice specifying the variation proposed to be made and the reason for making the variation and shall not carry out such variation until he has received instructions from the Railway Official in respect thereof. The Bidder shall be bound to give all notices required by statute, regulations or bye-laws as aforesaid and to pay all fees and taxes payable to any authority in respect thereof.

4. Communications to be in writing:- All notices, communications, reference and complaints made by the Railway Official his Representative or the Bidder inter se concerning the works shall be in writing and no notice, communication, reference or complaint not in writing shall be recognized.

5. Service of Notices on Bidders:- The Bidder shall furnish to the Railway Official the name designation and address of his authorized agent and all complaints, notices, communications and references shall be deemed to have been duly given to the Bidder if delivered to the Bidder or his 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 Bidder to the Engineer.

6. Occupation and use of land:- No land belonging to or in the possession of the Railway shall be occupied by the Bidder without the permission of the Railway. The Bidder shall not use, or allow to be used, the site for any purposes other than that of executing the works. Whenever non-railway bodies/persons are permitted to use railway premises with competent authority's approval, conservancy charges as applicable from time to time may be levied.

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

this clause. The permitted subletting of work by the Bidder shall not establish any contractual relationship between the sub-Bidder and the Railway and shall not relieve the Bidder of any responsibility under the Contract.

8. Assistance by the Railway for the Stores to be obtained by the Bidder:- Owing to difficulty in obtaining certain materials (including Tools & Plant) in the market, the Railway may have agreed without any liability therefore to endeavour to obtain or assist the Bidder in obtaining the required quantities of such materials as may be specified in the Tender. In the event of delay or failure in obtaining the required quantities of the aforesaid material the Bidder shall not be deemed absolved of his own responsibility and shall keep in touch with the day to day position regarding their availability and accordingly adjust progress of works including employment of labour and the Railway shall not in any way be liable for the supply of materials or for the non supply thereof for any reasons whatsoever nor for any loss or damage arising in consequence of such delay or non supply.

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

10. Carriage of materials:- No forwarding orders shall be issued by the Railway for the conveyance of Bidders materials, tools and plant by Rail which may be required for use in the works and the Bidder shall pay full freight charges at public tariff rates thereof.

11. Representation on Works:- The Bidder shall, when he is not personally present on the site of the works place and keep a responsible agent at the works during working hours who shall on receiving reasonable notice, present himself to the Railway Official and orders given by the Railway Official or the Railway Officials representative to the agent shall be deemed to have the same force as if they had been given to the Bidder. Before absenting himself, the Bidder shall furnish the name and address of his agent for the purpose of this clause and failure on the part of the Bidder to comply with this provision at any time will entitle the Railway to rescind the contract under clause 59 of these conditions.

12. Relics and Treasures:- All gold, silver, oil and other minerals of any description and all precious stones, coins, treasures relics antiquities and other similar things which shall be found in or upon the site shall be the property of the Railway and the Bidder 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.

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

14 Indemnity by Bidders:- The Bidder 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 Bidder, his agents or employees, in the execution of the works or in his guarding of the same. All sums payable by way of compensation under any of these conditions shall be considered as reasonable compensation to be applied to the actual

loss or damage sustained, and whether or not any damage shall have been sustained.

15. Security Deposit:-

(i) The Earnest Money deposited by the Bidder with his tender will be retained by the Railways as part of security for the due and faithful fulfillment of the contract by the Bidder. The balance to make up the security deposit, the rates for which are given below, may be deposited by the Bidder in cash or may be recovered by percentage deduction from the Bidders "on account" bills. Provided also that in case of defaulting Bidder the Railway may retain any amount due for payment to the Bidder on the pending "on account bills" so that the amounts so retained may not exceed 10% of the total value of the contract.

(ii) "Unless otherwise specified in the special conditions, if any, the Security Deposit/Rate of recovery/Mode of recovery shall be as under:

(a) Security Deposit for each work should be 5% of the contract value,

(b) The rate of recovery should be at the rate of 10% of the bill amount till the full security deposit is recovered,

(c) Security Deposit will be recovered only from the running bills of the contract and no other mode of collecting SD such as SD in the form of instruments like BG, FD etc. shall be accepted towards security deposit.

Security Deposit shall be returned to the contractor after the physical completion of the work as certified by the Competent Authority. The Competent Authority shall normally be the authority who is competent to sign the contract. If this Competent Authority is of the rank lower than JA Grade, then a JA Grade Officer (concerned with the work) should issue the certificate. The certificate, inter alia should mention that the work has been completed in all respects and that all the contractual obligations have been fulfilled by the contractors and that there is no due from the contractor to Railways against the contract concerned. Before releasing the SD, an unconditional and unequivocal no claim certificate from the contractor concerned should be obtained".

After the work is physically completed, security deposit recovered from the running bills of a contractor can be returned to him if he so

desires, in lieu of FDR/irrevocable Bank Guarantee for equivalent amount to be submitted by him.

In case of contracts of value Rs.50 crore and above, irrevocable Bank Guarantee can also be accepted as a mode of obtaining security deposit.

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

16. Performance Guarantee (P.G)

AS per Rly. BD's letter no. 2007/CE-1/CT/18 dt.28.9.2007, the procedure for obtaining Performance Guarantee is outlined below:

- a. The successful bidder shall submit a Performance Guarantee (PG) in the form of an irrevocable bank guarantee amounting to 5% of the contract value.
- b. A Performance Guarantee shall be submitted by the successful bidder after the letter of acceptance has been issued, but before signing of the agreement. The agreement should normally be signed within 15 days after the issue of LOA and the Performance Guarantee shall also be submitted within this time limit. This guarantee shall be initially valid up to the stipulated date of completion plus 60 days beyond that. In case, the time for completion of work gets extended, the contractor shall get the validity of Performance Guarantee extended to cover such extended time for completion of work plus 60 days.
- c. The Performance Guarantee (PG) shall be released after the physical completion of the work based on the 'Completion Certificate' issued by the competent authority stating that the contractor has completed the work in all respects satisfactorily. The security deposit, however, shall be released only after the expiry of the maintenance period and after passing the final bill based on 'No Claim Certificate'.
- d. Wherever the contract is rescinded, the security deposit shall be forfeited and the Performance Guarantee shall be encashed and the balance work shall be got done independently without risk and cost of the failed contractor. The failed contractor shall be debarred from participating in the tender for executing the balance work. If the failed contractor is a JV or a partnership firm, then every

member/partner of such a firm shall be debarred from participating in the tender for the balance work either in his/her individual capacity or as a partner of any other JV/partnership firm.

- e. The Engineer shall not make a claim under the Performance 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:
 - i) Failure by the contractor to extend the validity of the Performance Guarantee as described herein above, in which event the Engineer may claim the full amount of the Performance Guarantee.
 - ii) 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 Engineer.
 - iii) 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.

