

Maha Metro



Tender Documents

**UGC-02: DESIGN AND CONSTRUCTION OF UNDERGROUND STATIONS AT
BUDHWAR PETH, MANDAI AND SWARGATE AND ASSOCIATED TUNNELS**

PART 3 – Conditions of Contract and Contract Forms

June 2018

Maha Metro



Tender Documents

**UGC-02: DESIGN AND CONSTRUCTION OF UNDERGROUND STATIONS AT
BUDHWAR PETH, MANDAI AND SWARGATE AND ASSOCIATED TUNNELS**

PART III – Conditions of Contract and Contract Forms

Section X – General Conditions of Contract

June 2018

GENERAL CONDITIONS OF CONTRACT

The General Conditions governing this Contract shall be the Conditions of Contract for Plant and Design-Build Projects, First Edition 1999 prepared by the Federation Internationale des Ingenieurs-Conseils (FIDIC). It is also called the FIDIC Yellow Book.

The General Conditions of Contract (GCC) are supplemented with the Particular Conditions of Contract (PCC) by the wherein reference to the numbering of the Clauses in GCC is given, so that the GCC and the PCC together comprise the rights and obligations of the parties. In the case of any discrepancy between the conditions contained in the GCC and the PCC, the conditions contained in the PCC shall prevail over that of the GCC.

As the Contractor is deemed familiar with this General Conditions of Contract, no copy will be attached to the Tender / Contract Documents.

Maha Metro



Tender Documents

**UGC-02: DESIGN AND CONSTRUCTION OF UNDERGROUND STATIONS AT
BUDHWAR PETH, MANDAI AND SWARGATE AND ASSOCIATED TUNNELS**

PART III – Conditions of Contract & Contract Forms

Section XI – Particular Conditions of Contract

June 2018

PARTICULAR CONDITIONS OF CONTRACT

These Particular Conditions of Contract add, replace, modify or delete Clauses contained in the Conditions of Contract for Plant and Design – build - FIDIC – 1999 Yellow Book (GCC), and shall take precedence over those contained in the General Conditions of Contract.

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
1 General Provisions		
1.1 Definitions		
1.1.1 The Contract		
		<u>Add a new Sub-Clause 1.1.1.11:</u> “Construction and/or Manufacture Documents” means all drawings, calculations, computer software (programs), samples, patterns, models, operation and maintenance manuals, and other manuals and information of a similar nature, to be submitted by the Contractor.
		<u>Add a new Sub-Clause 1.1.1.12:</u> “Design Data” means all specifications, plans, drawings, details, graphs, sketches, models, levels, setting-out dimensions, calculations duly checked by the Contractor and other documents relating to the design of the Works prepared or to be prepared by or on behalf of the Contractor.
		<u>Add a new Sub-Clause 1.1.1.13:</u> “Drawings” means the Employer’s Drawings and the Drawings submitted by the Contractor and any modification of such drawings as any, from time to time, be furnished or for which the Employer /Engineer has issued a Notice to proceed.
		<u>Add a new Sub-Clause 1.1.1.14:</u> “Interim Payment Schedule” means the schedule included for each Cost Centre in the Pricing Document and accepted by the Employer to be used for interim payments in relation to achievement of milestones under that Cost Centre, as the same may be revised from time to time in accordance with Clause 14.
		<u>Add a new Sub-Clause 1.1.1.15:</u>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		“Notice to Proceed” means the notice issued by the Employer / Engineer to the Contractor communicating the date from which the particular Works can be started
		Add a new Sub-Clause 1.1.1.16: “Safety, Health and Environmental (SHE) Manual” means the Employer’s manual containing the requirements and conditions to be met during the execution of the Works by the Contractor.
		Add a new Sub-Clause 1.1.1.17: “Particular Conditions of Contract” means any Special Conditions of Contract supplementing the GCC, issued by the Employer prior to submission of the Tender or negotiated and agreed in writing by the Employer and the Contractor prior to and conditional upon acceptance of the Tender.
		Add a new Sub-Clause 1.1.1.18: “Works Programme” means the programme showing the sequence, method and timing of investigations, design, issue of Notices to proceed, execution, manufacture, delivery to site, erection, installation, testing, commissioning of the Works (including Integrated Testing and Commissioning), indigenisation (where applicable) and related activities in the form and content prescribed by the Employer’s Requirements, or any amended or varied version thereof, as submitted by the Contractor and for which the Employer /Engineer has issued a Notice to proceed.
1.1.2 Parties and Persons		
1.1.2.2	1.1.2.2	Maharashtra Metro Rail Corporation Limited, The Orion Building, 1st Floor, 101, Opp. Don Bosco Youth Centre, Koregaon Park-1, Pune- 411001
		Add a new Sub-Clause 1.1.2.11: “Designated/Interfacing Contractors” means any of the following whose activities or the works they are engaged to carry out, affect or are affected by the Works, in any way or at any time: (a) contractors, design consultants and utility authorities engaged on the Project from time to time by the Employer;

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		(b) Sub-contractors of any tier of the contractors above, provided that the definition shall exclude the Contractor and his sub-contractors of any tier in relation to the Works.
		<u>Add a new Sub-Clause 1.1.2.12:</u> “ Designer ” means the Detail Design Consultant, or part of the group forming the contractor, person, firm or company or group of companies, or any replacement, carrying out the Detailed Design of Works or part thereof engaged by the Contractor.
1.1.3 Dates, Tests, Periods and Completion		
1.1.3.7	1.1.3.7	104 weeks from the date of issue of Taking Over Certificate for the whole of the Works
		<u>Add a new Sub-Clause 1.1.3.10:</u> “ Contract Period ” means the period from the Commencement Date to the date of issue of performance certificate.
		<u>Add a new Sub-Clause 1.1.3.11:</u> “ Gazetted Holiday ” means every holiday which is observed by Maharashtra Metro Rail Corporation Limited as a gazetted holiday.
		<u>Add a new Sub-Clause 1.1.3.12:</u> “ General Holiday ” means Sunday.
		<u>Add a new Sub-Clause 1.1.3.13:</u> “ Key Date ” means a date by which that activity is to be completed.
		<u>Add a new Sub-Clause 1.1.3.14:</u> “ Milestone ” means the completion of a part of the Works or the occurrence of an event identified as such in the Schedule of Milestones.
		<u>Add a new Sub-Clause 1.1.3.15:</u> “ Stage ” means level of progress of the works identified as such and more particularly described in the Employer’s Requirements for which a Key Date for the achievement thereof is stipulated in

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		the Contract.
		<u>Add a new Sub-Clause 1.1.3.16:</u> “ Factory Tests ” means the tests required to be carried out in the factory premises on components, equipment, subsystem, system, etc. during and/or after manufacture in the factory.
		<u>Add a new Sub-Clause 1.1.3.17:</u> “ Integrated Testing ” means the programme of tests performed by the Contractor at the direction of the Engineer/Employer following satisfactory completion of Contractor’s tests on his equipment, sub-systems or system to verify and confirm the compatibility and compliant performance of his equipment/sub-system/system with the equipment/sub-system/system provided by others.
		<u>Add a new Sub-Clause 1.1.3.18:</u> “ Milestone Certificate ” means the certificate to be issued by the Engineer/Employer in relation to the achievement or otherwise of Milestones.
		<u>Add a new Sub-Clause 1.1.3.19:</u> The whole of the works shall be completed and delivered within the time stated in the key dates attached. The completion period for the work will be reckoned from the date of receipt of LOA. The date of completion for the contract as a whole is 182 weeks.
1.1.4 Money and Payments		
		<u>Add a new Sub-Clause 1.1.4.13 :</u> “ Cost Centre Amount ” means the amount apportioned to a Cost Centre as set out in the Pricing Document, as the same may be revised from time to time in accordance with the Contract.
1.1.6 Other Definitions		
1.1.6.2	1.1.6.2	Country India
1.1.6.7	1.1.6.7	Site Pune, Maharashtra
		<u>Add a new Sub-Clause 1.1.6.10</u>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		Adverse Climatic Conditions “Climatic Conditions” are defined as follows: Rainfall: Moderate Winter: Moderate Summer: Moderate Experienced moderate and low intensity earthquakes historically (Seismic Zone III).
		<u>Add a new Sub-Clause 1.1.6.11:</u> “Cost Centre” means a group of activities and/or items of work identified as such in the Pricing Document.
		<u>Add a new Sub-Clause 1.1.6.12:</u> “Project” means Stations and the associated UG Tunnels of Corridor-1 Pune Metro Rail Project.
1.3 Communications		
1.3	1.3	<u>Add to Clause 1.3:</u> Electronic transmission shall be in the form of scanned original documents. In case of Price Bid, only the format in the commercial section of the bid is to be filled up online.
1.4 Law and Language		
1.4	1.4	Governing Law : Acts and Laws of India Language for communications : English
1.5 Priority of Documents		

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
1.5	1.5	<p><u>Replace sub-clause 1.5 with the following:</u></p> <p>The priority of the documents shall be as follows:</p> <ul style="list-style-type: none"> (a) The Contract Agreement; (b) The Letter of Acceptance; (c) The Letter of Tender; (d) Addenda/Corrigenda to the Tender Document (e) letter of clarification if any (f) Particular Conditions of Contract (g) General Conditions of Contract FIDIC 1999 yellow book; (h) Employer's Requirements (i) Outline design criteria & Construction specification (j) Pricing document (k) Reference Document (l) Tender Drawings (m) Contractor's Technical Proposal (k) Any other document
1.6 Contract Agreement		
		<p><u>Add a new sub-clause 1.6.1:</u></p> <p>Till the execution of formal agreement, the letter of acceptance (LOA) will form the agreement.</p>
1.8 Care and Supply of Documents		
		<p><u>Add to Clause 1.8:</u></p> <p>Documents shall be supplied in digital format also.</p>
1.14 Joint and Several Liability		
1.14	1.14	<p><u>Add to Sub-Clause 1.14:</u></p> <p>“Severability”</p> <p>If any clause, provision, section or part of the Contract is ruled invalid by a court of competent jurisdiction, then the parties shall:</p> <ul style="list-style-type: none"> (a) promptly meet and negotiate a substitute for such clause, provision, section or part, which shall, to the greatest extent legally permissible, effect the original intent of the parties, and (b) if necessary or desirable, apply to the court which declared such invalidity for a judicial construction of the invalidated

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		portion to guide the negotiations. The invalidity or enforceability of any such clause, provision, section or part shall not affect the validity or unenforceability of the balance of the Contract, which shall be construed and enforced as if the Contract did not contain such invalid or unenforceable clause, provision, section or part.
2 The Employer		
2.1 Right of Access		
2.1	2.1	<u>Replace 2.1(b) with:</u> The cost of idle labour as per rate of daily wages subject to the assessment and approval of the Engineer.
2.2 Permits, Licences or Approvals		
2.2	2.2	<u>Add to Clause 2.2:</u> The rendering of such assistance by the Employer shall not be interpreted as a pretext by the Contractor as condoning of any delay or non-performance of any of the Contractor's obligations. The following-up of all such requirements shall be the responsibility of the Contractor.
2.5 Employer's Claims		
2.5	2.5	<u>Add to sub-clause 2.5:</u> a. Claims for amounts not insured by the contractor b. Claims for amounts not recovered from insurers c. Claims for the damage caused to interfacing contractors, third parties, employers / engineers property.
2.6 Assignment by the Employer (New Clause)		
2.6	New Clause 2.6	<u>Add a new Clause 2.6 :</u> The Employer shall be fully entitled without consent of the contractor to assign any part of work to any third party at the risk and cost of the contractor by giving 14 days' notice when the contractor is behind the schedule and causing undue delay.
3.1 Engineer's Duties and Authority		

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
3.1	3.1	<p><u>Add to clause 3.1 :</u></p> <p>Appointment of Engineer</p> <p>The Employer shall notify the Contractor in writing of the appointment and identity of the Engineer and of any replacement from time to time.</p> <p>Engineer's Duties and Authority:</p> <p>The Engineer shall copy to the Employer all communications given to contractor or received from the contractor by him in accordance with the Contract.</p> <p>The Engineer shall obtain the specific approval of the Employer before taking the following actions:</p> <p>[The Employer may decide to limit the authority of the Engineer by selecting one or several of the options below:]</p> <p>issuing a Variation for substantial technical modifications, increase of the Accepted Contract Amount or extension of time;</p> <p>proceeding to Determination under clause 3.5 of the GCC;</p> <p>Issuing Interim Payment Certificate under clause 14.6 of the GCC; and issuance of a Taking over Certificate under clauses 10.1 and 10.2 of the GCC.</p>
3.2 Delegations by the Engineer		
3.2	3.2	<p><u>Add to Clause 3.2</u></p> <p>Delegation by the Engineer is subject to the provisions of the contract between the Employer and the Engineer.</p>
3.4 Replacement Of the Engineer		

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
3.4	3.4	<p><u>Replace Clause 3.4 with:</u></p> <p>Replacement of Engineer</p> <p>The Employer shall notify the Contractor at least 42 days in advance in writing of any replacement of the Engineer.</p>
4 The Contractor		
4.2 Performance Security, Guarantee, Warranties and Undertakings		
4.2	4.2	<p><u>Replace clause 4.2 with new sub-Clauses :</u></p> <p>4.2.1 Amount of Performance Security</p> <ol style="list-style-type: none"> 1. The successful bidder shall furnish within 28 days of receipt of LOA Performance Security in the form of a Bank guarantee from an Indian Schedule commercial bank (excluding Cooperative Banks) or from a schedule Foreign Bank as defined in Section 2(e) of RBI Act 1934 drawn at any branch and having business office in India for an amount of ten per cent of the Contract price in types and proportions of currencies in which the Contract Price is payable. 2. The Performance Security shall be valid up to 56 days beyond the Date of issue of performance certificate <p>4.2.2 Release of Performance Security</p> <ol style="list-style-type: none"> 1. The whole or such portion of the Performance Security amount as considered fit shall be liable to be forfeited by the Employer at the discretion of the Employer, in the event of any breach of Contract on the part of the Contractor. 2. After completion of the entire Work, one half of the Performance Security shall be released to the Contractor, on issue of last Taking Over Certificate if more than one Certificate exists, by the Engineer, in accordance with Sub-Clause 10.1 and 10.2 of these Conditions. This shall not relieve the Contractor from his obligations and liabilities, to make good faults/defects that may be detected during the final Defects Liability Period. 3. The balance amount of performance security shall be released to the Contractor, within 45 days from the date of issue of