The successful bidder may give Performance Guarantee amounting to 5% of the contract value in any of the following forms:-

- (i) A deposit of Cash
- (ii) Irrevocable Bank Guarantee
- (iii) Government Securities including State Loan Bonds at 5 percent below the market value,
- (iv) 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;
- (v) Guarantee Bonds executed or Deposits Receipts tendered by all Scheduled Banks;
- (vi) A Deposit in the Post Office Saving Bank;
- (vii) A Deposit in the National Savings Certificates;
- (viii) Twelve years National Defence Certificates;
- (ix) Ten years Defence Deposits;
- (x) National Defence Bonds; and
- (xi) Unit Trust Certificates at 5 per cent below market value or at the face value whichever is less.

Also FDR in favour of FA&CAO/N.Rly Delhi, (free from any encumbrance) may be accepted.

NOTE: The instruments as listed above will also be

acceptable for Guarantees in case of Mobilization advance.

- (i) and shall be absolutely at the disposal of the President of India.

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

17-A Subject to any requirement in the contract as to completion of any portions or portions of the works before completion of the whole, the Bidder 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:-

- (i) If any modifications have been ordered which in the opinion of the Engineer have materially increased the magnitude of the work, then such extension of the contracted date of completion may be granted as shall appear to the Engineer to be reasonable in the circumstances, provided moreover that the Bidder shall be responsible for requesting such extension of the date as may be considered necessary as soon as the cause thereof shall arise and in

any case not less than one month before the expiry of the date fixed for completion of the works.

(ii) If in the opinion of the Engineer the progress of work has any time been delayed by any act or neglect of Railway's employees or by other Bidder employed by the Railway under sub-clause (4) of clause 20 of these conditions or in executing the work not forming part of the contract but on which Bidder's performance necessarily depends or by reason of proceeding taken or threatened by or dispute with adjoining or to neighboring owners or public authority arising otherwise through the Bidder's own default etc. or by the delay authorized by the Engineer pending arbitration or in consequences of the Bidder not having received in due time necessary instructions from the Railway for which he shall have specially applied in writing to the Engineer or his authorized representative then upon happening of any such event causing delay, the Bidder shall immediately give notice thereof in writing to the Engineer within 15 days of such happening but shall nevertheless make constantly his best endeavours to bring down or make good the delay and shall do all that may be reasonably required of him to the satisfaction of the Engineer to proceed with the works. The Bidder may also indicate the period for which the work is likely to be delayed and shall be bound to ask for necessary extension of time. The Engineer on receipt of such request from the Bidder shall consider the same and shall grant such extension of time as in his opinion is reasonable having regard to the nature and period of delay and the type and quantum of work affected thereby. No other compensation shall be payable for works so carried forward to the extended period of time, the same rates, terms and conditions of contract being applicable as if such extended period of time was originally provided in the original contract itself.

(iii) In the event of any failure or delay by the Railway to hand over the Bidder possession of the lands necessary for the execution of the works or to give the necessary notice to commence the works or to provide the necessary drawings or

instructions or any other delay caused by the Railway due to any other cause whatsoever, then such failure or delay shall in no way affect or vitiate the contract or alter the character thereof or entitle the Bidder to damages or compensation therefor but in any such case, the Railway may grant such extension or extensions of the completion date as may be considered reasonable.

17-B Extension of time for delay due to Bidder:-

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

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

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

Competent Authority while granting extension to the currency of contract under this clause may also levy of token penalty as deemed fit based on the merit of the case.

Provided further, that if the Railway is not satisfied that the works can be Completed by the Bidder and in the event of failure on the part of the Bidder to complete the work within further extension of time allowed as aforesaid, the Railway shall be entitled without prejudice to any other right or remedy available in that behalf, to appropriate the bidder's security deposit and rescind the contract under clause 62 of these conditions, whether or not actual damage is caused by such default.

18. (1) Illegal Gratification:- Any bribe, commission, gift or advantage given, promised or offered by or on behalf to the Bidder or his partner, agent or servant or, anyone on his behalf, to any officer or employee of the Railway, or to any person on his behalf in relation to obtaining or execution of this or any other contract with the Railway shall, in addition to any criminal liability which he may incur, subject Bidder 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 Bidder(s) under this contract or any other contracts with the Railway.

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

EXECUTION OF WORKS

19. (1) Bidders understanding:- It is understood and agreed that the Bidder has, by careful examination, satisfied himself as to the nature and location of the work, the conformation of the ground, the character, quality and quantity of the materials to be encountered, the character of equipment and facilities needed preliminary

to and during the progress of the works, the general and local conditions, the labour conditions prevailing therein and all other matters which can in any way affect the works under the contract.

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

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

(4) Setting out of works :- The Bidder shall provide all facilities like labour and instruments and shall co-operate with the Railway Officials representative. If, at any time, during the progress of the works any error shall appear or arise in any part of the work, the Bidder, on being required so to do by the Railway Official representative shall, at his own cost rectify such errors, to the satisfaction of the Railway Officials representative. Such checking shall not absolve the Bidder of his own responsibility of maintaining accuracy in the work. The Bidder shall carefully protect and preserve all bench marks, and other things used in setting out the work.

20. (1) Compliance to Railway Official Instructions:- The Railway Official shall direct the order in which the several parts of the works shall be executed and the Bidder shall execute without

delay all orders given by the Railway Official from time to time but the Bidder shall not be relieved thereby from responsibility for the due performance of the works in all respects.

(2) Alterations to be authorised:- No alterations in or additions to or omissions or abandonment of any part of the works shall be deemed authorised, except under instructions from the Railway Official, and the Bidder shall be responsible to obtain such instructions in each and every case in writing from the Railway Official.

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

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

21. Instruction of Railway Officials Representative:- Any instructions or approval given by the Engineers representative to Bidder in connection with the works shall bind the Bidder as though it had been given by the Engineer provided always as follows:-

(a) Failure of the Railway Official representative to disapprove any work or materials shall not prejudice the power of the Railway Official thereafter to disapprove such work or material and to order the removal or breaking up thereof.

(b) If the Bidder shall be dissatisfied by reason of any decision of

the Railway Official representative, he shall be entitled to refer the matter to the Railway Official who shall there upon confirm or vary such decision.

22 (1) Adherence to specifications and drawings:- The whole of the works shall be executed in perfect conformity with the specifications and drawings of the contract. If Bidder performs any works in a manner contrary to the specifications or drawings or any of them and without such reference to the Railway Official he shall bear all the costs arising or ensuing thereof and shall be responsible for all loss to the Railway.

(2) Drawings and specifications of the works:- The Bidder shall keep one copy of Drawings and Specifications at the site, in good order, and such contract documents as may be necessary, available to the Railway Official or the Railway Officials Representative.