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>Performance certificate.</p> <p>4.2.3 Guarantees and Warranties</p> <p>Contractor shall submit to the Employer as soon as possible:</p> <ol style="list-style-type: none"> An Undertaking in the approved format from a parent company, the identity of which shall have been submitted in writing to the Employer prior to acceptance of the Tender and against which the Employer shall have raised no objection. A written Guarantee in the approved format from a parent company, the identity of which shall have been submitted in writing to the Employer prior to acceptance of the Tender and against which the Employer shall have raised no objection. A warrantee in the approved format from the Contractor. <p>The formats of Performance Guarantee, Parent Company Undertaking, Parent Company Guarantee and Contractor's Warranty are provided in the Schedule to Particular Conditions of Contract.</p> <p>In the event that the Contractor shall comprise two or more members, corporations acting in partnership, joint venture, consortium or otherwise each such member or corporation shall submit a parent company Undertaking and Guarantee.</p>
4.3 Contractor's Representative		
4.3	4.3	<p><u>Add to Clause 4.3:</u></p> <p>Prior consent of the Employer is required for replacing the Contractor's representative.</p>
4.4 Subcontractors		
4.4	4.4	<p><u>Add sub clause 4.4 with :</u></p> <p>4.4.1</p> <p>The value of a sub-contract excluding design work and the items in the Schedule of Miscellaneous works shall be limited to 50% of the contract price. The contract or any agreement between the contractor and subcontractor shall be in accordance with the</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		'contract'.
4.5	4.5	<p><u>Add to Sub-Clause 4.5:</u></p> <p>4.5.1</p> <p>Notwithstanding any consent to sub-contract given by the Engineer, if in his opinion he considers it necessary, the Engineer shall have full power to order the removal of any sub-contractor from the Site or off-Site place of manufacture or storage, which power shall not be exercised unreasonably.</p>
4.6 Co-operation		
4.6	4.6	<p><u>Replace sub clause 4.6 with the following:</u></p> <p>The Contractor shall not impede and shall afford all necessary facilities, access and/or services to the Employer, Engineer Designated/Interfacing Contractors, utility undertakings, other relevant authorities and other contractors (whether employed by the Employer or not) who are carrying out on, or in the vicinity of, the Site, works not included in the Contract:</p> <p>(a) The Contractor shall take all reasonable steps to ensure that the Works are co-ordinated and integrated with the design, manufacture, installation execution and testing of such other works and shall in particular (but without limitation):</p> <p>(i) comply with any direction which the Engineer may give for the integration of the design of the Works with the design of any other part of the Project;</p> <p>(ii) consult, liaise and co-operate with those responsible for carrying out such other works, including where necessary, in the preparation of the respective designs, the preparation of co-ordinated programmes, method statements, co-ordination drawings and specifications together with arrangements of service priorities and zoning;</p> <p>(iii) participate in Integrated Testing and Commissioning of the system with Designated/Interfacing Contractors and demonstrate to the satisfaction of the Engineer</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>that the Works have been designed and constructed in a manner compatible with the works of Designated/Interfacing Contractors.</p> <p>(b) The Contractor shall undertake design co-ordination with other contractors who are carrying out works forming part of the Project as described in the Employer's Requirements. At the end of each such co-ordination period, the Contractor and the other contractors with whose works the interface period refers shall jointly state in writing that their design co-ordination activities are complete and that their respective designs are integrated and can be finalised without interference with each other's designs or the designs with which their designs have already been integrated. A copy of this joint written statement shall be provided to the Engineer within 7 days of the end of the said design co-ordination period. Unless and until copies of all relevant and necessary design co-ordination statements have been submitted to the Engineer, the Engineer shall be entitled to suspend any review or further review of the Contractor's or the other contractor's design submissions. Such suspension shall not be grounds for the Contractor to claim nor shall be entitled to receive an extension of time or additional payments.</p> <p>(c) The Contractor shall share within the Site, staging, storage and unloading areas for the use of Designated/Interfacing Contractors, if any, who are undertaking track work, fare collection system, supply, testing and commissioning of Rolling Stock, escalators, lifts, signalling and telecommunications and traction power installation works, etc. Separate locations shall be provided for each such contractor. The exact size and location of these staging, storage and unloading areas, and the commencement date shall be co-ordinated and agreed during the design interface period with each</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>Designated/Interfacing Contractor.</p> <p>(d) Any other contract which depends for its execution on the Contract or upon which the Contract is dependent for its own execution shall be identified by the Engineer as a "Designated/Interfacing Contract". The Contractor shall provide attendance on Designated/Interfacing Contractors in accordance with the Employer's Requirements and as instructed by the Engineer. The identity of the contractor for a Designated/Interfacing Contract may not be known before the execution of the Contract but this shall not be a ground for the Contractor to object to the subsequent appointment of a Designated/Interfacing Contractor.</p> <p>(e) The Contractor shall in accordance with the requirements of the Employer co-ordinate his own Works with that of Designated/Interfacing Contractors through Co-ordinated Installation Programme (CIP)/Interface Management Plan (IMP) , or as the Engineer may require, and shall afford the Designated/Interfacing Contractors all reasonable opportunities for carrying out their works.</p> <p>(f) The Contractor shall afford all reasonable opportunities, for carrying out their work, to other contractors employed by the Employer and their workmen respectively and the workmen of the Employer who may be engaged on or near the Site of any work, ancillary to the Works, but, not included in the Contract and shall not cause them inconvenience.</p> <p>(g) If the Contractor shall suffer delay by reason of failure by any Designated/Interfacing Contractor to meet the specified installation interfacing and co-ordination, completion dates, which delay shall be caused otherwise than by fault of the Contractor, or, if compliance with sub-clause (f) herein shall involve the Contractor in delay beyond that which could be reasonably foreseen by an experienced contractor at the time of tender, then the Engineer shall take such delay into account in determining</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>any extension of time to which the Contractor is entitled under the Contract.</p> <p>(h) It shall be the responsibility of the Contractor to ensure that the full extent of the Works under the Contract and the works to be carried out by Designated/Interfacing Contractors within the Works or, in, on, under, through and over the Site are co-ordinated and integrated in their design, manufacture, installation and construction. Such responsibility shall neither be mitigated nor in any other way affected by virtue of similar responsibilities being placed on other contractors.</p> <p>The Contractor shall be deemed to have made adequate allowance in the Contract Price and in the Works Programme in respect of these obligations.</p> <p>If any act or omission of the Contractor whether directly or indirectly results in the delay in the execution of the works of a Designated/Interfacing Contractor, the Contractor, in addition to his liability in respect of liquidated damages if they become due, shall pay to the Employer, or the Engineer may deduct from Interim Payment Certificates such amount as the Employer/Engineer shall have certified in respect of additional payments or costs to the Designated/Interfacing Contractor in respect of such delay.</p>
4.7 Setting Out		

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
4.7	4.7	<p><u>Replace sub clause 4.7 with the following :</u></p> <p>The Contractor shall be responsible for</p> <ul style="list-style-type: none"> (a) Validating the accuracy of the original points, lines, levels etc which are basis for proceeding with the work. (b) the accurate setting out of the Works in relation to the original points, lines and levels of reference given by the Engineer in writing (c) the correctness of position, levels, dimensions and alignments of all parts of the Works (d) the provisions of all necessary instruments, equipment, apparatus and labour in connection with the foregoing responsibilities (e) Carefully protecting and preserving all bench marks, sight rails, pegs and other things used in setting out the Works <p>The checking of any setting-out or of any line or level by the Engineer shall not in any way relieve the Contractor of his responsibility for the accuracy or correctness thereof and the Contractor shall carefully protect and preserve all bench-marks, sight-rails, pegs and other things used in setting out the Works.</p> <p style="text-align: center;">4.7.1 Errors in Setting out</p> <p>If at any time during the execution of the Work, an error appears in the positions, levels, dimensions or alignment of any part of the Works, the Contractor on being required to do so by the Engineer shall, at Contractor's cost, rectify such error to the satisfaction of the Engineer</p>
4.8 Safety Procedures		
4.8	4.8	<p><u>Add to sub clause 4.8:</u></p> <p><u>4.8.2:</u></p> <p>Within 56 days of the date of Notice to Proceed, the Contractor shall submit a detailed and comprehensive contract-specific Site Safety Plan based on the Employer's Safety, Health and Environmental Manual (SHE Manual).</p> <p>The Contractor shall adhere to the Site Safety Plan and shall</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>ensure that all sub-contractors of all tiers have a copy of the Site Safety Plan and comply with its provisions.</p> <p>The Contractor shall provide all necessary access, assistance and facilities to enable the Engineer and the Employer to carry out surveillance to verify that the Site Safety Plan is being properly and fully implemented.</p> <p>The Contractor shall notify the Engineer immediately of any occurrence or incident that results in death or serious injury as defined in the Indian Penal Code. Such initial notification may be verbal and confirmed in writing thereafter and shall be followed by a comprehensive written report within 24 hours of the occurrence/incident. The Contractor shall duly complete standard forms as required by the Engineer and Statutory Authorities.</p> <p>The Contractor shall provide and maintain all necessary temporary fire protection and firefighting facilities on the Site during the construction of the Works in accordance with the statutory regulations and as required by the Engineer.</p> <p>The Contractor shall ensure that all gases, fuels and other dangerous Materials and goods are stored and handled in a safe manner and in accordance with the statutory regulations and as required by the Engineer.</p> <p>The obligations and requirements for safety and industrial health under this Contract are entirely without prejudice to, and do not derogate from, the Contractor's statutory obligations, with respect to safety and industrial health.</p> <p style="text-align: center;">4.8.2 First aid Base</p> <p>The Contractor shall provide a First Aid Base at his principal Works Area/ Construction Depot, suitable medical facilities for Workmen's Camps, suitable and sufficient first aid boxes at worksites for the Contractor's workforce and his Sub-contractors'</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		workforce as further described in the Employer's Requirements.
4.13 Rights of Way and Facilities		
4.13	4.13	<p><u>Add to sub clause 4.13 :</u></p> <p><u>4.13.2:</u></p> <p>The Employer reserves the right to make use of these service roads/rights of way for itself or for other contractors working in the area, as and when necessary without any payment to the Contractor.</p>
4.17 Contractor's Equipment		
4.17	4.17	<p><u>Add to sub clause 4.17 :</u></p> <p>Upon completion of the Works the Contractor shall remove from the Site the entire said Contractor's Equipment, Temporary works and his unused materials within 42 days after the Issuing of taking over certificate, failing which the employer may remove them at contractor's cost.</p>
4.18 Protection of the Environment		
4.18	4.18	<p><u>Add to sub clause 4.18 with:</u></p> <p>Within 56 days of the date of the Notice to Proceed, the Contractor shall submit a detailed and comprehensive Site Environmental Plan based on the Employer's Safety, Health and Environmental Manual (SHE Manual), and shall include such further material, which the Contractor considers necessary and relevant.</p> <p>The Contractor shall provide all necessary access, assistance and facilities to enable the Engineer and the Employer to monitor and conduct tests to verify that the Site Environmental Plan is being properly and fully implemented.</p>
4.19 Electricity, Water and Gas		
4.19	4.19	<p><u>Replace sub clause 4.19 with the following:</u></p> <p>The Contractor shall be responsible for making his own arrangements at his own cost to obtain supply of water, electricity or gas for the Works. The Employer where feasible may</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		at his discretion assist the Contractor in giving recommendatory letters etc.
4.20 Employer's Equipment and Free Issue Material		
4.20	4.20	<p><u>Replace with sub clause 4.20 with the following:</u></p> <p>No material, tools, plant and equipment shall be supplied by the Employer. The Contractor has to arrange all tools, plant, equipment as well as construction materials required for the work.</p>
4.21 Progress Reports		
4.21	4.21	<p><u>Add to sub clause 4.21 :</u></p> <p>If requested by the Engineer, the Contractor shall submit to the Engineer, at weekly intervals, a written report as to the progress of off-Site manufacture of Plant, and Materials.</p> <p>The Contractor shall also submit to the Engineer such other reports as may reasonably be required by him or any relevant authority or public body.</p> <p>The progress reports shall conform to the Employer's Requirements.</p>
4.22 Security of the Site		
4.22	4.22	<p><u>Add to sub clause 4.22 :</u></p> <p>c. The Contractor shall be wholly responsible for security and safety of site and Works.</p>
4.25 Assignment of Contractor's and Sub-contractor's Obligations(New Clause)		
4.25	New Clause 4.25	<p><u>Add a new sub-clause 4.25 :</u></p> <p>The Contractor shall not assign a right or benefit under the Contract without first obtaining Employer's prior written consent, otherwise than by:</p> <ol style="list-style-type: none"> a charge in favour of the Contractor's bankers of any money due or to become due under the Contract, or assignment to the Contractor's insurers (in cases where the insurers have discharged the Contractor's loss or liability) of the Contractor's right to obtain relief against any other party

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>liable.</p> <p>If a Subcontractor's obligations extend beyond the expiry date of Defects Liability Period then the Contractor shall assign the benefits of such obligations to the Employer.</p> <p>In the event that a sub-contractor of any tier provides to the Contractor or any other sub-contractor a warranty in respect of Plant, Materials or services supplied in connection with the Works, or undertakes a continuing obligation of any nature whatsoever in relation to such Plant, Materials or services (including without limitation an obligation to maintain stocks of spare parts) extending for a period exceeding that of the Defects Liability the Contractor shall immediately assign or obtain the assignment of the benefit of such warranty or obligation to the Employer or at the direction of the Employer.</p>
4.26 Compensation for Breach(New Clause)		
4.26	New Clause 4.26	<p><u>Add a new sub-clause 4.26 :</u></p> <p>Any breach of Sub-clauses 4.4 and 4.25 of Particular Conditions of Contract shall entitle the Employer to rescind the Contract under Sub Clause 15.2 of these conditions and also render the Contractor liable for loss or damage arising due to such termination.</p>
4.27 Sheds, Stores, Yards(New Clause)		
4.27	New Clause 4.27	<p><u>Add a new sub-clause 4.27 :</u></p> <p>It shall be the responsibility of the Contractor to provide at his own cost the required sheds, store houses, and yards for both Permanent and Temporary Works and provide free access to the Employer/Engineer who will have right of inspection including that of instructing the Contractor to remove a particular material from the stores and not to use the same on the Works.</p>
4.28 Temporary Works(New Clause)		
4.28	New Clause 4.28	<p><u>Add a new sub-clause 4.28 :</u></p> <p>All temporary works necessary for the proper execution of the Works shall be provided and maintained by the Contractor at his</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		cost and subject to the consent of the Employer/Engineer shall be removed by Contractor at his own expense when they are no longer required and in such manner as the Employer/Engineer shall direct. In case the Contractor fails to remove the temporary works on completion the Employer/Engineer is authorized to get the same removed and recover the cost thereof from the Contractor.
4.29 Access for Engineer(New Clause)		
4.29	New Clause 4.29	<p><u>Add a new sub-clause 4.29 :</u></p> <p>The Contractor shall allow at all times the Employer/Engineer or any other person authorised by the Employer/Engineer access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out and to any place where materials or plant are being manufactured, fabricated and/or assembled for the Works. The Contractor shall ensure that sub contracts if any shall contain provisions entitling the Employer/Engineer or any person authorised by him to have such access.</p>
4.30 Contractor to keep Site Clear(New Clause)		
4.30	New Clause 4.30	<p><u>Add a new sub-clause 4.30 :</u></p> <p>On completion of Work the Contractor shall also clear away the labour camps, hutments and other related installations and restore the land to its original condition to the satisfaction of the Employer/Engineer within 45 days of the physical completion of Work. The cost on account of delay in return of land and reinstatement of original condition within the stipulated time as determined by Employer/Engineer will be recovered from the Payments due to the Contractor..</p> <p>No final payment in settlement of the accounts for Works shall be made till, in addition to any other condition necessary for such final payment, site clearance and clearance of labour camps etc. shall have been effected by him.</p>
4.31 Publicity(New Clause)		

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
4.31	New Clause 4.31	<p><u>Add a new sub-clause 4.31 :</u></p> <p>The Contractor shall not publish or otherwise circulate alone or in conjunction with any other person, any articles, photographs or other materials relating to the Contract, the Site, the Works, the Project or any part thereof, nor impart to the press, or any radio or television network any information relating thereto, nor allow any representative of the media access to the Site, Contractor's Works Areas, or off-Site place of manufacture, or storage except with the permission, in writing, of the Employer.</p>
4.32 Disclosure of Relationship(New Clause)		
4.32	New Clause 4.32	<p><u>Add a new sub-clause 4.32 :</u></p> <p>If the Contractor or any partner of the Contractor or Director of the Contractor's company is closely related to any of the Officers of the Employer or the Engineer or alternatively, if any close relative of an officer of the Employer or the Engineer has financial interest / stake in the Contractor's firm, the same shall be disclosed by the Contractor at the time of filing his tender. Any failure to disclose the interest involved, shall entitle the Employer to rescind the Contract, without payment of any compensation to the Contractor. The Contractor shall note that he is prohibited from developing such interest during the Contract period.</p>
4.33 Use of Explosives		
4.33	New Clause 4.33	<p><u>Add a new sub-clause 4.33 with the following:</u></p> <p>Explosives shall not be used on the Works or on the Site by the Contractor without the consent of the Employer/Engineer and shall be used in the manner and to the extent permitted by the Employer/Engineer.</p> <p>The explosives shall be handled and used under the strict supervision of persons licensed for this purpose under the requisite statutory rules and regulations. When explosives are required for the Works they shall be stored in a special magazine to be provided at the cost of the Contractor in accordance with the requisite statutory rules and regulations. The Contractor shall take all precautions in transporting and using the explosives and</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>avoid damage to nearby structures and utilities.</p> <p>All operations, in which or for which the explosives are employed shall be at the sole risk and responsibility of the Contractor and the Contractor shall hold the Employer harmless and shall indemnify the Employer in respect thereof.</p> <p>The Contractor shall follow all extant rules and regulations regarding the procurement, storage, transport etc. of explosives</p>
4.34 Work by Persons Other than Contactor(New Clause)		
4.34	New Clause 4.34	<p><u>Add a new sub-clause 4.35 :</u></p> <p>If by reason of any accident or failure or other event occurring to, in, or in connection with the Works any remedial or other work shall, be urgently necessary and the Contractor is unable or unwilling at once to do such remedial or other work, the Employer/Engineer may authorise the carrying out of such remedial or other work by a person other than the Contractor. All expenses properly incurred in carrying out the same shall be recoverable by the Employer from the Contractor. Provided that the Employer/Engineer shall, as soon after the occurrence of any such emergency as may be reasonably practicable, notify the Contractor thereof in writing.</p>
4.35 Confidentiality of Information(New Clause)		
4.35	New Clause 4.35	<p><u>Add a new sub-clause 4.36 :</u></p> <p>The Contractor shall not use or divulge, except for the purpose of the Contract or with the written permission of the Employer, any information relating to the Works or the Project provided in the Contract or otherwise provided by the Employer, or the Engineer. The Contractor shall ensure that his sub-contractors of any tier shall be bound by a like confidentiality undertaking.</p>
5 Design		
5.3 Contractor's undertaking		
5.3	5.3	<p><u>Add to sub clause 5.3 :</u></p> <p>(c) The Contractor shall be fully responsible, for the suitability, adequacy, integrity, durability and practicality of the</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>Contractor's proposal.</p> <p>(d) The Contractor warrants that the Contractor's Proposals meet the Employer's Requirements and is fit for the purpose thereof. Where there is any inadequacy, insufficiency, impracticality or unsuitability in or of the Employer's Requirements or any part thereof, the Contractor's Proposal shall take into account, address or rectify such inadequacy, insufficiency, impracticality or unsuitability at Contractor's own cost.</p> <p>(e) The Contractor warrants that the design of the Works and the manufacture of plant have taken or will have taken full account of the effects of the intended manufacturing and installation methods, Temporary Works and Contractor's Equipment</p> <p>(f) The Contractor shall also provide a guarantee from the Designer for the design for suitability, adequacy, practicality of design for Employer's Requirements</p> <p>(g) The Contractor shall indemnify the Employer against any damage, expense, liability, loss or claim, which the Employer might incur, sustain or be subject to arising from any breach of the Contractor's design responsibility and/or warranty set out in this Clause.</p> <p>(h) The Contractor further specifies and is deemed to have checked and accepted full responsibility for the Contractor's Proposal and warrants absolutely that the same meets the Employer's Requirements:</p> <p>i. Notwithstanding that such design may be or have been prepared, developed or issued by the Employer, any of the Contractor's consultants, his sub-contractors and/or his qualified personnel/persons or cause to be prepared, developed or issued by others.</p> <p>ii. Notwithstanding any warranties, guaranties and/or indemnities that may be or may have been submitted by any other person.</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>iii. Notwithstanding that the same have been accepted by the Employer/Engineer.</p> <p>The Contractor shall be fully responsible for the Plants, Materials, goods, workmanship, preparing, developing and coordinating all design Works to enable that part of the Works to be constructed and/or to be fully operational in accordance with the Contract's requirements.</p> <p>Apart from the Contractor, the above warranty shall also be applicable for his designer. This warranty shall be a part of his sub contract with the designer and should be made available at the time of signing of the Agreement.</p> <p>No claim for additional payment or extension of time shall be entertained and/or the Contractor shall not be relieved from any obligation/liability under the Contract, for any delay, suspension, impediment to or adverse effect upon the progress of the Works due to any mistake, inaccuracy, discrepancy or omission in or between the Contractor's, the Definitive Design and the final design, or any failure by the Contractor to prepare any Design Data or submit the same to the Employer/Engineer in due time and the Contractor shall promptly make good any such defect at his own cost.</p>
<u>5.6 As-Built Drawings</u>		
5.6	5.6	<p><u>Add to sub-Clause 5.6:</u></p> <p>The As-Built drawings shall be in the form of 3D format as specified in the employer's requirements.</p>
<u>5.9 Intellectual Property Rights and Royalties(New Clause)</u>		
5.9	New Clause 5.9	<p><u>Add a new sub-clause 5.9 :</u></p> <p>The Contractor shall indemnify the Employer and the Engineer from and against all claims and proceedings on account of infringement (or alleged infringement) of any patent rights, registered designs, copyright, design, trademark, trade name, know-how or other intellectual property rights in respect of the Works, the Contractor's Equipment, machines, work method, or Plant, or Materials, or anything whatsoever required for the</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>Works and from and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto.</p> <p>The Contractor shall, in the event of infringement of Intellectual Property Rights, rectify, modify or replace at his own cost the Works, Plant or materials or anything whatsoever required for the Works so that infringement no more exist or in the alternative shall procure necessary rights/license so that there is no infringement of Intellectual Property Rights.</p> <p>The Contractor shall be promptly notified of any claim under this Sub- Clause made against the Employer. The Contractor shall, at his cost, conduct negotiations for the settlement of such claim, and any litigation or arbitration that may arise from it. The Employer or the Engineer shall not make any admission which might be prejudicial to the Contractor, unless the Contractor has failed to take over the conduct of the negotiations, litigation or arbitration within a reasonable time after having been so requested. In the event of the Contractor failing to act at the Employer/Engineer notice, the Employer shall be at full liberty to deduct any such amount of pending claim from any amount due to the Contractor under this Contract or any other Contract.</p> <p>Insofar as the patent, copyright or other intellectual property rights in any Plant, Design Data, plans, calculations, drawings, documents, Materials, know-how and information relating to the Works shall be vested in the Contractor, the Contractor shall grant to the Employer, his successors and assignees a royalty-free, non-exclusive and irrevocable licence to use and reproduce any of the works, designs or inventions incorporated and referred to in such Plant, documents or Materials and any such know-how and information for all purposes relating to the Works (including without limitation the design, manufacture, installation, reconstruction, Testing, commissioning, completion, reinstatement, extension, repair and operation of the Works) for the Employer's own use.</p> <p>If any patent, registered design or software is developed by the</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>Contractor specifically for the Works, the title thereto shall vest in the Employer and the Contractor shall grant to the Employer a non-exclusive irrevocable and royalty-free licence to use, repair, copy, modify, enhance, adapt and translate in any form such Software for Employer's own use.</p> <p>If the Contractor uses proprietary software for the purpose of storing or utilising records the Contractor shall obtain at his own expense the grant of a licence or sub-licence to use such software in favour of the Employer and shall pay such licence fee or other payment as the grantor of such licence may require provided that the use of such software under the licence may be restricted to use relating to the design, construction, reconstruction, manufacture, completion, reinstatement, extension, repair and operation of the Works or any part thereof.</p> <p>The Contractor's permission referred to above shall be given, inter alia, to enable the Employer to disclose (under conditions of confidentiality satisfactory to the Contractor) programmes and documentation for a third party to undertake the performance of services for the Employer in respect of such programmes and documentation.</p> <p>If any software is developed under the Contract or used by the Contractor for the purposes of storing or utilising records over which the Contractor or a third party holds title or other rights, the Contractor shall permit or obtain for the Employer (as the case may require) the right to use and apply that Software free of additional charge (together with any modifications, improvements and developments thereof) for the purpose of the design, manufacture, installation, reconstruction, testing, commissioning, completion, reinstatement, extension, repair, modification or operation of the Works, or any part thereof, or for the purpose of any Dispute.</p> <p>The Employer reserves the right to use other Software on or in connection with the Works.</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
6 Staff and Labour		
6.1 Engagement of Staff and Labour		
6.1	6.1	<p><u>Add to sub clause 6.1 :</u></p> <p><u>6.1.2:</u></p> <p>The Contractor shall, if required by the Employer, deliver to the Employer/Engineer or to his office; a return in detail, in such form and at such intervals as the Employer may prescribe, showing the number of labour employed in different categories by the Contractor on the Site.</p>
6.2 Rates of Wages and Conditions of Labour		
6.2	6.2	<p><u>Replace sub clause 6.2 with the following:</u></p> <p>Full compliance of statutory requirements apart, the Contractor shall pay rates of wages and observe conditions of labour not less favourable than those established for the trade or the industry where the work is carried out.</p> <p>The Contractor shall make himself aware of all labour regulations and their impact on the cost and build up the same in the Contract Price. During the Contract Period no extra amount in this regard shall be payable to the Contractor, for whatsoever reason including any revision of rates payable to the labour due to revision of rates payable in Minimum Wages Act.</p> <p>Labour provided by the Contractor, either directly or through sub-contractors, for the exclusive use of the Employer or the Engineer, shall, for the purpose of this Sub-Clause, be deemed to be employed by the Contractor.</p> <p>In the event of default being made in the payment of any money in respect of wages of any person employed by the Contractor or any of its sub-contractors of any tier in and for carrying out of this Contract and if a claim therefor is filed in the office of the Labour Authorities and proof thereof is furnished to the satisfaction of the Labour Authorities, the Employer may, failing payment of the said money by the Contractor, make payment of such claim on behalf of the Contractor to the said Labour Authorities and any</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		sums so paid shall be recovered by the Employer from the Contractor.
6.3 Persons in the Service of Employer		
6.3	6.3	<p><u>Add to sub clause 6.3 :</u></p> <p>The Contractor either at the tendering stage or during construction stage will not employ any retired employee of Employer or representative of the Employer in any capacity unless such employee has completed at least two years post retirement period or has obtained the no-objection certificate from Employer for being employed with the Contractor. It will be responsibility of the Contractor to collect the Employer's no objection certification from such retired employee and submit the same back to the Employer.</p> <p>The contractor shall not poach any technically qualified engineers from fellow contractors of same project.</p>
6.7 Health and Safety		
6.7	6.7	<p><u>Add to sub clause 6.7 :</u></p> <p>The Contractor shall ensure complete compliance with relevant clauses of Employer's Health, Safety and Environment Manual (SHE Manual).</p>
6.11 Disorderly Conduct		
6.11	6.11	<p><u>Add to sub clause 6.11 :</u></p> <p><u>6.11.1:</u></p> <p>In case, deployment of a Special Police Force becomes necessary at or near Site, during the tenure of Works, the expenses for the same shall be borne by the Contractor.</p>
7 Plant, Materials and Workmanship		
7.4 Testing		
7.4	7.4	<p><u>Add to sub-Clause 7.4:</u></p> <p>The expense of conducting all Tests and expenses towards travel and accommodation for Employer or the Engineer attending the test for the purpose of clause 7.3, 7.4 and 7.5 shall be borne by the</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		Contractor.
7.6 Remedial Work		
7.6	7.6	<p><u>Add to sub-clause 7.6:</u></p> <p>The Contractor shall not be released from any liability or obligation under the Contract by reason of any such inspection or testing or witnessing of testing, or by the submission of reports of inspection or testing by the Engineer.</p>
7.9 Examination of work before covering up(New Clause)		
7.9	New Clause 7.9	<p><u>Add a new Clause 7.9:</u></p> <p>No work or part of work shall be covered up or put out of view, without the prior approval of the Engineer.</p>
7.10 Cost of Uncovering Work Already Covered up(New Clause)		
7.10	New Clause 7.10	<p><u>Add a new Clause 7.10:</u></p> <p><u>Cost of uncovering the work already covered up</u></p> <p>The Contractor shall uncover any part or parts of the Works, or make openings in or through the same, as the Engineer may from time to time direct, and shall reinstate and make good such part or parts, to the satisfaction of the Engineer. If any such part or parts have been covered up, or put out of view after compliance with the requirement of Sub-clause 7.4 and the Works are found to be executed in accordance with the Contract, the expenses of uncovering, making openings in or through, reinstating and making good the same, costs shall be borne by the Contractor.</p> <p>In case after completion of a part of the Work, the part of Work is not fully consistent with the Employer's Requirements and there is no way to change the same, in that case, the same (provided it has no implication on safety and operation) shall be accepted only as a Contractor's deemed variation at lower negotiated price.</p> <p>The decision of the Engineer in this regard shall be final and binding on the Contractor.</p>
7.11 Integrated testing and system commissioning(New Clause)		