(3) Ownership of drawings and specifications:- All Drawings and specifications and copies thereof furnished by the Railway to the Bidder are deemed to be the property of the Railway. They shall not be used on other works and with the exception of the signed contract set, shall be returned by the Bidder to the Railway on completion of the work or termination of the Contract.

(4) Compliance with Bidders request for details:- The Railway Official shall furnish with reasonable promptness, after receipt by him of the Bidders request for the same, additional instructions by means of drawings or otherwise, necessary for the proper execution of the works or any part thereof. All such drawings and instructions shall be consistent with the Contract Documents and reasonably inferable thereof.

(5) Meaning and intent of specification and drawings:- If any ambiguity arises as to the meaning and intent of any portion of the Specifications and Drawings or as to execution or quality of any work or material, or as to the measurements of the works the decision of the Railway Official thereon shall be final subject to the appeal (within 7 days of such decision being intimated to the Bidder) to the Chief Mechanical Engineer, IROAF 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.

23. Working during night:- The Bidder shall not carry out any work between sun-set and sun-rise without the previous permission of the Railway Official
24. Damage to Railway property or private life and property:- The Bidder shall be responsible for all risk to the work and for trespass and shall make good at his own expense all loss or damage whether to the works themselves or to any other property of the Railway or the lives, persons or property of others from whatsoever cause in connection with the works until they are taken over by the Railway and this although all reasonable and proper precautions may have been taken by the Bidder, 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 Bidder 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 Bidder.

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 Bidder, to take such steps as may be considered necessary or desirable to ward off or mitigate the effect of such proceedings, charging to Bidder, 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 Bidder.

25. Sheds, Stores houses and Yards:- The Bidder shall at his own

expense provide himself with sheds, storehouses and yards in such situations and in such numbers as in the opinion of the Railway Official is requisite for carrying on the works and the Bidder shall keep at each such sheds, store-houses and yards a sufficient quantity of materials and plant in stock as not to delay the carrying out of the works with due expedition and the Railway Official and the Railway Officials representative shall have free access to the said sheds, store houses and yards at any time for the purpose of inspecting the stock of materials or plant so kept in hand, and any materials or plant which the Railway Official may object to shall not be brought upon or used in the works, but shall be forthwith removed from the sheds, store houses or yards by the Bidder.

26. Provision of efficient and competent staff:- The Bidder shall place and keep on the works at all times efficient and competent staff to give the necessary directions to his workmen and to see that they execute their work in sound and proper manner and shall employ only such supervisors, workmen and labourers in or about the execution of any of these works as are careful and skilled in the various trades and callings. The Bidder shall at once remove from the works any agents, permitted sub-Bidder, supervisor, workman or labourer who shall be objected to by the Railway Official and if and whenever required by the Railway Official, he shall submit a correct return showing the names of all staff and workmen employed by him. In the event of the Railway Official being of the opinion that the Bidder is not employing on the works a sufficient number of staff and workmen as is necessary for the proper completion of the works within the time prescribed, the Bidder shall forthwith on receiving intimation to this effect take on the additional number of staff and labour specified by the Railway Official within seven days of being so required and failure on the part of the Bidder to comply with such instructions will entitle the Railway to rescind the contract under Clause 59 of these conditions.
27. (1) Workmanship and testing:- The whole of the works and/or supply of materials specified and provided in the contract or that may be necessary to be done in order to form and complete any part thereof shall be executed in the best and most substantial workman like manner with materials of the best and most approved quality of

their respective kinds, agreeable to the particulars contained in or implied by the specifications and as referred to in and represented by the drawings or in such other additional particulars, instructions and drawings may be found requisite to be given during the carrying on of the works and to the entire satisfaction of the Engineer according to the instructions and directions which the Bidders may from time to time receive from the Railway Official. The materials may be subjected to tests by means of such machines, instruments and appliances as the Railway Official may direct and wholly at the expense of the Bidder.

(2) Removal of Improper work and materials:- The Railway Official or the Railway Officials Representative shall be entitled to order from time to time:-

- (a) the removal from the site within the time specified in the order of any materials which in his opinion are not in accordance with the specifications or drawings.
- (b) the substitution of proper and suitable materials, and
- (c) the removal and proper re-execution, notwithstanding any previous tests thereof or on account payments thereof, of any work which in respect of materials or workmanship is not in his opinion in accordance with the specifications and in case of default on the part of the Bidder in carrying out such order the Railway shall be entitled to rescind the contract under Clause 59 of these conditions.

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

29. Temporary Works:- All temporary works necessary for the proper execution of the works shall be provided and maintained by the Bidder and subject to the consent of the Railway Official shall be removed by him at his expenses when they are no longer required and in such manner as the Railway Official shall direct. In the event of failure on the part of the

Bidder to remove the temporary works, the Railway Official will cause them to be removed and cost as increased by supervision and other incidental charges shall be recovered from the Bidder. If temporary huts are provided by the Bidder on the Railway land for labour engaged by him for the execution of works, the Bidder shall arrange for handing over vacant possession of the said land after the work is completed; if the Bidders 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 Bidder.

- 30 (1) Bidder to supply water for works:- Unless otherwise provided in the Contract, the Bidder shall be responsible for the arrangements to obtain supply of water necessary for the works.

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

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

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

(b) Electric supply from the Railway system:- The Railway may supply to the Bidder part or whole of the electric power wherever available and possible, required for execution of works from the Railways existing electric supply systems at or near the site of works on specified terms and conditions and such

charges as shall be determined by the Railway and payable by the Bidder provided the cost of arranging necessary connections to the Railways Electric Supply systems, and laying of underground/overhead conductor, circuit protection, electric power meters, transmission structure, shall be borne by the Bidder and that the Bidder shall not be entitled to any compensation for interruption or failure of the Electric supply system:

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

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

(2) Hire of Railways Plant:- The Railway may hire to the Bidder plants as, compressors and portable engines etc. for use during execution of the works on such terms as may be specified in the special conditions or in a separate agreement for Hire of Plant.

33. (1) Precaution during progress of works:- During the execution of works, unless otherwise specified, the Bidder shall at his own cost provide the materials for and execute all works as is necessary for the works and shall ensure that no damage, injury or loss is caused or likely to be caused to any person or property.

(2) Roads and Water courses:- Existing roads or water courses shall not be

blocked cut through, altered, diverted or obstructed in any way by the Bidder, except with the permission of the Railway Official. All compensations claimed for any unauthorized closure, cutting through, alteration, diversion or obstruction to such roads or water courses by the Bidder or his agent or his staff shall be recoverable from the Bidder by deduction from any sums which may become due to him in terms of contract, or otherwise according to law.