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
7.11	New Clause 7.11	<p><u>Add a new Clause 7.11:</u></p> <p>Tests on Completion shall also include Integrated Testing. The Contractor shall, following satisfactory completion of tests on his works, equipment, sub-systems or system, perform, at the direction of the Engineer, programme of tests to verify and confirm the compatibility and complete performance of his works, equipment, sub-systems or system with the works, equipment, sub-systems or system provided by others. The results of integrated testing and commissioning shall be compiled and evaluated by the Engineer.</p>
7.12 Failure to pass tests(New Clause)		
7.12	New Clause 7.12	<p><u>Add a new Clause 7.12:</u></p> <p><u>Failure to Pass Test:</u></p> <p>If the Works, or a part thereof, or a Section, fail to pass Integrated Testing and Commissioning and the Contractor in consequence proposes to make any adjustment or modification to the Works or a part thereof, or a section, the Engineer may, with the approval of the Employer, instruct the Contractor to carry out such adjustment or modification, at his own cost and to satisfy the requirements of Integrated Testing and Commissioning within such time as the Employer /Engineer may deem to be reasonable.</p>
7.13 Statutory Requirements(New Clause)		

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
7.13	New Clause 7.13	<p><u>Add a new Clause 7.13:</u></p> <p>The Design and Construction Standards to be adopted by the Contractor shall be in conformity with the requirements of "Rules for Opening of a Railway or a Section of a Railway for Public Carriage of Passengers" and "Rules for Introduction of New Type of Rolling Stock" and to the satisfaction of the Commissioner of Metro Railway Safety (CMRS) whose sanction is mandatory for commissioning of the System.</p> <p>The Contractor shall assist under the supervision of the Engineer to carry out all tests and trial run and prepare reports and documents, required for obtaining all approval and sanction of the Commissioner of Metro Railway Safety (CMRS) and any other statutory authority for introduction of the system for public carriage of passengers.</p>
8 Commencement, Delays and Suspension		
8.1 Commencement of Works		
8.1	8.1	<p><u>Replace sub clause 8.1 with the following:</u></p> <p>The Contractor shall commence the Works on the date specified in the Letter of Acceptance or if no date is specified in the Letter of Acceptance, on the date specified in the Notice to Proceed. Thereafter the Contractor shall proceed with due diligence, without delay, and in accordance with the programme or any revised or modified programme of the Works. Time is the essence of Contract and time for Completion shall run from the date the Contractor is to commence the Works under this Clause.</p> <p>The Contractor shall not commence the construction, manufacture or installation of the Works or of any part of the Works unless and until the Engineer has endorsed the relevant Working Drawings in accordance with the Employer's Requirements.</p>
8.3 Programme		
8.3	8.3	<u>Replace sub clause 8.3 with the following:</u>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>8.3.1</p> <p>Within 28 days of the date of the letter of acceptance, the Contractor shall submit to the Engineer, for consent, the Detailed Works Programme in the form and content prescribed in the Bidding Documents.</p> <p>The Engineer shall inform the Contractor in writing within 21 days after receipt of the above information;</p> <p>(a) that the programme has received his consent; or</p> <p>(b) that the programme is rejected, in which case reasons for such rejection shall be given; or</p> <p>(c) that further information is required to clarify or substantiate the programme or to satisfy the Engineer as to its reasonableness, or</p> <p>(d) that the programme has received his consent subject to incorporation of comments attached to the Notice to proceed</p> <p>Provided that if none of the above actions is taken within the 28 day period, the Engineer shall be deemed to have given consent to the programme submitted.</p> <p>The Contractor shall, within 21 days of receiving notification under sub-paragraphs (c) or (d) above, provide further information requested or the programme shall be deemed to have been rejected. The Engineer shall, within 21 days of receipt of such further information, either reject the programme or give his consent.</p> <p>In the event of a programme being rejected, or deemed to have been rejected, the Contractor shall, within 21 days thereafter, submit a revised programme taking account of the reasons given for the rejection or incorporating further information requested by the Engineer, as the case may be.</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>The Contractor, following receipt of consent to the Works Programme, may submit to the Engineer the approved version immediately. In the event that the Engineer grants an extension of time, instructs an Employer's Variation, or on the occurrence of any event or happening or situation, which could materially affect the progress of the Works, the Contractor shall submit a revised programme to the Engineer for his consent.</p> <p>If the Engineer feels that there is a significant deviation between the actual or anticipated progress of the Works and the Works programme, the Engineer may require the Contractor to submit a revised/modified programme to ensure timely completion of Whole of Works or a Key Date. The Contractor shall submit such revised programme within 14 days of the instruction or within such other time as the Engineer will allow in writing.</p> <p>Unless and until an amended version has the consent of the Engineer, the existing programme shall remain as the Works Programme for all purposes of the Contract.</p> <p>Consent by the Engineer to a Works Programme shall not relieve the Contractor of any of his duties or responsibilities under the Contract, nor in the event that a Works Programme indicates that a Key Date has not or will not be met, constitute any form of acknowledgement that the Contractor is or may be entitled to an extension of time in relation to such Key Date.</p> <p><u>8.3.2. Design Submission Programme</u></p> <p>The Contractor shall submit to the Engineer, the Design Submission Programme and updated versions thereof in the form and content and at the times prescribed in the Employer's Requirements – Design, including the dates on which major decisions should be made.</p> <p>In the second and subsequent submissions of the Design Submission Programme, the Contractor shall not, without the</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>prior written consent of the Engineer:</p> <ul style="list-style-type: none"> (a) revise the description or content of any design package (as referred to in the Employer's Requirements - Design) identified in the initial version of Design Submission Programme; (b) reduce the periods provided for review by the Engineer of any submission of Design Data as set out in the initial version of the Design Submission Programme; (c) revise the sequence of submissions of Design Data shown in the initial version of the Design Submission Programme. <p>Any amendment of the Design Submission Programme in breach of the above requirements shall have no effect whatsoever under the Contract.</p> <p><u>8.3.3 Manufacture, Installation and Construction Methods</u></p> <p>The Contractor shall submit complete documents and information pertaining to the methods of manufacture, installation and construction which the Contractor proposes to adopt or use, (and if applicable such calculations of stresses, strains and deflections and the like that will or may arise in the Works or to the other works comprising the Project or any parts thereof during installation from the use of such methods). The Engineer will then check to see whether, if such methods are adhered to, the Works can be executed in accordance with the Contract and without detriment to the Works (when completed) and to other works comprising the Project and in a manner which minimises disruption to road and pedestrian traffic.</p> <p>The Engineer shall inform the Contractor in writing within 21 days after receipt of the above information;</p> <ul style="list-style-type: none"> (a) that the Contractor's proposed methods of manufacture, installation and construction have the consent of the Engineer; or (b) in what respects, in the opinion of the Engineer the Contractor's proposed methods of manufacture, installation and

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>construction:</p> <p>(i) fail to comply with the Employer's Requirements and/or the Definitive Design and/or the Final Design;</p> <p>(ii) would be detrimental to the Works and/or to the other works comprising the Project;</p> <p>(iii) do not comply with the other requirements of the Contract; or</p> <p>(c) as to the further documents or information which are required to enable the Engineer to properly assess the proposed methods of manufacture, installation and construction.</p> <p>In the event that the Engineer does not give his consent, the Contractor shall take such steps or make such changes in the said methods or supply such further documents or information as may be necessary to meet the Employer's requirements and to obtain his consent. The Contractor shall not change the methods of manufacture, installation and construction which have received the Engineer's consent without further review and consent in writing of the Engineer.</p> <p>Notwithstanding the foregoing provisions of this Clause, or that certain of the Contractor's proposed methods of manufacture, installation and construction may be the subject of the consent of the Engineer, the Contractor shall not be relieved of any liability or obligation under the Contract.</p> <p><u>8.3.4 Monthly Payment Curves</u></p> <p>Within 30 days of the date of Notice to Proceed, the Contractor shall, submit to the Engineer Monthly Payment Curves, for each Item of Payment mentioned in Schedule A to Annexure ITB-2 to Instructions to bidders together with for all Items of Payment put together on the basis of Letter of Acceptance. The Monthly Payment Curves shall be consistent with the Work Programme. The Monthly Payment Curves shall be revised from time to time as the Works Programme will be revised in accordance with the</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>above provision.</p> <p><u>8.3.5. Three Month Rolling Programme</u></p> <p>Within 30 days of the date of Notice to Proceed, and thereafter at the end of each calendar month, the Contractor shall submit to the Engineer his Three Month Rolling Programme for each agreed major section of Works in the Contract, in the form and detail prescribed in the Employer's Requirements, setting out the work to be carried out during the following three months.</p>
8.4 Extension of Time for Completion		
8.4	8.4	<p><u>Replace sub clause 8.4 with the following:</u></p> <p>8.4.1 Extension of Time</p> <p>The Contractor may apply for an extension of the Time for Completion if the Work is or will be delayed either before or after the Time for Completion by any of the following causes:</p> <ol style="list-style-type: none"> 1. a. "Force Majeure" referred to in Clause 19.0 b. The Contractor's work held up for not being given possession of or access to the Site in accordance with the Contract c. Instruction of the Engineer to suspend the Works and the Contractor not being in default as to reasons of suspension. d. Acts or omissions of other Designated/Interfacing Contractors in executing work not forming part of this Contract and on whose performance, the performance of the Contractor necessarily depends. e. Any delay, impediment or prevention caused by or attributor to the Employer. f. Any order of Court restraining the performance of the Contract in full or in any part thereof and the Contractor not being in default as to reason of such order of court. g. Any other event or occurrence which, according to the

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>Employer is not due to the Contractor's failure or fault, and is beyond his control without Employer being responsible for the same.</p> <p>h. An Employer's Variation unless an adjustment to the time for completion has been agreed under Sub-Clause 13.3</p> <p>2. However, the Contractor shall not be entitled to any extension of time where the instructions or acts of the Employer or the Engineer are necessitated by or intended to cure any default of or breach of Contract by the Contractor or where any delay is due to</p> <ul style="list-style-type: none"> a. the failure of sub-contractor, to commence or to carry out work in due time, b. non-availability, or shortage of Contractor's equipment, labour, utility services, Plant and Materials, c. inclement weather conditions, other than 1 in 50 year cycle and d. the Contractor not fulfilling his obligations under Sub-Clause 4.6. <p>If the Contractor considers himself to be entitled to an extension of time for Completion, he shall give notice to the Engineer of such intention as soon as possible and in any event within 28 days of the start of the event giving rise to the delay and full and final supporting details of his application within 21 days of the last day of delay, together with any notice required by the Contract and relevant to such Clause. If the cause of delay continued for a period exceeding 7 days, the Contractor shall submit interim details at intervals of not more than 28 days (from the first day of such delays).</p> <p>The Engineer shall proceed in accordance with Sub-Clause 3.5 to agree or determine either prospectively or retrospectively such extension of the Time for Completion as may be due. The Engineer shall notify the Contractor accordingly.</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>8.4.2 Extension of time for completion for other reasons</p> <p>Whether or not the Contractor fails to achieve any Milestone by reason of any delay shall not by itself be material to the Contractor's entitlement to an extension of time.</p> <p>Any extension to a Key Date shall not by itself entitle the Contractor to an extension to any other Key Date and the Time for Completion.</p> <p>8.4.3 Extension of time for delays due to Contractor</p> <p>If the delay in the completion of the whole Works or a portion of the Works, for which an earlier completion period is stipulated, is due to the Contractor's failure or fault, and the Engineer is of the view that the remaining Works or the portions of Works can be completed by the Contractor in a reasonable and acceptable short time, then, the Engineer may allow the Contractor extension or further extension of time at its discretion with or without liquidated damages, for completion, as he may decide.</p>
8.7 Delay Damages		
8.7	8.7	<p><u>Add to Clause 8.7:</u></p> <p>Liquidated damages shall be levied as per the rate given in Appendix of Employer's Requirement for delays caused to KD's.</p> <p>The total amount of Liquidated Damages and penalties on all Key Dates summed up including KD related to taking over on completion of entire work shall not exceed 10% of the total Contract Value.</p>
8.9 Consequences of Suspension		
8.9	8.9	<p><u>Add to sub clause 8.9 :</u></p> <p>The Contractor shall not be entitled to extra cost (if any), other than provided below incurred by him, except as stated below during the period of suspension of Work, if such suspension is</p> <ol style="list-style-type: none"> provided for in the Contract, or necessary for proper execution of Works or by reasons of weather condition or by some default on the part of the Contractor, or

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)																									
PCC	GCC																										
		<div>c. necessary for the safety of Works or any part thereof or</div> <div>d. necessary for the safety of adjoining public or other property or safety of the public or workmen or those who have to be at the site or</div> <div>e. to ensure safety and to avoid disruption of traffic and utilities, as also to permit fast repairs and restoration of any damaged utilities.</div> <table><tr><th>Sr. No.</th><th>Suspension Period</th><th>Extension of Time</th><th>Compensation for the suspension period</th><th>Remarks</th></tr><tr><td>1</td><td>Upto 14 days</td><td>NO</td><td>NO</td><td>Engineer may give extension of time in exceptional circumstances</td></tr><tr><td>2</td><td>15 – 30 days</td><td>YES</td><td>NO</td><td>Extension of time as considered proper by the Engineer</td></tr><tr><td>3</td><td>Above 30 days</td><td>YES</td><td><ul style="list-style-type: none">As per Daily rate of wages for idle labour/employees70% of the rate for hire charges for idle plant and machinery (excluding cost of fuel and lubricants)15% above all these items to cover overhead costs</td><td>Compensation as assessed by the Engineer on submission of documentary proof by the Contractor to Engineer's satisfaction</td></tr><tr><td>4</td><td>Above 90 days</td><td>NO</td><td>As per Clause no. 13.3.4</td><td>Contractor may ask for closure of the Contract, or deletion from the Contract of that part of Works which has been suspended</td></tr></table>	Sr. No.	Suspension Period	Extension of Time	Compensation for the suspension period	Remarks	1	Upto 14 days	NO	NO	Engineer may give extension of time in exceptional circumstances	2	15 – 30 days	YES	NO	Extension of time as considered proper by the Engineer	3	Above 30 days	YES	<ul style="list-style-type: none">As per Daily rate of wages for idle labour/employees70% of the rate for hire charges for idle plant and machinery (excluding cost of fuel and lubricants)15% above all these items to cover overhead costs	Compensation as assessed by the Engineer on submission of documentary proof by the Contractor to Engineer's satisfaction	4	Above 90 days	NO	As per Clause no. 13.3.4	Contractor may ask for closure of the Contract, or deletion from the Contract of that part of Works which has been suspended
Sr. No.	Suspension Period	Extension of Time	Compensation for the suspension period	Remarks																							
1	Upto 14 days	NO	NO	Engineer may give extension of time in exceptional circumstances																							
2	15 – 30 days	YES	NO	Extension of time as considered proper by the Engineer																							
3	Above 30 days	YES	<ul style="list-style-type: none">As per Daily rate of wages for idle labour/employees70% of the rate for hire charges for idle plant and machinery (excluding cost of fuel and lubricants)15% above all these items to cover overhead costs	Compensation as assessed by the Engineer on submission of documentary proof by the Contractor to Engineer's satisfaction																							
4	Above 90 days	NO	As per Clause no. 13.3.4	Contractor may ask for closure of the Contract, or deletion from the Contract of that part of Works which has been suspended																							
11 Defects Liability																											
11.1 Completion of Outstanding Work and Remedying Defects																											
11.1	11.1	<div>Add to sub clause 11.1 :</div> <div>Defects Liability Period” shall mean the defects liability period calculated from the date of taking over of whole of the Works and not any sub-section or part thereof. Provided that, if any part of</div>																									