(3) Provision of access to premises:- During progress of work in any street or thoroughfare, the Bidder 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 works and shall react and maintain at his own cost barriers, lights and other safeguards as prescribed by the Railway Official, for the regulation of the traffic, and provide watchmen necessary to prevent accidents. The works shall in such cases be executed night and day if so ordered by the Railway Official and with such vigour so that the traffic way be impeded for as short a time as possible.

(4) Safety of Public:- The Bidder shall be responsible to take all precautions to ensure the safety of the public whether on public or Railway property and shall post such look out men as may in the opinion of the Railway Official be required to comply with regulations appertaining to the work.

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

responsibility of the Bidder and the Bidder shall indemnify the Railway in respect thereof.

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

- (a) Provided for in the contract, or
- (b) Necessary for the proper execution of the works or by the reason of weather conditions or by some default on the part of the Bidder, and or
- (c) Necessary for the safety of the works or any part thereof.

(2) The Bidder shall not be entitled to the extra costs, if any, incurred

by him during the period of suspension of the works, but in the event of any suspension ordered by the Railway Official for reasons other than aforementioned and when each such period of suspension exceeds 14 days, the Bidder shall be entitled to such extension of time for completion of the works as the Railway Official may consider proper having regard to the period or periods of such suspensions and to such compensations as the Railway Official may consider reasonable in respect of salaries or wages paid by the Bidder to his employees during the periods of such suspension.

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

36. **Rates for items of work-** The rates entered in the accepted Schedule of Rates of the Contract are intended to provide for works duly and properly completed in accordance with the general and special conditions of the contract shall be deemed to include and cover superintendence and labour, materials, including full freight,

of materials, stores, machinery, equipments, instruments tools and all apparatus & testing gadgets required for the work and also all expenditures on sanitary, medical arrangements, pollution control ,insurance, arrangement for statutory certificates including incidental & continental charges

37. Demurrage and wharfage dues:- Demurrage charges calculated in accordance with the scale in force for the time being on the Railway and incurred by the Bidder failing to load or unload any goods of materials within the time allowed by the Railway for loading as also wharfage charges, of materials not removed in time as also charges due on consignments booked by or to him shall be paid by the Bidder, failing which such charges shall be debited to the Bidders account in the hands of the Railway and shall be deducted from any sums which may become due to him in terms of the contracts.

38. Provided that if the Contractor commences work or incurs any expenditure in regard there before the rates as determined and agreed upon as lastly hereuntofore mentioned, then and in such a case the Contractor shall only be entitled to be paid in respect of the work carried out or expenditure incurred by him prior to the date of determination of the rates as aforesaid according to the rates as shall be fixed by Engineer. However if the contractor is not satisfied with the decision of the Engineer, supported by analysis of the rates claimed. The Chief Mech. Engineer's decision after hearing both the parties in the matter would be final and binding on the Contractor and Railway.

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

(2) Clearance of site on completion:- On completion of the works, the Bidder shall clear away and remove from the site all constructional plant, surplus materials, rubbish and temporary works of every kind and leave the whole of the site and works clean

and in a workman like condition to the satisfaction of the Railway Official. No final payment in settlement of the accounts for the works shall be paid, held to be due or shall be made to the Bidder till, in addition to any other condition necessary for final payment, site clearance shall have been affected by him, and such clearance may be made by the Railway Official at the expense of the Bidder in the event of his failure to comply with this provision within 7 days after receiving notice to that effect. Should it become necessary for the Railway Official to have the site cleared at the expenses of the Bidder, the Railway shall not be held liable for any loss or damage to such of the Bidder property as may be on the site and due to such removal there from which removal may be effected by means of public sales of such materials and property or in such a way as deemed fit and convenient to the Railway Official.

VARIATIONS IN EXTENT OF CONTRACT

40. 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 Bidder and no work shall proceed under such modifications until this has been done. Any verbal or written arrangement abandoning, modifying, extending, reducing or supplementing the contract or any of the terms thereof shall be deemed conditional and shall not be binding on the Railway unless and until the same is incorporated in a formal instrument and signed by the Railway and the Bidder, and till then the Railway shall have the right to repudiate such arrangements.

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

(2) (i) Unless otherwise specified in the special conditions of the contract, the accepted variation in quantity of each individual item of the contract would be up to 25% of the quantity originally contracted. The Bidder shall be bound to carry out the work 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 works.

(3) Valuation of variations:- The enlargements, extensions, diminution, reduction, alterations or additions referred to in sub-clause (2) of this clause shall in no degree affect the validity of the contract but shall be performed by the Bidder 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 shall be paid, at the rates determined under clause-39 of these conditions.

CLAIMS

42. Signing of "No Claim" Certificate:- The Bidder 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 Bidder, after he shall have signed a "No Claim" Certificate in favour of the Railway in such form as shall be required by the Railway after the works are finally measured up. The Contactor shall be debarred from disputing the correctness of the items covered by "No Claim" Certificate or demanding a clearance to arbitration in respect thereof.

MEASUREMENTS, CERTIFICATES AND PAYMENTS

- 43 Quantities in schedule annexed to Contract:- The quantities set out (as per stages given
At part-2 of tender document)in the accepted schedule of rates with items of works quantified are the estimated quantities of the works and they shall not be taken as the actual and correct quantities of the work to be executed by the Bidder in fulfillment of his

obligations under the contract.

44. The contractor shall be paid for the stages of work given in part-2 of tender
45. Maintenance of works:- The Bidder shall at all times during the progress and continuance of the works and also for the period of maintenance specified in the Tender Form after the date of passing of the certificate of completion by the Railway Official or any other earlier date subsequent to the completion of the works that may be fixed by the Railway Official be responsible for and effectively maintain and uphold in good substantial, sound and perfect condition all and every part of the works and shall make good from time to time and at all times as often as the Railway Official shall require, any damage or defect that may during the above period arise in or be discovered or be in any way connected with the works, provided that such damage or defect is not directly caused by errors in the contract documents, act of providence or insurrection or civil riot, and the Bidder shall be liable for and shall pay and make good to the Railway or other persons legally entitled thereto whenever required by the Railway Official 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 Bidder or of his failure in any respect.
46. (1) Certificate of completion of works:- As soon as in the opinion of the Railway Official the works shall have been substantially completed and shall have satisfactorily passed any final test or tests that may be prescribed, the Railway Official shall issue a Certificate of Completion in respect of the works and the period of maintenance of the works shall commence from the date of such certificate provided that the Railway Official may issue such a certificate with respect to any part of the works before the completion of the whole of the works or with respect to any substantial part of the works which has been both completed to the satisfaction of the Railway Official and occupied or used by the Railway and when any such certificate is given in respect of part of the works such part shall be considered as completed and the period of maintenance of such part shall commence from the date of such certificate.
- (2) Bidder not absolved by completion Certificate:- The Certificate of completion in respect of the works referred to in sub-clause (1) of this clause shall not absolve the Bidder from his liability to

make good any defects imperfections, shrinkages or faults which may appear during the period of maintenance specified in the tender arising in the opinion of the Railway Official from materials or workmanship not in accordance with the drawings or specifications or instruction of the Railway Official, which defects, imperfections or faults shall upon the direction in writing of the Railway Official be amended and made good by the Bidder at his own cost; and in case of default on the part of Bidder the Railway Official may employ labour and materials or appoint another Bidder to amend and make good such defects, imperfections and faults and all expenses consequent thereon and incidental thereto shall be borne by the Bidder and shall be recoverable from any moneys due to him under the contract.