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		the Works or sub-systems or component of that part has been replaced, renewed or repaired, the “Defects Liability Period” in respect of that part or sub-system or components of that part shall start from the date of such replacement, renewal or repair has been completed to the satisfaction of the Engineer.
11.12 Emergency defect rectification(New Clause)		
11.2	New Clause 11.12	<p><u>Add a new sub-clause 11.12 :</u></p> <p>Emergency defect rectification</p> <p>If any defect or damage is one requiring immediate attention from safety, environmental or operational viewpoint, the Employer/Engineer has the authority to proceed with rectification in any manner suitable and deduct such sums from the Contract Price.</p>
12.3	12.3	<p><u>Replace sub clause 12.3 with the following:</u></p> <p><u>A. Variation in the Bill of Quantities of bid documents</u></p> <p>i) The quantities of items shown in the Bill of Quantities for price centres of Architectural Finishing and Hard Landscaping Works for Budhwar Peth Station, Mandai Station and Swargate Station (Price Centre H, I & J) and Electrical & Mechanical works for Budhwar Peth Station, Mandai Station and Swargate Station (Price Centre K, L & M) are approximate, and liable to vary during the actual execution of the work. Some items/group of items may have to be altered, added or omitted. The Contractor shall be bound to carry out and complete the stipulated work as instructed by the Engineer, irrespective of the magnitude of variations including additions, alterations or omissions in the Bill of Quantities, individual items or group of items, specified in the Bill of Quantities.</p> <p>ii) Such variations shall be paid as follows:</p> <p>a) At the accepted rates of the Contract for Positive variation in quantities to the extent of 25%, except in the case of foundation works. Unless otherwise specifically provided for in the Bill of Quantities or</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>applicable to a group of items mentioned therein and not to individual items. In case of variation in quantities on minus side, contract rates will be payable for executed quantities.</p> <p>b) In case of earth work, the aforesaid variation limit of 25% shall apply to the gross quantity of earth work and variation in the quantity of individual classifications of soil will not be subject to this limit where any variation can take place.</p> <p>c) For items against which the quantity given in the Bills of Quantities is “if or as required”, there shall be no increase/decrease of rates whatever be the quantity finally executed.</p> <p>d) Variation in the quantity of items individually costing upto 1% of the total contract value, shall be payable at the rates stated in the Contract notwithstanding the magnitude of variation upto 2% of the original Contract Value for each item.</p> <p>e) In case the variation in individual items or the group of items as stipulated above, is more than 25% on plus side, the rate for the varied quantity beyond 25% shall be negotiated between the Engineer and the Contractor and mutually agreed rates arrived at before actual execution of the extra quantity In case Engineer introduces an item for which the Contract does not contain any rates or prices applicable to the varied Works, the rate of such items shall be derived, wherever possible, from rate for similar items available in the Bill of Quantities of the accepted Tender. In case this is not possible, the rate may be decided on the following basis:</p> <ol style="list-style-type: none"> Cost of Materials at current market price, as actually utilised in the final finished Permanent Works, including a reasonable percentage for wastage and transportation. Cost of enabling works if any (unless provided for separately) worked out on the above basis but with less stringent quality. Specifications minus salvage value of serviceable material released after

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>completion of work and cost of material released as scrap.</p> <p>iii. Cost of labour actually used at the site of work at rates under Payment of Minimum Wages Act for the area of work for each category of worker, further enhanced by a percentage of 10% of the aforesaid rates to account for labour not directly utilised at Site and other ancillary and incidental expenses on labour.</p> <p>iv. Hire charges for Plant & Machinery, scaffolding, shuttering, forms, etc., required to be used at the site of the work. The tools used by the various trades shall not be counted as Plant & Machinery for this purpose.</p> <p>v. An amount of 20% of items (i), (ii), (iii) and (iv) above to allow for Contractor's overheads, profits and corporate taxes. This percentage shall also apply to estimated cost of Materials supplied free to the Contractor.</p> <p>vi. In all cases where extra items of work are involved, for which there are no rates in the accepted Bill of Quantities the Contractor shall give a notice to the Engineer, of at least 7 days before the need for their execution arises.</p> <p>In the event of disagreement in respect of items (f) and (g) above, the Engineer shall fix such rates of price as are, in his opinion appropriate and shall notify the Contractor accordingly, with a copy to the Employer. Until such time as rates or prices are agreed or fixed, the Engineer shall determine provisional rates or prices to enable on account payments to the Contractor. Alternatively, in the event of disagreement, the Contractor shall have no claim to execute extra quantities/new items and the Engineer shall be free to get such additional quantities beyond 25% new items executed through any other agency. However, if the Engineer or the Employer so directs the Contractor shall be bound to carry out any such additional quantities beyond the limits stated above original quantities and or new items and the disagreement or the difference regarding rates to be paid for the same shall be settled in the manner laid down under the</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		conditions for the settlement of dispute.
13 Variations and Adjustments		
13.1 Right to Vary		
13.1	13.1	<p><u>Add to sub clause 13.1 :</u></p> <p>No Variation shall in any way vitiate or invalidate the Contract. The Contractor shall not make any alteration and/or modification of the Works, unless and until the Engineer instructs or gives consent to a Variation. If the Construction and/or Manufacture Documents or Works are not in accordance with the Contract, the rectification shall not constitute a Variation.</p> <p>Additional work, plant, material or services not related to the Permanent Works shall not be entitled to a Variation.</p>
13.2 Value Engineering		
13.2	13.2	<p><u>Replace sub clause 13.2 with the following:</u></p> <p>13.2.1 Value Engineering Proposals</p> <p>The Contractor may submit to the Employer, in writing at his own cost, value engineering proposals for modifying the Employer's Requirements, provision of additional land, access or feasibility over and above that is provided in the Contract for the purpose of saving in time, construction or manufacture costs. The value engineering proposal shall not impair the essential character, functions or characteristics or the Work, including service life, economy of operation, ease of maintenance, desired appearance, or design and safety standards.</p> <p>The Contractor shall provide his value engineering proposal in a time limit prescribed by the Engineer. The Engineer's decision in this regard shall be communicated to the Contractor within a reasonable period of time. If by any reason the time limit specified by the Engineer is exceeded, the proposal may not be considered.</p> <p>The decision of the Engineer in this regard shall be final and binding.</p> <p>13.2.2 Value Engineering Proposals –Contents</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>If the Employer requires or accepts it, and if the Contractor wants to proceed with the proposal, the Contractor must provide (at no cost to the Employer) a detailed report prepared by a consultant acceptable to the Employer and which shall include:</p> <ol style="list-style-type: none"> a general description of the original Contract requirements for the Works and the proposed changes any detail of all the proposed modifications to the drawings and specifications any detail of all Work and goods affected by the value engineering proposal a detailed estimate of the construction cost based on the original Contract requirements and based on the proposed changes any resultant time extensions or reductions for the Contract statement to the extent of minimum saving expected. The Contractor's cost of preparing value engineering proposal shall be excluded in determining the estimated net savings in construction costs. <p>13.2.3 Value Engineering Proposals- Employer Review</p> <p>The Employer may in his sole discretion, accept or reject the value engineering proposal or any part thereof and determine the estimated net saving in the construction cost. The Employer shall not be liable for delays or damages to the Contractor due to any failure of the Employer to accept or act upon any value engineering proposal submitted pursuant to this Clause. If the submitted value engineering proposal is similar to a change / variation already under consideration by the Employer, the Employer may make such changes without respect to the value engineering proposal.</p> <p>Once, the Employer or the Engineer rejects the value engineering during proposition due to any reason, it shall not be pursued by the Contractor in any other form.</p> <p>13.2.4 Amendments- Employer Issuance</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>If the value engineering proposal is acceptable to the Employer in whole or in parts, it will accept by execution of an amendment. Such amendment shall identify all the changes in the specifications, Contract Period etc., shall specify net savings on construction costs and shall provide that the Contractor be paid 30% of saved net savings amount based on the difference between the amount contained in the Contract and the estimated net savings both as determined by the Employer.</p> <p>13.2.5 Contractor's Acceptance and Payment</p> <p>The Contractor shall either accept or reject any proposed amendment suggested by the Engineer pursuant to this section within 5 working days of its receipt date from the Employer. If the Contractor does not reject the same in the period stipulated above, the amendments shall be deemed to be accepted by the Contractor and shall become a variation to the Contract. The Contractor's acceptance shall be unconditional and compensation of 30% of the value shall constitute the full compensation. The Contractor will be paid this 30% or less but not more at the time of final payment on Engineer's certification that the net savings as intended by value engineering have been achieved.</p>
13.3 Variation Procedure		
13.3	13.3	<p><u>Replace sub clause 13.3 with the following:</u></p> <p>"Employer's Variation" means a change in the Employer's Requirements which makes necessary alteration or modification of the Design, quality or scope of Works as described by or referred to in the Employer's Requirements. Changes to any sequence, method or timing of manufacture, testing and Commissioning including Integrated Testing and Commissioning and changes to any part of the Site or access thereto will not constitute Employer's Variation.</p> <p>An Employer's Variation shall be requested and implemented in accordance with and subject to the following provisions:</p> <p>(a) within 14 days (or such other period as the Engineer may allow) of the request an Employer's Variation, the</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>Contractor shall notify the Engineer in writing whether in his opinion the Employer's Variation would, if ordered:</p> <ul style="list-style-type: none"> (i) give rise to any entitlement to an extension of time; or (ii) affect the achievement of any Milestone; or (iii) give rise to any entitlement to additional payment; or (iv) affect the warranties of the Contractor set out in Clause 4.2 of PCC. <p>and shall submit his proposals as to the terms upon which he would agree to implement the Employer's Variation. The contractor shall furnish sufficient information in terms of rates/prices of the equipment/components manufactured by the Contractor or sourced from the Vendors/Sub-contractors such as : estimated man-hours, man-hours rates for manufactured items, design costs, basic rate of materials, sub-assemblies, taxes, duties, overheads & profits and inflation rate, so as to establish the reasonableness of the variation price.</p> <p>(b) any agreement between the Engineer and the Contractor as to the terms upon which an Employer's Variation may be implemented shall have no contractual or other legal effect, until it is in writing and is signed by the Contractor and the Engineer. The Engineer before signing such agreement shall take prior approval of the Employer. The terms of this agreement will be binding upon the Contractor and the Employer. This agreement shall determine the amount which should be added to or deducted from the relevant Cost Centre Amount and/or the revisions (if any) which should be made to the Milestone Payment Schedules as a result of the Variation.</p> <p>In the event of the Engineer and the Contractor failing to reach agreement on the revisions to be made to the Cost Centre Amounts, the Engineer shall, with the approval of the Employer, determine the amount which should be added or deducted from the relevant Cost Centre amount which shall be binding on the Contractor. In case the Contractor supplies part/ incomplete information or refuses to supply the required information, the</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>Employer shall determine the cost of Variation based on the information available to him from any sources which in his judgment can be used to determine the case. The Contractor will proceed with the Work on this basis but may submit his Claim if necessary, in accordance with Clause 20.</p> <p>In assessing work covered by any sub-contract, the Engineer will have, where he deems necessary, access to the original sub-contract conditions, rates, prices and details of the variation claimed, to assist in evaluating any Variations.</p> <p>(c) If the Engineer withdraws the request for an Employer's Variation, the Contractor shall have no claim of any kind whatsoever arising out of or in connection with any of the proposals made or any failure to reach agreement. In case the Employer's Variation involves omission of part of the Works, the agreement shall address the issue of reduction in the Contract Price.</p> <p>Any Variation issued for substantial technical modifications, additional cost or extension of time shall be consolidated in a signed Amendment to Contract.</p>
13.7 Adjustments for changes in Legislation		
13.7	13.7	<p><u>Add to sub clause 13.7 :</u></p> <p>13.7.1</p> <p>The Contract Price shall be adjusted to take into account any new taxes or any statutory variation in Custom Duty, GST etc. on finished product/item during the contractual completion period shall be to the Employer's account for which the Contractor shall furnish documentary evidence in support of their claims. However, any increase in the cost due to new taxes or change in the existing taxes & GST/Custom duty act etc. introduced during the extended contractual completion period due to the Contractor's fault shall be to the Contractor's account.</p> <p>13.7.2</p> <p>Taxes and duties paid by the sub-vendors shall not be paid separately and therefore are to be included in the Contract price.</p> <p>13.7.3</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>Nothing extra shall be payable over the quoted rates, notwithstanding any provision to the contrary in any law for the time being in force, save and except what is specifically provided in the conditions of contract.</p> <p>13.7.4</p> <p>The reimbursement (as per this Sub-Clause) of whatsoever nature shall be provided only for Permanent Works and shall be on submission of documentary proof of having paid the same.</p> <p>13.7.5</p> <p>In the event of exemption of custom duties, excise duties, State and Central GST or any other cess/levy being granted by the Government in respect of the Works, the benefit of the same shall be passed on to the Employer. The Contractor shall therefore maintain meticulous records of all taxes and duties paid and provide the same as and when required by the Employer, so that the Employer is able to avail the reimbursement for which the Employer may issue a procedure order separately. Alternately, the Employer may direct the Contractor to get the reimbursement based on exemption certificate/ government's order and it shall be obligatory on part of the Contractor to get the reimbursement from the statutory authorities and pass on the benefit to the Employer.</p> <p>13.7.6</p> <p>In case of Contractor's failure in availing the exemption as stipulated above, the recovery of equivalent amount will be made from Contractor's dues.</p>
13.8 Adjustments for changes in cost(Price Variation)		
13.8	13.8	<p><u>Replace Sub-clause 13.8 with the following:</u></p> <p>13.8.1 Price Variation</p> <p>Price variation is not applicable for preliminaries (Price Centre A) and lump sum (miscellaneous) provision (Price Centre N) in the pricing document. The rates and price as per Pricing document shall be applicable till the completion of the Work and will be varied only to the extent of permissible price variation under this Clause. However, this adjustment shall be to the extent that full compensation for any rise or fall in costs to the Contractor is not covered by the Price variation formula, the rates and price in the</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>Pricing Document shall be deemed to include amounts to cover the contingency of such rise or fall of costs.</p> <p>Price variation would be applicable as per IEEMA formula on the following items of E&M schedule (K,L & M)</p> <ol style="list-style-type: none"> 1. MV Switchgears 2. Battery Charger 3. Capacitor 4. Lead Acid Batteries 5. AC/DC Rotating Machinery 6. Copper Cables <p>All other items of BOQ Schedules K, L & M would be Fixed price rates only and no price variation would applicable on them.</p> <p>The present IEEMA formula is given as under (Only for reference). The PVC would be applied as per the contemporary IEEMA formula.</p> <p><u>Variation in length of Tunnel under D& B Portion</u></p> <p>The present contract is design and build contract for specified portion of the tunnel. However during the execution of the work any variation in tunnel length within the range of + or – 10% of tunnel length as specified under “tunnelling” sub-heading of Price centre E,F & G shall be dealt in a proportionate manner of the accepted rate without any liabilities from either parties.</p> <p>13.8.2 Price Variation Formula</p> <p>Payment as per the Contract shall be subject to adjustment in accordance with the following Price Variation formula, and other terms given herein, to provide for variation in the market rates of inputs like labour, materials and fuel / energy during the currency of the Contract:</p> <p>13.8.3 Price Adjustment:</p> <p>Contract price shall be adjusted for increase or decrease in rates and prices of labour materials, fuels and lubricants in accordance with the following principles and procedures and as per formula given hereunder.</p> <p>Formula for Price variation:</p> $V = V_L + V_S + V_C + V_F + V_M$ <p>Where,</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p> V = Total adjustment on account of all Components V_L = Adjustment on account of Labour component V_S = Adjustment on account of Steel component V_C = Adjustment on account of Cement component V_F = Adjustment on account of Fuel / Lubricant component V_M = Adjustment on account of Construction Machinery and Machine Tools R: Gross amount of Price variation applicable Items of Schedule of Interim Payment for the Fixed Lump Sum Price Portion and also for the work done out of Miscellaneous works as mentioned in Appendix-B to Annexure-ITT-2. Certified by the Engineer for the of work under consideration, after excluding the cost of any materials supplied free or at fixed rate to the Contractor if any. Adjustment for labour Component: Price adjustment for increase or decrease in the cost due to labour shall be paid in accordance with following formula. $V_L = 0.85 \times P_L / 100 \times R \times (L_i - L_o) / L_o$ Where, V_L = Increase or decrease in the cost of work during the month under consideration due to change in rates for local labour; L_o = The consumer price index for industrial workers for Pune as available on the date 28 days prior to the latest date of submission of the tender as published in RBI Bulletin/ Labour bureau, Government of India. L_i = The consumer price index for industrial workers for Pune for the 1st day of the month preceding the 'month under consideration' as published in RBI Bulletin /labour bureau, Government of India. P_L = Percentage of labour components of the work i.e. 22 Adjustment for Cement Component: Price adjustment for increase or decrease in the cost of cement components procured by the contractor shall be paid in accordance with following formula. $V_C = 0.85 \times P_C / 100 \times R \times (C_i - C_o) / C_o$, Where V_C = Increase or decrease in the cost of work during the month under consideration due to change in rates for cement; </p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>C₀ = The all India wholesale price index for cement (Ordinary Portland cement) as available on the date 28 days prior to the latest date of submission of the tender as published in RBI Bulletin, Government of India.</p> <p>C_i = The all India wholesale price index for cement (Ordinary Portland cement) for the 1st day of the month preceding the 'month under consideration' as published in RBI Bulletin, Government of India.</p> <p>P_c = Percentage of cement components of the work i.e. 15</p> <p>Adjustment for Fuel and Lubricant components: Price adjustment for increase or decrease in the cost of Fuel and Lubricants shall be paid in accordance with following formula. $V_F = 0.85 \times P_F / 100 \times R_x (F_i - F_o) / F_o$, Where, V_F = Increase or decrease in the cost of work during the month under consideration due to change in rates for Fuel and Lubricants F_o = The official RBI indices as applicable on the date 28 days prior to the latest date of submission of the tender. F_i = The official RBI indices as applicable on 1st day of the 'month under consideration'. P_F = Percentage of Fuel components of the work i.e. 10</p> <p>Adjustment for Plant and Machinery Spares Components: Price adjustment for increase or decrease in the cost of plant and machinery spares shall be paid in accordance with following formula. $V_M = 0.85 \times P_M / 100 \times R_x (P_i - P_o) / P_o$, Where, V_M = Increase or decrease in the cost of work during the month under consideration due to change in rates for plant and machinery spares. P_o = The all India wholesale price index for construction machinery and parts as available on the date 28 days prior to the latest date of submission of the tender as published in RBI Bulletin Government of India P_i = The all India wholesale price index for construction machinery and parts for the 1st day of the month preceding the 'month under consideration' as published in RBI, Government of India P_M = Percentage of Plant and Machinery Spares components of</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>the work i.e. 18</p> <p>Adjustment for Steel Component :</p> <p>Price adjustment for increase or decrease in the cost of Steel shall be paid in accordance with following formula.</p> <p>$V_s = 0.85 \times P_s / 100 \times R (S_i - S_o) / S_o$, Where,</p> <p>$V_s$ = Increase or decrease in the cost of work during the month under consideration due to change in rates for Structural Steel / TMT rebars / MS Steel.</p> <p>S_o = RBI indices for Mild steel long -products(inclusive of ED, Cess, ST and Layout charges) applicable as on the date 28 days prior to the latest date of submission of the tender.</p> <p>S_i = RBI indices for Mild steel long -products for the 1st day of the month preceding the 'month under consideration'</p> <p>P_s = Percentage of Steel Components of the work i.e. 20</p> <p>Adjustment for Battery Charger Equipment</p> $P = \frac{P_0}{100} \left(20 + 50 \frac{IN-BTR-CHRG}{IN_0-BTR-CHRG} + 30 \frac{W}{W_0} \right)$ <p>Wherein,</p> <p>P= Price payable as adjusted in accordance with the above formula.</p> <p>P₀= Price quoted/confirmed.</p> <p>IN₀-BTR-CHRG= Index number for battery charger equipment based on relative prices and weightages(as given in brackets) of C.C. copper rods(30), electrical steel laminations(10) and whole-sale price index of 'Iron and Steel'(10),calculated considering their values as on 1st June 2000 as base equal to 100.</p> <p>W₀= All India average consumer price index number for industrial workers, as published by the Labour Bureau, Ministry of Labour, Govt. of India(Base 1982=100)</p> <p>IN-BTR-CHRG= Index number for battery charger equipment based on relative prices and weightages(as given in brackets) C.C. copper rods(30), electrical steel laminations(10) and whole-sale price index of 'Iron and Steel'(10),calculated considering their values as on 1st June 2000 as base equal to 100.</p> <p>W= All India average consumer price index number for industrial</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>workers(base 1982=100) as published by labour Bureau, Ministry of Labour Govt of India.</p> <p>Adjustment for Capacitors</p> $P = \frac{P_0}{100} \left(18 + 16 \frac{CO}{CO_0} + 17 \frac{AF}{AF_0} + 26 \frac{BO}{BO_0} + 23 \frac{W}{W_0} \right)$ <p>Wherein,</p> <p>P = Price payable as adjusted in accordance with the above formula.</p> <p>P₀ = Price quoted/confirmed.</p> <p>CO₀ = Price of Non-PCB Condenser Oil. This price is as applicable for the month, one month prior to the date of tendering.</p> <p>AF₀ = Average LME settlement price of Aluminium. This price is applicable on the 1st working day of the month, one month prior to the date of tendering.</p> <p>BO₀ = Price of BOPP Film. This price is applicable for the month, one month prior to the date of tendering</p> <p>W₀ = All India average consumer price index number of industrial workers, as published by the Labour Bureau, Ministry of labour, Govt. of India(Base 2001=100). This index number is as applicable on the first working day of the month, three months prior to the date of tendering.</p> <p>CO = Price of Non-PCB Condenser Oil. This price is as applicable for the month, one month prior to the date of delivery.</p> <p>AF = Average LME settlement price of Aluminium. This price is applicable on the 1st working day of the month, one month prior to the date of delivery.</p> <p>Adjustment for Lead Acid Batteries</p> $P = P_0/100 \left[60 + 40 LD/LD_0 \right]$ <p>Where,</p> <p>P = Price payable as adjusted in accordance with the above formula</p> <p>P₀ = Price quoted/confirmed</p> <p>LD = Price of lead ingot. This price is applicable on the first</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>working day of the month, one month prior to the date of delivery.</p> <p>LD₀ = Price of lead ingot. This price is as applicable on the first working day of the month, one month prior to the date of tender opening.</p> <p>Adjustment for AC/DC ROTATIONG MACHINERY</p> <p>(A) For rotating Machines up to frame size 315.</p> $P = \frac{P_0}{100} \left(16 + 14 \frac{C}{C_0} + 24 \frac{S}{S_0} + 18 \frac{IS}{IS_0} + 8 \frac{PV}{PV_0} + 20 \frac{W}{W_0} \right)$ <p>(B) For rotating Machines of frame size 355 and above.</p> $P = \frac{P_0}{100} \left(16 + 24 \frac{C}{C_0} + 20 \frac{S}{S_0} + 7 \frac{IS}{IS_0} + 8 \frac{PV}{PV_0} + 25 \frac{W}{W_0} \right)$ <p>Wherein,</p> <p>P = price payable as adjusted in accordance with the above formula.</p> <p>P₀ = Price quoted/confirmed.</p> <p>C₀ = Average LME settlement price of copper wire bars. This price is as applicable for the month, two months prior to the date of tendering.</p> <p>S₀ = Price of electrical steel sheets. This price is as applicable for the month, one month prior to the date of tendering.</p> <p>IS₀ = Wholesale price index of “Iron and Steel”. This index number is as applicable for the 1st Saturday of the month, four months prior to the date of tendering.</p> <p>PV₀ = Wholesale price index of “paints, varnishes and lacquers”. This index number is as applicable for the 1st Saturday of the month, four months prior to the date of tendering.</p> <p>W₀ = All India average consumer price index number for industrial workers, as published by the Labour Bureau, Ministry of Labour, Govt. of India(Base 1982=100). This index number is as applicable for the month, four months prior to the date of tendering.</p> <p>C = Average LME settlement price of copper wire bars. This price is as applicable for the month, three months prior to the date of</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>delivery.</p> <p>S = Price of electrical steel sheets. This price is as applicable for the month, two months prior to the date of delivery.</p> <p>IS = Wholesale price index of “Iron and Steel”. This index number is as applicable for the 1st Saturday of the month, five months prior to the date of delivery.</p> <p>PV = Wholesale price index of “paints, varnishes and lacquers”. This index number is applicable for the 1st Saturday of the month, five months prior to the date of delivery.</p> <p>W = All India average consumer price index number for industrial workers, as published by the Labour bureau, Ministry of Labour, Govt. of India(Base 1982=100). This index number is as applicable for the month, five months prior to the date of delivery.</p> <p>13.8.4 Period of Work under consideration will mean as under:</p> <ol style="list-style-type: none"> In the case of first Interim Payment the period from the Commencement Date to the date of measurement of the first Interim Payment. In the case of second and subsequent Interim Payment and Final Payment, the Period from the date of measurement for previous payment to the date of measurement of that Payment . <p>13.8.5 Procedure in case of Delay in Availability of Final RBI Indices</p> <p>Where the final Price Indices are not available in the Reserve Bank of India Bulletins, while making payment towards Interim Payments payment towards Price Variation will be made on provisional basis based on the indices available, to be adjusted in subsequent Payment as and when the final Indices figures become available.</p> <p>13.8.6 Adjustment on Account of Price Variation</p> <p>Adjustment on account of Price Variations may be positive (in which case extra amount shall be paid to the Contractor), or negative (in which case the amount of Price Variation shall be recovered from the Contractor). Adjustment on account of Price Variation shall be calculated separately, for each period, between two successive dates of measurements for Payments and paid along with each Payment.</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>After verifying the Payment, the Engineer shall certify the adjustment amount and advise the same to the Employer along with the Payment. Should any extra amount be due to Contractor, the Employer shall pay the same as far as possible within 14 days of certification by him or Engineer. Any amount due from Contractor on account of negative adjustment shall be recovered from his pending or other payments at the earliest.</p> <p>No price adjustment shall be payable on the portion of the contract price paid to the Contractor as mobilisation Advance or any other advance, State and Central GST/ basic custom duty and any other Taxes and duties reimbursed.</p> <p>13.8.7 Price Variation during Extended Period of Completion</p> <p>The price adjustment as worked out above i.e. either increase or decrease will be applicable up to the stipulated date of completion of the work including the extended period of completion where such extension has been granted under Sub-Clause 8.4.1. However, where extension has been granted under Sub-Clause 8.4.3, price adjustment will be due as follows:</p> <p>In case the indices increase above the indices applicable to a payment made on the last date of original completion period or the extended period under Sub-Clauses 8.4., the price adjustment for the period of extension under PCC Sub-Clause 8.4.3 will be limited to the amount payable as per the indices applicable to a Payment made on the last date of the original completion period or the extended period under PCC Sub-Clauses 8.4.1 as the case may be.</p> <p>In case the indices fall below the indices applicable to a payment made on the last date of the original or extended period of completion, then the lower indices will be adopted for Price Adjustment for the period of extension under Clause 8.4.3.</p> <p>13.8.8. Price Variations for Extra/Varied Item</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		Normally, no price variation clause shall be applicable to any extra item/new rates not originally included in the accepted Pricing Document and for which the rates are fixed separately under Clause 12. It shall, however, be open to the Engineer to accept Price Variation clause in such cases where the rates are not based on actuals and the work is likely to continue for more than one year.
14 Contract Price and Payment		
14.1 The Contract Price		
14.1	14.1	<p><u>Replace Sub-Clause 14.1(b) with the following:</u></p> <p>The Contractor shall pay all taxes, levies, duties, cess as per GST/Custom Tariff Act etc., royalty, rates and fees required to be paid by him under the Contract, and the Contract Price shall not be adjusted for any of these costs except as stated in Sub-Clause 13.7 [Adjustments for Changes in Legislation].</p> <p><u>Add to sub-clause 14.1 with the following:</u></p> <p>(e) The Contract Price, subject to any adjustment thereto in accordance with the Contract shall be all inclusive of GST, Custom duties, royalties etc.)</p> <p>The Bidder/Contractor is required to note the following regarding Contract prices:</p> <p>(f) The Contractor shall submit the proof of registrations under various fiscal and labour laws like GST, Profession Tax, Import Export Code, Employee State Insurance, Provident Fund, Maharashtra Labour Welfare Fund and shall submit an undertaking that he will get registered with the competent authority/ies for complying with various laws that are applicable.</p> <p>(g) The Contractor shall be solely responsible to find out and ascertain whether their supplies for Maha-Metro Rail Project will qualify and be eligible for the concession duty benefits under Chapter 98.01 of custom Tariff Act for project Imports & shall manage the Custom Duty applicability and inclusion in their quoted price</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>accordingly. After award of the Contract, Employer at the written request of a contractor shall facilitate the contractor for obtaining sponsoring / recommendation letter from the GOM for getting themselves registered for availing Project Import benefits. However, the responsibility to avail the concessional benefits under Project Import or otherwise as extended in accordance with the law of the land shall solely rest with the Contractor.</p> <p>(h) Should the Employer, during execution of the contract, obtain a waiver of GST/Custom Duty if applicable, in full or part thereof, the Contractor will be advised on the process to be followed to obtain exemption /refund of such taxes, duties etc., from the concerned Authorities. In case of failure by the Contractor to obtain and remit the refund within reasonable time (to be decided by the Employer & intimated to contractor) to the Employer, the same will be recovered by the Employer from the amounts due as payment to the Contractor or as debt due from the Contractor. The decision of the Employer shall be final and binding. If the Contractor fails to take the required action to obtain refund or exemption, the Employer may take action in accordance with condition of Contract.</p> <p>(i) The Contractor shall maintain details of GST /Custom Duty etc. paid to the concerned authority and submit:</p> <ul style="list-style-type: none"> • Certificate of the Chartered Accountant in regard to turnover of the Contractor relating to MAHA-METRO project. • GST return of the Contractor for the relevant period / periods along with detailed statement & copy of Challans in regard to deposit of tax. • The Contractor also will have to submit 'No Dues Certificate' for the year / period as and when required by MAHA-METRO. • The full and final payment to Contractor will be made only after documents as required above are furnished by him and checked by MAHA-METRO. • All payments will be subject to GST-TDS provisions, if