47. (1) Final Payment:- On the Railway Officials certificate of completion in respect of the works adjustment shall be made and the balance of account based on the Railway Official or the Railway Officials representatives certified measurements of the total quantity of work executed by the Bidder upto the date of completion shall be paid to the Bidder subject always to any deduction which may be made under these presents and further subject to the Bidder having delivered to the Railway Official a full account details. The Railway Official after having the receipt of such account gives a certificate in writing that the whole of the works to be done under the provisions of the Contracts have been completed, that they have been inspected by him since their completion and found to be in good and substantial order, that all properties, works and things, removed, disturbed or injured in consequence of the works have been properly replaced and made good and all expenses and demands incurred by or made upon the Railway for or in the respect of damage or loss by from or in consequence of the works, have been satisfied agreeably and in conformity with the contract.

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

51-A. Production of vouchers etc. by the Bidder:- (i) For a contract of

more than one crore of rupees, the Bidder shall, whenever required, produce or cause to be produced for examination by the Railway Official 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 Railway Official on the question of relevancy of any documents, information or return being final and binding in the parties). The Bidder shall similarly produce vouchers; etc., if required to prove to the Railway Official, that materials supplied by him, are in accordance with the specifications laid down in the contract.

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

(iii) The obligations imposed by sub clause (i) & (ii) above is without prejudice to the obligations of the Bidder under any statute rules or orders binding on the Bidder.

48. Withholding and lien in respect of sums claimed:- Whenever any claim or claims for payment of a sum of money arises out of or under the contract against the Bidder, the Railway shall be entitled to withhold and also have a lien to retain such sum or sums in whole or in part from the security, if any, deposited by the Bidder and for the purpose aforesaid, the Railway shall be entitled to withhold the said cash security deposit or the security if any, furnished as the case may be and also have a lien over the same pending finalization or adjudication of any such claim. In the event of the security being insufficient to cover the claimed amount or amounts or if no security has been taken from the Bidder, the Railway shall be entitled to withhold and have a lien to the extent of the such claimed amount or amounts referred to supra, from any sum or sums found payable or which at any time thereafter may become payable to the Bidder under the same contract or any other

contract with this or any other Railway or any Department of the Central Government pending finalization or adjudication of any such claim.

It is an agreed term of the contract that the sum of money or moneys so withheld or retained under the lien referred to above, by the Railway will be kept withheld or retained as such by the Railways till the claim arising out of or under the contract is determined by the arbitrator (if the contract governed by the arbitration clause) or by the competent court as the case may be and that the Bidder will have no claim for interest or damages whatsoever on any account in respect of such withholding or retention under the lien referred to supra and duly notified as such to the Bidder. For the purpose of this clause, where the Bidder is a partnership firm or a limited company, the Railway shall be entitled to withhold and also have a lien to retain towards such claimed amount or amounts in whole or in part from any sum found payable to any partner / limited company, as the case may be whether in his individual capacity or otherwise.

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

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

49. Signature on Receipts for Amounts:- Every receipt for money which may become payable or for any security which may become transferable to the Bidders under these presents, shall, if

signed in the partnership name by anyone of the partners of a Bidders 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 Bidder, partners during the pendency of the contract it is hereby expressly agreed that every receipt by anyone of the surviving Bidder 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 Bidder 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 Bidder partners and of the legal representatives of any deceased Bidder partners inter se.

LABOUR

50. Wages to Labour:- The Bidder shall be responsible to ensure compliance with the provision of the Minimum Wages Act, 1948 (hereinafter referred to as the "said Act" and the Rules made there under in respect of any employees directly or through petty Bidders or sub-Bidders employed by him on road construction or in building operations or in stone breaking or stone crushing for the purpose of carrying out this contract.

If, in compliance with the terms of the contract, the Bidder supplied any labour to be used wholly or partly under the direct orders and control of the Railways whether in connection with any work being executed by the Bidder or otherwise for the purpose of the Railway such labour shall, for the purpose of this clause, still be deemed to be persons employed by the Bidder.

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

51-A Apprentices Act:- The Bidder shall be responsible to ensure compliance with the provisions of the Apprentices Act, 1961 and the Rules and Orders issued there under from time to time in respect of apprentices directly or through petty Bidders or sub-Bidders employed by him for the purpose of carrying out the Contract.

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

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

52. Provisions of payments of Wages Act:- The Bidder shall comply with the provisions of the Payment of Wages Act, 1936 and the rules made thereunder in respect of all employees directly or through petty Bidders or sub-Bidders employed by him in the works. If in compliance with the terms of the contract, the Bidder directly or through petty Bidders or sub-Bidders shall supply any labour to be used wholly or partly under the direct orders and control of the Railway Official whether in connection with the works to be executed hereunder or otherwise for the purpose of the Railway Official such labour shall never the less be deemed to comprise persons employed by the Bidder and any moneys which may be ordered to be paid by the Railway Official shall be deemed to be moneys payable by the Railway Official on behalf of the Bidder and the Railway Official may on failure of the Bidder to repay such money to the Railways deduct the same from any moneys due to the Bidder in terms of the contract. The Railway shall be entitled to deduct from any moneys due to the Bidder (whether under this contract or any other contract) all moneys paid or payable by the Railway by way of compensation of aforesaid or for costs of expenses in connection with any claim thereto and the decision of the Railway Official upon any question arising out of the effect or force of this clause shall be final and binding upon the Bidder.

52-A (1) Provisions of Contract labour (Regulation and Abolition) Act, 1970 - (1) The Bidder shall comply with the provision of the contract labour (Regulation and Abolition) Act, 1970 and

the Contract labour (Regulation and Abolition) Central Rules 1971 as modified from time to time, wherever applicable and shall also indemnify the Railway from and against any claims under the aforesaid Act and the Rules.

(2) The Bidder shall obtain a valid license under the aforesaid Act as modified from time to time before the commencement of the work and continue to have a valid license until the completion of the work. Any failure to fulfill the requirement shall attract the penal provision of the Contract arising out of the resultant non-execution of the work.

(3) The Bidder shall pay to the labour employed by him directly or through subBidders the wages as per provision of the aforesaid Act and the Rules wherever applicable. The Bidder shall notwithstanding the provisions of the contract to the contrary, cause to be paid the wages to labour indirectly engaged on the works including any engaged by subBidders in connection with the said work, as if the labour had been immediately employed by him.

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

(5) In every case in which, by virtue of the provisions of the aforesaid Act or the Rules, the Railway is obliged to pay any amount of wages to a workman employed by the Bidder or his sub Bidder in execution of the work or to incur any expenditure on account of the Contingent, liability of the Railway due to the Bidders failure to fulfil his statutory obligations under the aforesaid Act or the rules the Railway will recover from the Bidder, the amount of wages so paid or the amount of expenditure so incurred, and without prejudice to the rights of the Railway under the section 20, sub-section (2) and section 2, sub-section (4) of the aforesaid Act, the Railway shall be at liberty to recover such amount or part thereof by deducting it from the security deposit and/or from any sum due by the Railway to the Bidder whether under the contract or otherwise. The Railway shall not be bound to contest any claim made against it under sub-section (1) of section 20 and sub-section (4) of section 21 of the aforesaid Act except on the written request of the Bidder and upon his giving to the Railway full security for all costs for

which the Railway might become liable in contesting such claim. The decision of the Railway regarding the amount actually recoverable from the Bidder as stated above, shall be final and binding on the Bidder.

53. Reporting of Accidents to Labour:- The Bidder shall be responsible for the safety of all employees directly or through petty Bidders or sub-Bidder employed by him on the works and shall report serious accidents to any of them however and wherever occurring on the works to the Railway Official or the Railway Officials Representative and shall make every arrangements to render all possible assistance,
54. Provision of Workmens Compensation Act:- In every case in which by virtue of the provisions of Section 12 Sub-section (1) of the Workmen's Compensation Act 1923, Railway is obliged to pay compensation to a workman directly or through petty Bidder or sub-Bidder employed by the Bidder in executing the work, Railway will recover from the Bidder the amount of the compensation so paid, and, without prejudice to the rights of Railway under Section 12 Sub-section (2) of the said Act, Railway shall be at liberty to recover such amount or any part thereof by deducting it from the security deposit or from any sum due by Railway to the Bidder whether under these conditions or otherwise, Railway shall not be bound to contest any claim made against it under Section 12 Sub-section (1) of the said Act except on the written request of the Bidder and upon his giving to Railway full security for all costs for which Railway might become liable in consequence of contesting such claim.
55. Railways not to provide quarters for Bidders:- No quarters shall normally be provided by the Railway for the accommodation of the Bidder or any of his staff employed on the work. In exceptional cases where accommodation is provided to the Bidder at the Railways discretion, recoveries shall be made at such rates as may be fixed by the Railway for the full rent of the buildings and equipments therein as well as charges for electric current, water supply and conservancy.
56. (1) Labour Camps:- The Bidder shall at his own expense make adequate arrangements for the housing, supply of drinking water and provision of latrines and urinals for his staff and workmen, directly or through the petty Bidders or sub-Bidders and for temporary creche (Bal-mandir) where 50 or more women are

employed at a time. Suitable sites on Railway land, if available, may be allotted to the Bidder for the erection of labour camps, either free of charge or on such terms and conditions that may be prescribed by the Railway. All camp sites shall be maintained in clean and sanitary conditions by the Bidder at his own cost.

(2) Compliance to rules for employment of labour:- The Bidder(s) shall conform to all laws, bye-laws rules and regulations for the time being in force pertaining to the employment of local or imported labour and shall take all necessary precautions to ensure and preserve the health and safety of all staff employed directly or through petty Bidders or Sub-Bidders on the works.

(3) Preservation of peace :- The Bidder shall take requisite precautions and use his best endeavours to prevent any riotous or unlawful behavior by or amongst his workmen and other employed directly or through the petty Bidders or sub-Bidders on the works and for the preservation of peace and protection of the inhabitants and security of property in the neighborhood of the works. In the event of the Railway requiring the maintenance of a special Police Force at or in the vicinity of the site during the tenure of works, the expenses thereof shall be borne by the Bidder and if paid by the Railway shall be recoverable from the Bidder.

(4) Sanitary arrangements:- The Bidder shall obey all sanitary rules and carry out all sanitary measures that may from time to time be prescribed by the Railway medical Authority and permit inspection of all sanitary arrangements at all times by the Engineer, the Engineers Representative or the Medical Staff of the Railway. Should the Bidder fail to make the adequate sanitary arrangements, these will be provided by the Railway and the cost therefore recovered from the Bidder.

(5) Outbreak of infectious disease:- The Bidder shall remove from his camp such labour and their families as refuse protective inoculation and vaccination when called upon to do so by the Engineer or the Engineers Representative on the advice of the Railway, Medical Authority. Should Cholera, plague, or other infectious disease break out, the Bidder shall burn the huts, beddings, clothes and other belongings of or used by the infected parties and promptly erect new huts on healthy sites as required by the Engineer, failing which within the time specified in the

Engineers requisition, the work may be done by the Railway and the cost therefore recovered from the Bidder.

(6) Treatment of Bidders staff in Railway Hospitals:- The Bidder and his staff, other than labourers and their families requiring medical aid from the Railway Hospital and dispensaries will be treated as private patients and charged accordingly. The Bidders labourers and their Families will be granted free treatment in Railway Hospitals and dispensaries where no other Hospitals or dispensaries are available provided the Bidder pays the cost of medicines, dressing and diet money according to the normal scale and additional charges for special examinations such as pathological and bacteriological examination, X-Ray, etc., and for surgical operation.

(7) Medical facilities at site:- The Bidder shall provide medical facilities at the site as may be prescribed by the Engineer on the advice of the Railway Medical Authority in relation to the strength of the Bidder's resident staff and workmen.

(8) Use of intoxicants:- The sale of ardent spirits or other intoxicating beverages upon the work or in any of the buildings, encampments or tenements owned, occupied by or within the control of the Bidder or any of his employees shall be forbidden and the Bidder shall exercise his influence and authority to the utmost extent to secure strict compliance with this condition.

(9) Non-employment of female labour:- The Bidder shall see that the employment of female labour on in Cantonment areas, particularly in the neighborhood of soldiers barracks, should be avoided as far as possible.

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

57. (1) Non-employment of labourers below the age of 15:- The Bidder shall not employ children below the age of 15 as labourers directly or through petty Bidders or sub-Bidders for the execution of work.

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

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

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

EXPLANATIONS:

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

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

DETERMINATION OF CONTRACT

58. (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 Railways opinion, the cessation of work becomes necessary owing to paucity of funds or from any other cause whatever, in which case the value of approved materials at site and of work done to date by the Bidder 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.