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>applicable in force form time to time.</p> <ul style="list-style-type: none"> Any duty drawback, export / import incentive, concession / exemption available to the Contractor to be passed on to MAHA-METRO. <p>(j) Labour Welfare Fund, ESI, PF and other labour related payments:</p> <ul style="list-style-type: none"> Primary responsibility for payment statutory dues or other dues within stipulated time shall be primary responsibility of the Contractor. MAHA-METRO at no point of time shall be responsible for the same. Contractors shall certify on annual basis that there are no unpaid dues relating to persons working in MAHA-METRO project. MAHA-METRO has a right to recover any unpaid dues from the Contractor in the event of default at his part. <p>(k) Income tax</p> <ul style="list-style-type: none"> All payments shall be subject to TDS provisions in force from time to time. The Bidders are expected to submit certificates from competent authorities for lesser / non-deduction of TDS. <p>(l) General Clause</p> <ul style="list-style-type: none"> In case if MAHA-METRO project is approved for exemptions from any tax, duty, cess, levy at a date later than the date of award of Bid the benefit so accruing to the Bidder shall be passed on to MAHA-METRO. Appropriate changes will be made to the Contract Price in such cases. The Contractor shall provide MAHA-METRO an authority to deduct such amounts from any sum payable to the Contractor by MAHA-METRO. In case of change in taxation regime, the Contractor shall comply with the statutory requirements and provide MAHA-METRO with such documents / certificates /

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>declaration as may be stipulated by MAHA-METRO from time to time.</p> <ul style="list-style-type: none"> • All bill raised should specifically state the amount of taxes charged separately in detail. • The bills should mention all the required statutory details including the registration numbers with various statutory authorities, declarations, formats as required under various statutory laws / regulations. • MAHA-METRO shall at no point of time will be responsible for payment of taxes, duties, cess, levy, rates, royalty other than which are mentioned in the Bidding Documents and recovered by the Contractor in their bills submitted periodically. No recoveries will be entertained by MAHA-METRO for demands raised by the Contractor at later stage. <p>The Contractor has to maintain meticulous record of all the taxes and duties paid under GST, Custom Duty etc. and to submit the same when required by the Employer.</p> <p><u>Add Sub-Clause 14.1.1</u></p> <p>The breakdown of all unit prices shall also be submitted by the Contractor within 84 days from the Commencement Date.</p>
14.2 Advance Payment		
14.2	14.2	<p><u>Replace sub clause 14.2 with the following new sub-clauses:</u></p> <p>14.2.1 Mobilisation Advance</p> <p>Mobilisation Advance Payment shall be paid in Indian Rupees up to 10% of the Contract Price in two equal instalments. The first instalment shall be paid on Submission of BG and second shall be paid after Engineer/ Employer has confirmed satisfactory utilisation of the first advance payments and submission of BG. Satisfactory utilisation means establishment of casting yard, batching plant, mobilisation of important equipment and machineries etc. excluding TBM.</p> <p>The Mobilisation Advance shall be interest free and shall be paid within 28 days after receipt of the Contractor's written request by the Employer and submission of the Performance Guarantee and Bank Guarantees for 110% of advance Payment.</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>Mobilisation Advance Payment against submission of 4 (four) separate equal Bank Guarantees for the like amount as per format given in schedule to PCC from an Indian Schedule bank (excluding Cooperative Banks) or from a schedule Foreign Bank as defined in Section 2(e) of RBI Act 1934 read with Second Schedule.</p> <p style="text-align: center;">14.2.2 Advance against Plant & Machinery</p> <p>This advance is payable against plant, equipment and machinery excluding, provided the same have reached the site, or in the case TBM of new items meant specifically for the works, firm purchase order has been placed and the invoices received. The plant and machinery shall be valued by the Engineer as follows:</p> <ol style="list-style-type: none"> New items: 80% of purchase price Used items in working order: 80% of the depreciated value as assessed by the Engineer Items valued at less than Rs. 1, 000,000 (Rs. One million) per unit: Not to be considered <p>The total advance for Plant and Machinery shall be limited to 6% of the Contract Price and will be paid with interest free in Indian Rupees against submission of Bank Guarantees for the like amount as per format given in schedule to PCC from an Indian Schedule bank (excluding Cooperative Banks) or from a schedule Foreign Bank as defined in Section 2(e) of RBI Act 1934 read with Second Schedule.</p> <p>The Advance against Plant and Machinery will be paid by the Employer within 28 days after receipt of the Contractor's written request with invoices / Letter of credit (in case of imported) and submission of Bank Guarantees for Advance Payment.</p> <p style="text-align: center;">14.2.3 Recovery of Advances</p> <p style="text-align: center;">Mobilization Advance and Advance Against Plant & Machinery</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>a. The recovery of the Mobilization and Plant and Machinery Advances shall each be made in 24 (Twenty four) equal instalments (once every month) commencing from Sixth month after the payment of advance.</p> <p>b. Bank Guarantee shall be submitted as per PCC sub-Clause 11.1, 14.2.1 and 14.2.2 Following the recovery by the Employer, Bank Guarantee may be released to the Contractor at the discretion of the employer.</p> <p>14.2.4 Interest in Case of Delay in Repayment of Advances</p> <p>Should there be delay in the progress and completion of work, as a result of which it is not possible to recover the advance and interest thereon (if any), before the date of completion stipulated in the Contract, then notwithstanding any other provision of the Contract the interest to be charged from the Contractor on the remaining portion of the advance beyond the original completion date specified in the Contract, shall be the State Bank of India prime lending Rate plus 2% (simple interest) per annum or 12% (simple interest) per annum whichever is higher.</p> <p>14.2.5 Advances to be Used only for This Work.</p> <p>The advances shall be used by the Contractor strictly for the purpose of the Contract, and for the purpose for which they are paid. Under no circumstances, shall the advances be diverted for other purposes. Any such diversion shall be construed as a breach of the Contract and the Contractor shall be asked to return the advance at once. The Contractor shall return the advance in one go without demur.</p> <p>The Employer reserves the right for any other remedy prescribed for breach of Contract in this regard.</p> <p>The Contractor, if required by the Employer shall provide the details of Mobilization advance expended or to be expended.</p>
14.3 Application for Interim Payment Certificates		
14.3	14.3	<p><u>Add to sub clause 14.3 :</u></p> <p>Deduction towards income taxes any other tax deductible at</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>source, etc., will be deducted as per the relevant act / rules / statute.</p> <p>Normally not more than one request for interim payment per month is allowed unless otherwise agreed by Engineer.</p> <p><u>Add to Sub-Clause 14.3 :</u></p> <p>The Contractor shall not submit more than one request for interim payment per month or otherwise agreed by Employer / Engineer. The Minimum IPC amount shall not be less than 1% of Contract price</p> <p><u>Add at end of Sub-Clause 14.3</u></p> <p>The aggregate amount of the Performance Security and the Retention Money if any shall not exceed 10% of the Accepted Contract Amount.</p>
14.8 Delayed Payment		
14.8	14.8	<u>Deleted</u>
14.9 Payment of Retention Money		
14.9	14.9	<u>Deleted</u>
14.13 Issue of Final Payment Certificate		
14.13	14.13	<u>Replace 28 days appearing in First sentence with 84 days</u>
14.15 Currencies of Payment		
14.15	14.15	<p><u>Replace sub clause 14.15 with the following:</u></p> <p>All payments (The Contract Price) shall be paid in the currency (ies) named in the Summary of Payment Currencies of the Contract. Wherever any sum in a foreign currency has to be converted into Indian Rupees for any purpose, the exchange rate to be employed for such conversion shall be the selling rate of exchange at the close of business of the Reserve Bank of India one day prior to date of payment.</p>
14.16 Round off(New Clause)		
14.16	New Clause	<p><u>Add a new sub clause :14.16</u></p> <p>Round off</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
	14.16	<p>In every payment to the Contractor, sums of less than fifty paise shall be omitted and sums of fifty paise and more up to one rupee shall be reckoned as one rupee.</p> <p>Payment By Cheque and E-Payment</p> <p>All payments to the Contractor will be made by cheque or “E-Payment” as desired by the Employer.</p>
14.17 Tax Deduction at Source(New Clause)		
14.17	New Clause 14.17	<p><u>Add a new sub clause :14.17</u></p> <p>Tax Deduction at Source</p> <p>Tax deductions will be made at source as per statutory requirement from every payment made to the Contractor at rates notified from time to time.</p>
14.18 Production of Vouchers(New Clause)		
14.18	New Clause 14.18	<p><u>Add a new sub clause :14.18</u></p> <p>Production of Vouchers</p> <p>i. The Contractor shall, whenever required by the Engineer produce or cause to be produced for examination by the Engineer any quotation, invoice, cost or other account books, vouchers, receipts, letters, memoranda or any copy of or extract from any such documents and also furnish information and returns, as may be required, relating to the execution of this Contract or relevant for verifying or ascertaining the cost of execution of this Contract or ascertaining the Materials supplied by the Contractor are in accordance with the Specifications laid down in the Contract. The Engineer’s decision on the question of relevancy of any documents, information or returns shall be final and binding on the parties.</p> <p>ii. If any part or item of the Work is allowed to be carried out by a Sub-Contractor, assignee or any subsidiary or allied firm, the Engineer shall have power to secure the books of such Sub-Contractor, assignee or any subsidiary or allied firm through the Contractor, and shall have power to examine and inspect the same. The above obligations are without prejudice to the</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		obligations of the Contractor under any statute, rules or orders
14.19 Recovery of money due to the Employer(New Clause)		
14.19	New Clause 14.19	<p><u>Add a new sub clause :14.19</u></p> <p>Recovery of money due to the Employer</p> <p>All damages (including, without limitation, liquidated damages), costs, charges, expenses, debts, or sums for which the Contractor is liable to the Employer under any provision of the Contract may be deducted by the Employer from monies due to the Contractor under the Contract including, without limitation, and the Employer shall have the power to recover any balance not so deducted from monies due to the Contractor under any other contract between the Employer and the Contractor.</p>
15 Termination by Employer		
15.2 Termination By Employer		
15.2	15.2	<p><u>Add to sub clause 15.2 :</u></p> <p>On termination of Contract due to Contractor's default, the Employer shall be entitled to</p> <p>(a) forfeit the whole or such portion of the Performance Security amount as he may consider fit, and</p> <p>(b) The amount to be recovered may be deducted by the Employer from any monies then due or which, at any time thereafter, may become due to the Contractor alone or jointly under this or any other Contract or otherwise.</p>
15.6 Non-exercise of power not to constitute waiver(New Clause)		
15.6	New Clause 15.6	<p><u>Add a new sub clause :15.6</u></p> <p>Non-exercise of power not to constitute waiver</p> <p>Provided always that in case any of the powers conferred upon the Employer by Sub-clause 15.1 and Sub Clause 15.2.1 above, shall have become exercisable, and the same may not have been exercised, the non-exercise thereof shall not constitute waiver of any of the conditions thereof.</p>
16 Suspension and Termination by Contractor		

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
16.5	New Clause 16.5	<p><u>Add a new sub clause : 16.5</u></p> <p>In case of termination/ foreclosure of the Contract under whatsoever circumstances, any remaining tools, plants, equipment and surplus materials of the Employer with the Contractor will be returned to the Employer at Employer's depot at the Contractor's cost. In case of the failure of the Contractor to do so, the Employer will be entitled to recover their cost from the Contractor from the amount becoming due to the Contractor or from any other money due in any other contracts. The decision of the Engineer of the amount to be recovered will be final decision and full credit at rates initially charged to the Contractor shall be allowed for such materials. Similarly the Employer shall be entitled to recover the cost of the unreturned material, plants, equipment and tools from the Contractor where such material have been supplied free of cost and plants, equipment and tools free of cost or on lease basis to the Contractor as stipulated in the Contract.</p>
17 Risk and Responsibility		
17.7 Risk and Responsibility(New Clause)		
17.7	New Clause 17.7	<p><u>Add a new sub clause : 17.7</u></p> <p>Survival</p> <p>Termination of this Contract</p> <p>a. shall not relieve the Contractor or the Employer of any obligations already incurred hereunder which expressly or by implication survives Termination hereof and</p> <p>b. except as otherwise provided in any provision of this Contract expressly limiting the liability of either party, shall not relieve either party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.</p>
18 Insurance		
18.1 General requirements for Insurances		