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

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

59(1) Determination of contract owing to default of Bidder:- If the Bidder should :-

(i) Becomes bankrupt or insolvent, or

(ii) make an arrangement with of assignment in favour of his

creditors, or agree to carry out the contract under a Committee of Inspection of his creditors, or

- (iii) being a Company or Corporation, go into liquidation (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), or
- (iv) have an execution levied on his goods or property on the works, or
- (v) assign the contract or any part thereof otherwise than as provided in Clause 7 of these conditions, or
- (vi) abandon the contract, or
- (vii) persistently disregard the instructions of the Engineer, or contravene any provision of the contract, or
- (viii) fail to adhere to the agreed programme of work by a margin of 10% of the stipulated period, or
- (ix) fail to remove materials from the site or to pull down and replace work after receiving from the Engineer notice to the effect that the said materials or works have been condemned or rejected under clause 25 and 27 of these conditions, or
- (x) fail to take steps to employ competent or additional staff and labour as required under clause 26 of the conditions, or
- (xi) fail to afford the Engineer or Engineers representative proper facilities for inspecting the works or any part thereof as required under clause 28 of the conditions, or
- (xii) promise, offer or give any bribe, commission, gift or advantage either himself or through his partner, agent or servant to any officer or employee of the Railway or to any person on his or on their behalf in relation to the execution of this or any other contract with this Railway.
- (xiii)(A) At any time after the tender relating to the contract, has been

signed and submitted by the Bidder, being a partnership firm admit as one of its partners or employ under it or being an incorporated company elect or nominate or allow to act as one of its directors or employ under it in any capacity whatsoever

any retired Railway Official of the gazetted rank or any other retired gazetted officer working before his retirement, whether in the executive or administrative capacity, or whether holding any pensionable post or not, in the Railways for the time being owned and administered by the President of India before the expiry of two years from the date of retirement from the said service of such Railway Official or Officer unless such Railway Official or Officer has obtained permission from the President of India or any officer duly authorized by him in this behalf to become a partner or a director or to take employment under the contract as the case may be, or

(B) Fail to give at the time of submitting the said tender:-

- (a) The correct information as to the date of retirement of such retired Railway Official or retired officer from the said service, or as to whether any such retired Railway Official or retired officer was under the employment of the Bidder at the time of submitting the said tender, or
- (b) the correct information as to such Railway Officials or officers obtaining permission to take employment under the Bidder, or
- (c) being a partnership firm, the correct information as to, whether any of its partners was such a retired Railway Official or a retired officer, or
- (d) being in incorporated company, correct information as to whether any of its directors was such a retired Railway Official or a retired officer, or
- (e) being such a retired Railway Official or retired officer suppress and not disclose at the time of submitting the said tender the fact of his being such a retired Railway Official or a retired officer or make at the time of submitting the said tender a wrong statement in relation to his obtaining permission to take the contract or if the Bidder 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 Bidder, then and in any of the said cases, the Railway Official on behalf of the Railway may serve the Bidder with a notice (Proforma at Annexure III) in writing to that effect and if the Bidder does not within seven days after the delivery to him of such notice proceed to make good his default in so far as the same is capable of being made good and carry on the work or comply with such directions as aforesaid of the entire satisfaction of the Railway Official, the Railway shall be entitled after giving 48 hours notice (proforma at Annexure IV) in writing under the hand of the Railway Official to rescind the contract as a whole or in part or parts (as may be specified in such notice) and after expiry of 48 hours notice, a final termination notice (proforma at Annexure (V) should be issued.

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

- (a) the Bidder shall have no claim to compensation for any loss sustained by him by reason of his having purchased or procured any materials or entered into any commitments or made any advances on account of or with a view to the execution of the works or the performance of the contract and Bidder shall not be entitled to recover or be paid any sum for any work thereto for actually performed under the contract unless and until the Engineer shall have certified the performance of such work and the value payable in respect thereof and the Bidder shall only be entitled to be paid the value so certified.
- (b) the Railway Official or the Railway Officials Representative shall be entitled to take possession of any materials, tools, implements, machinery and buildings on the works or on the property on which these are being or ought to have been executed, and to retain and employ the same in the further execution of the works or any part thereof until the completion of the works without the Bidder being entitled to any compensation for the use and employment thereof or for wear and tear or destruction thereof.

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

SETTLEMENT OF DISPUTES – INDIAN RAILWAY ARBITRATION RULES

60. Matters finally determined by the Railway – All disputes and differences of any kind whatsoever arising out of or in connection with the contract, whether during the progress of the work or after its completion and whether before or after the determination of the contract, shall be referred by the Bidder to the CAO and the CAO shall within 120 days after receipt of the Bidder's representation make and notify decisions on all matters referred to by the Bidder in writing provided that matters for which provision has been made in clauses 8, 18, 22(5), 38 42 44, 25, 52-A(5), 54, 58(1), 58(2) and 59(1) to (xiii) & (B) of General Conditions of contract 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 Bidder; provided further that 'excepted matters' shall stand specifically excluded from the purview of the arbitration clause.
- 61(1) (i) - Demand for Arbitration: In the event of any dispute or difference between the parties hereto as to the construction or operation of this contract, or the respective rights and liabilities of the parties on any matter in question, dispute or difference on any account or as to the withholding by the Railway of any certificate to which the Bidder 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 Bidder, 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.

61 (1) (ii) - The demand for arbitration shall specify the matters which are in question, or subject of the dispute or difference as also the amount of claim item wise. Only such dispute(s) or difference(s) 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.

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

(b) The claimant shall submit his claim stating the facts supporting the claims 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) 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.

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

61(1) (iv) - If the Bidder(s) does/do not prefer his/their specific and final claims in writing, within a period of 90 days of receiving the intimation from the Railways that the final bill is ready for payment, he/they will be deemed to have waived his/their

claim(s) and the Railway shall be discharged and released of all liabilities under the contract in respect of these claims.

61 (2) - Obligation During Pendency of Arbitration - Work under the contract shall, unless otherwise directed by the Railway Official, 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.

61 (3) (a) (i) - In cases where the total value of all claims in question added together does not exceed Rs.10,00,000/- (Rupees ten lakhs only), the Arbitral tribunal shall consist of a sole arbitrator who shall be a gazetted officer of Railway not below JA grade, nominated by the Chief Administrative Officer. The sole arbitrator shall be appointed within 60 days from the day when a written and valid demand for arbitration is received by CAO.

61(3) (a) (ii) - In cases not covered by the clause 64(3) (a)(i), the Arbitral Tribunal shall consist of a Panel of three Gazetted Rly. 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 more than 3 names of Gazetted Rly. Officers of one or more departments of the Rly. which may also include the name(s) of retired Railway Officer(s) empanelled to work as Railway Arbitrator to the Bidder within 60 days from the day when a written and valid demand for arbitration is received by the CAO. Bidder will be asked to suggest to Chief Administrative Officer at least 2 names out of the panel for appointment as Bidder's nominee within 30 days from the date of dispatch of the request by Railway. The Chief Administrative Officer shall appoint at least one out of them as the Bidder'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. CAO shall complete this exercise of appointing the Arbitral Tribunal within 30 days from the receipt of the names of Bidder'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.

- 61 (3) (a) (iii) - If one or more of the arbitrators appointed as above refuses to act as arbitrator, withdraws from his office as arbitrator, or vacates his/their office/offices or is/are unable or unwilling to perform his functions as arbitrator for any reason whatsoever or dies or in the opinion of the Chief Administrative Officer fails to act without undue delay, the Chief Administrative Officer shall appoint new arbitrator/arbitrators to act in his/their place in the same manner in which the earlier arbitrator/arbitrators had been appointed. Such re-constituted Tribunal may, at its discretion, proceed with the reference from the stage at which it was left by the previous arbitrator (s).
- 61 (3) (a) (iv) - The arbitral Tribunal shall have power to call for such evidence by way of affidavits or otherwise as the Arbitral Tribunal shall think proper, and it shall be the duty of the parties hereto to do or cause to be done all such things as may be necessary to enable the Arbitral Tribunal to make the award without any delay. The Arbitral Tribunal should record day to-day proceedings. The proceedings shall normally be conducted on the basis of documents and written statements.
- 61 (3) (a) (v) - While appointing arbitrator(s) under sub-clause (i), (ii) & (iii) above, due care shall be taken that he/they is/are not the one/those who had an opportunity to deal with the matters to which the contract relates or who in the course of his/their duties as Railway servant(s) expressed views on all or any of the matters under dispute or differences. The proceedings of the Arbitral Tribunal or the award made by such Tribunal will, however, not be invalid merely for the reason that one or more arbitrator had, in the course of his service, opportunity to deal with the matters to which the contract relates or who in the course of his/their duties expressed views on all or any of the matters under dispute.
- 61 (3) (b) (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.
- 61 (3) (b) (ii) - A party may apply for corrections of any computational errors, any typographical or clerical errors or any other error of

similar nature occurring in the award and interpretation of a specific point of award to tribunal within 60 days of receipt of the award.

61 (3) (b) (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.

61(4) In case of the Tribunal, comprising of three Members, any ruling or award shall be made by a majority of Members of Tribunal. In the absence of such a majority, the views of the Presiding Arbitrator shall prevail.

61(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.

61(6) The cost of arbitration shall be borne by the respective parties. The cost shall inter-alia include fee of the arbitrator(s), as per the rates fixed by the Railway Board from time to time and the fee shall be borne equally by both the parties. 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 Hon'ble court otherwise on the matter.

61(7): Subject to the provisions of the aforesaid Arbitration and Conciliation Act 1996 and the rules there under and any statutory modifications thereof shall apply to the arbitration proceedings under this clause.

62 Declaration to be signed by before tender negotiation meeting – A tenderer before the tender negotiation meeting is required to give declaration to the effect that in the event of failure of contemplated negotiation his original offer shall remain open for acceptance on its original terms and conditions and that he is not allowed to increase the rates for any of the items during the negotiation. However, it is seen that sometimes during the negotiation, the tenderer while reducing rates for some items, also increases the rates for some other items of the tender schedule which is not admissible. A form in this connection is to be filled the tenderer at Annexure-6

ANNEXURE I
REGISTERED ACKNOWLEDGEMENT DUE

.....
.....
.....
.....

Dated:

Sub. (i)

(Name of
work).

.....
.....

(ii) Acceptance letter No

(iii) Understanding/Agreement No..

.....
.....
.....

Ref.: Bidder for
extension to the date received)

Dear Sir,

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

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

3. Please note that an amount equal to the liquidated damages for delay in the completion of the work after the expiry of.....(give here the stipulated date for completion with/without any penalty fixed earlier) will be recovered from you as mentioned in clause, 17(4) of the General Conditions of Contract for the extended period, notwithstanding the grant of this extension. You may proceed with the work accordingly.

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

payable to you.

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

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

Yours
faithfully,
For and on behalf of the President of
India

ANNEXURE-II
CERTIFICATE OF
FITNESS

1.(a) Serial Number..... Serial
Number.....

(b) Date..... Date:.....

2.Name of person examined..... I certify that I have personally examined (name).....

3. Father's Name son/daughter of
..... residing at

4. Sex

5. Residence

6. Date of birth if, available, and/or certified Who is desirous of
being employed

age
requiring

in a factory or on a work

.....
age

manual labour and that is / her

7. Physical fitness.....

as nearly as can be ascertained

8. Identification marks
.....

from

my examination, is years
and that he/she is fit for
employment in a
factory or on a work
requiring manual labour
as an adult/child.

9. Reasons for:

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

His/her identification marks
are ..

.....

Signature or left hand thumb Signature or left hand thumb

Impression of the person
examined

Impression of the person
Examined

Initials of Certifying Surgeon	Signature of
Certifying	Surgeon

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

ANNEXURE III
REGISTERED POST
A.D.
..... RAILWAY

To

M/s.....
.....

Dear Sir,

Contract Agreement

No..... In
connection with

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

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

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

Kindly acknowledge receipt.

Yours
faithfully,

For and on behalf of the President
of India

ANNEXURE IV
REGISTERED POST
A.D.
..... RAILWAY

To

M/s.....
.....

Dear Sir,

Contract Agreement

No..... In
connection with

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

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

Kindly acknowledge receipt.

Yours
faithfully,

For and on behalf of the President
of India

ANNEXURE V
REGISTERED POST A.D.

..... RAILWAY

(without Prejudice) Dated

No.

To

M/s.....
.....
.....

Contract
Agreement No..... In
connection with
.....

Dear Sir,

Forty eight hours (48 hrs.) notice was given to you under this office letter of even Number dated....., but you have taken no action to commence the work/show adequate progress of the work.

Since the period of 48 hours notice has already expired, the above contract stands rescinded in terms of clause 62 of General Conditions of Contract and the work under this contract will be carried out at your risk and cost.

Please acknowledge receipt.

Yours faithfully,

For and on behalf of the President
of India

**FORM OF DECLARATION TO BE GIVEN BY THE TENDERER
BEFORE TENDER NEGOTIATION**

I do declare that in the event of failure of the contemplated negotiations relating to Tender No. opened on my original tender shall remain open for acceptance on its original terms and conditions.

I also declare that I am aware that during this negotiation, I cannot increase the originally quoted rates against any of the individual items and that in the event of my doing so, the same would not be considered at all i.e. reduction in rates during negotiation alone would be considered and for some items if I increase the rates, the same would not be considered and in lieu my originally quoted rates alone would be considered and my offer would be evaluated accordingly.