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
18.1	18.1	<p><u>Add to Sub-clause 18.1:</u></p> <p>Insurance cover for Contractor's All Risk and other requirements as specified in the GCC to cover 100% of the Total Contract Price and shall be submitted within 28 days from Commencement Date including all other relevant policies.</p>
18.3 Insurance against injury to Persons and Damage to property		
18.3	18.3	<p><u>Add to Sub-clause 18.3:</u></p> <p>Minimum amount of third party insurance INR 0.50 Million for any one incident, with no. of incidents unlimited.</p>
18.5 Insurance for Design(New Clause)		
18.5	New Clause 18.5	<p><u>Add a new sub clause : 18.5</u></p> <p>Insurance for Design</p> <p>The Contractor shall effect and maintain professional indemnity insurance for the amount in Indian Rupees stipulated in Appendix to the Form of Tender in respect of any design of the Works to be carried out by, or on behalf of the Contractor. This insurance, which shall ensure the Contractor's liability by reason of professional negligence and errors in the design of the Works, shall be valid from the date of commencement of Works, until after the date of issue of Performance Certificate with a clause in the Insurance Policy stipulating the discovery period of claim for 5 years from the date of issuance of Performance Certificate or three years after commencement of commercial train operations whichever is later.</p> <p>The Engineer will not issue Final Payment Certificate until the Contractor has produced evidence that coverage of the professional indemnity insurance has been provided for the aforesaid period.</p> <p>AOA (any one accident) limit equal to 6% of the contract value against Schedule 'A' of Price Bid in respect of 'design and construct' with AOY (any one year) limit of 2 incidents in a- year. In the Professional Indemnity insurance Policy the deductible amount shall not be more than 5% AOA limit. All Policy shall be</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		obtained within Four weeks from 'date of commencement' and shall be valid for five years after date of issue of 'Performance Certificate' or 3 years after commencement of commercial train operations whichever is later. Wherever the Contractor submits policy for shorter period / annual renewable policy, the same shall be renewed before its expiry date. In such situation, the performance guarantee shall be retained till required validity period. The Contractor's submission of such shorter period / renewable policy shall be construed as their irrevocable consent for retention of the performance guarantee.
19 Force Majeure		
19.8 Resumption of Work(New Clause)		
19.8	New Clause 19.8	<p><u>Add a new sub clause : 19.8</u></p> <p>Resumption of Work</p> <p>The obligations under the Contract shall be resumed as soon as practicable after the event has come to an end or ceased to exist. In case of doubt or dispute, whether a particular occurrence should be considered an "event" as defined under this clause, the decision of the Engineer shall be final and binding.</p> <p>Works that have already been measured shall be paid for by the Employer even if the same is subsequently destroyed or damaged as a result of the event. The cost of rebuilding or replacing any work that has been measured shall be borne by the Employer.</p>
20 Claims, Disputes and Arbitration		
20.6 Arbitration		
20.6	20.6	<p><u>Replace sub clause 20.6 with the following:</u></p> <p>Arbitration</p> <p>If the efforts to resolve all or any of the disputes through DAB fails, then such disputes or differences, whatsoever arising between the Parties, arising out of touching or relating to construction/ manufacture, measuring operation or effect of the Contract or the breach thereof shall be referred to local Arbitration in accordance with the following provisions:</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>(a) Matters to be arbitrated upon shall be referred to a Sole Arbitrator where the individual claim does not exceed Rs. Fifty (50) millions. Beyond the above limit(s), there shall be three Arbitrators. For this purpose the Employer shall maintain a panel of Arbitrators with the requisite qualifications and professional experience relevant to the field to which the Claims relate. In case of a Sole Arbitrator, the Panel will be of three Arbitrators, out of which the Contractor will choose one. In case three Arbitrators are to be appointed, the Employer will make out a panel of five. The Contractor and the Employer will choose one Arbitrator each from the above and the two so chosen will choose the third Arbitrator from the above Panel only who will act as the 'Presiding arbitrator' of the Arbitration Panel.</p> <p>If in a dispute, the Contractor fails to choose the Arbitrator within thirty (30) days after the Employer has nominated the Panel, the Employer may apply to the Indian Council of Arbitration, New Delhi, to nominate an Arbitrator from the same panel of Arbitrators given by the Employer to the Contractor for the matter in dispute.</p> <p>If, in a dispute, the two chosen Arbitrators fail to appoint third Arbitrator from the given panel within thirty (30) days after they have been appointed, the Employer may apply to the Indian Council of Arbitration, New Delhi, to nominate the third Arbitrator from the same panel of Arbitrators given by the Employer for the matter in dispute.</p> <p>Neither Party shall be limited in the proceedings before such Arbitrator(s) to the evidence or arguments put before the Engineer for the purpose of obtaining his decision. No decision given by the Engineer in accordance with the foregoing provisions shall disqualify him from being called as a witness and giving evidence before the Arbitrator(s) on any matter, whatsoever, relevant to dispute or difference referred to Arbitrator(s). The arbitration proceedings shall be held in PUNE only. The language of proceedings, which of documents and communication shall be English.</p>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		<p>(b) The Employer at the time of offering the panel of Arbitrators to be appointed as Arbitrator shall also supply the information with regard to the qualifications of the said Arbitrators empanelled in the panel along with their professional experience, phone nos. and addresses to the Contractor.</p> <p>(c) The award of the sole Arbitrator shall be binding on all parties.</p> <p>(d) In Arbitral proceedings with more than one Arbitrator, any decision of the arbitral tribunal shall be made by a majority of all the members and shall be binding on all parties.</p>
20.9 No legal action Till Dispute Settlement Procedure is Exhausted(New Clause)		
20.9	New Clause 20.9	<p><u>Add a new sub clause : 20.9</u></p> <p>No legal action Till Dispute Settlement Procedure is Exhausted</p> <p>Any and all Disputes shall be settled in accordance with the provisions of Clause 20. No action at law concerning or arising out of any Dispute shall be commenced unless and until all applicable Dispute resolution procedures set out in Clause 20 shall have been finally exhausted in relation to that Dispute or any Dispute out of which that Dispute shall have arisen with which it may be or may have been connected.</p>
20.10 Notice of Dispute(New Clause)		
20.10	New Clause 20.10	<p><u>Add a new sub clause : 20.10</u></p> <p>Notice of Dispute</p> <p>For the purpose of Sub-Clause 20.2, a Dispute shall be deemed to arise when one party serves on the other party a notice in writing (hereinafter called a "Notice of Dispute") stating the nature of the Dispute provided that no such notice shall be served later than 28 days after the date of issue of Performance Certificate by the Engineer</p>
20.11 Rules for Arbitration(New Clause)		
20.11	New	<u>Add a new sub clause 20.11:</u>

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
	Clause 20.11	<p>Arbitration shall be conducted in accordance with</p> <ol style="list-style-type: none"> The Arbitration and Conciliation Act -1996” and amendment act 2015 and as amended from time to time. The place of Arbitration shall be PUNE. Courts at Mumbai shall have the exclusive jurisdiction to try all disputes between the parties. The language shall be English.
20.12 Reasoned Award(New Clause)		
20.12	New Clause 20.12	<p><u>Add a new sub clause : 20.12</u></p> <p>Reasoned Award</p> <p>The Arbitrator(s) shall always give item-wise and reasoned award(s) irrespective of the value of claim(s) in the dispute in all cases.</p>
20.13 Cost of Arbitration(New Clause)		
20.13	New Clause 20.13	<p><u>Add a new sub clause : 20.13</u></p> <p>Cost of Arbitration</p> <p>The cost of arbitration shall be borne by the respective Parties. The cost shall, inter alia, include the fees of the Arbitrator(s).</p>
20.14 Jurisdiction of Courts(New Clause)		
20.14	New Clause 20.14	<p><u>Add a new sub clause : 20.14</u></p> <p>Jurisdiction of Courts</p> <p>Where recourse to a Court is to be made in respect of any matter, the court at Bombay High Court shall have the exclusive jurisdiction to try all disputes between the parties.</p>
20.15 Notice to Contractor(New Clause)		
20.15	New Clause 20.15	<p><u>Add a new sub clause : 20.15</u></p> <p>Notice to Contractor</p> <ol style="list-style-type: none"> All notices to the Contractor shall be served by post or telex or telefax or by hand to the Contractor or his authorized representatives. In case of notices delivered by post, they will be deemed to have been delivered after 7 days of dispatch.

General Conditions of Contract (FIDIC –Yellow-1999)		Particular Conditions of Contract (PCC)
PCC	GCC	
		b. The Contractor shall, on award of the Contract, furnish to the Employer/Engineer, the name, designation, address and telephone, telex and telefax numbers and e-mail address of his representative referred to in Clause 4.3.
20.16 Notice to Employer and Engineer(New Clause)		
20.16	New Clause 20.16	<p><u>Add a new sub clause : 20.16</u></p> <p>Notice to Employer and Engineer</p> <p>All notices to the Employer or Engineer shall be served by post or telex or telefax, or by delivering by hand to the address nominated for the purpose.</p>

Maha Metro



Tender Documents

**UGC-02: DESIGN AND CONSTRUCTION OF UNDERGROUND STATIONS AT
BUDHWAR PETH, MANDAI AND SWARGATE AND ASSOCIATED TUNNELS**

PART III – Conditions of Contract and Contract Forms

Section XII – Contract Forms

June 2018

Table of Forms

Notification of Award	2
Contract Agreement	3
Performance Security	4
Advance Payment Security	7
Retention Money Security	9
Form of Designer's Warranty	11
DELETED	14
Parent Company Undertaking	14
DELETED	18
Parent Company Guarantee	18
Contractor's Warranty	22
Sub-Contractor's / Vendor's Warranty	26
Indemnity Bond	30
Guarantee for Safe Custody	33

Notification of Award

LETTER OF ACCEPTANCE

[letterhead paper of the Employer]

[date]

To: *[name and address of the Contractor]*

This is to notify you that your Bid dated *[date]* for execution of the *[name of the Contract and identification number, as given in the Contract Data]* for the Accepted Contract Amount *[amount in numbers and words] [name of currency]*, as corrected and modified in accordance with the Instructions to Bidders, is hereby accepted by our institution.

You are requested to furnish the Performance Security within 28 days in accordance with the Conditions of Contract, using for that purpose one of the Performance Security Forms included in Section X – Contract Forms, of the Bidding Documents

Authorized Signature: _____

Name and Title of Signatory: _____

Name of institution: _____

Attachment: Contract Agreement

Contract Agreement

THIS AGREEMENT made the _____ day of _____, _____, between _____ of _____ (hereinafter “the Employer”), of the one part, and _____ of _____ (hereinafter “the Contractor”), of the other part:

WHEREAS the Employer desires that the Works known as _____ should be executed by the Contractor, and has accepted a Bid by the Contractor for the execution and completion of these Works and the remedying of any defects therein, in the sum of *[insert Contract Price or Ceiling in words and figures, expressed in the Contract currency(ies)]* (hereinafter called “the Contract Price”).

The Employer and the Contractor agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.

- (i) the Letter of Acceptance
- (ii) the Letter of Bid and Appendix to Bid (including the signed Statement of Integrity)
- (iii) the addenda Nos _____ (if any)
- (iv) the Particular Conditions
- (v) the General Conditions;
- (vi) the Technical Specifications
- (vii) the Drawings; and
- (viii) the completed Schedules and any other documents forming part of the contract,

3. In consideration of the payments to be made by the Employer to the Contractor as specified in this Agreement, the Contractor hereby covenants with the Employer to execute the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.

4. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of _____ on the day, month and year specified above.

Signed by _____ (for the Employer)

Signed by _____ (for the Contractor)

Performance Security

Option 1: (Demand Guarantee)

Beneficiary: _____

Date: _____

PERFORMANCE GUARANTEE No.: _____

Guarantor: _____

We have been informed that _____ (hereinafter called "the Applicant") has entered into Contract No. _____ dated _____ with the Beneficiary, for the execution of _____ (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____ (),¹ such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary's first demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the Day of, 2...², and any demand for payment under it must be received by us at this office indicated above on or before that date. This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

[signature(s)]

Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.

¹ The Guarantor shall insert an amount representing the percentage of the Accepted Contract Amount specified in the Letter of Acceptance, less provisional sums, if any, and denominated either in the currency(cies) of the Contract or a freely convertible currency acceptable to the Beneficiary.

² Insert the date twenty-eight days after the expected completion date as described in GC Clause 11.9. The Employer should note that in the event of an extension of this date for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

Option 2: Performance Bond

By this Bond _____ as Principal (hereinafter called “the Contractor”) and _____] as Surety (hereinafter called “the Surety”), are held and firmly bound unto _____] as Obligee (hereinafter called “the Employer”) in the amount of _____, for the payment of which sum well and truly to be made in the types and proportions of currencies in which the Contract Price is payable, the Contractor and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Contractor has entered into a written Agreement with the Employer dated the _____ day of _____, 20 ____, for _____ in accordance with the documents, plans, specifications, and amendments thereto, which to the extent herein provided for, are by reference made part hereof and are hereinafter referred to as the Contract.

NOW, THEREFORE, the Condition of this Obligation is such that, if the Contractor shall promptly and faithfully perform the said Contract (including any amendments thereto), then this obligation shall be null and void; otherwise, it shall remain in full force and effect. Whenever the Contractor shall be, and declared by the Employer to be, in default under the Contract, the Employer having performed the Employer’s obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

- (1) complete the Contract in accordance with its terms and conditions; or
- (2) obtain a Bid or bids from qualified Bidders for submission to the Employer for completing the Contract in accordance with its terms and conditions, and upon determination by the Employer and the Surety of the lowest responsive Bidder, arrange for a Contract between such Bidder and Employer and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the Balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term “Balance of the Contract Price,” as used in this paragraph, shall mean the total amount payable by Employer to Contractor under the Contract, less the amount properly paid by Employer to Contractor; or
- (3) pay the Employer the amount required by Employer to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond.

The Surety shall not be liable for a greater sum than the specified penalty of this Bond.

Any suit under this Bond must be instituted before the expiration of one year from the date of the issuing of the Taking-Over Certificate.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Employer named herein or the heirs, executors, administrators, successors, and assigns of the Employer.

In testimony whereof, the Contractor has hereunto set his hand and affixed his seal, and the Surety has caused these presents to be sealed with his corporate seal duly attested by the signature of his legal representative, this _____ day of _____ 20 ____.

SIGNED ON _____ on behalf of _____

By _____ in the capacity of _____

In the presence of _____

SIGNED ON _____ on behalf of _____

By _____ in the capacity of _____

In the presence of _____

Advance Payment Security

Demand Guarantee

Beneficiary: _____

Date: _____

ADVANCE PAYMENT GUARANTEE No.: _____

Guarantor: _____

We have been informed that _____ (hereinafter called "the Applicant") has entered into Contract No. _____ dated _____ with the Beneficiary, for the execution of _____ (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum _____ () is to be made against an advance payment guarantee.

At the request of the Applicant, we as Guarantor, waiving all objections and defences under the aforementioned contract, hereby irrevocably and independently undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____

(_____) 1 upon receipt by us of the Beneficiary's first demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant has failed to duly perform the aforementioned contract. has used the advance payment for purposes other than the costs of mobilization in respect of the Works; or

A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the advance payment referred to above has been credited to the Applicant on its account number _____ at _____.

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Applicant as specified in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, no later than _____ [date]. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency(ies) of

the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Employer

[signature(s)]

Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.

Retention Money Security

Demand Guarantee

_____ [Guarantor letterhead or SWIFT identifier code]

Beneficiary: _____ [Insert name and Address of Employer]

Date: _____ [Insert date of issue]

RETENTION MONEY GUARANTEE No.: _____ [Insert guarantee reference number]

Guarantor: [Insert name and address of place of issue, unless indicated in the letterhead]

We have been informed that _____ [insert name of Contractor, which in the case of a joint venture shall be the name of the joint venture] (hereinafter called "the Applicant") has entered into Contract No. _____ [insert reference number of the contract] dated _____ with the Beneficiary, for the execution of _____ [insert name of contract and brief description of Works] (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, the Beneficiary retains moneys up to the limit set forth in the Contract ("the Retention Money"), and that when the Taking-Over Certificate has been issued under the Contract and the first half of the Retention Money has been certified for payment, payment of [insert the second half of the Retention Money or if the amount guaranteed under the Performance Guarantee when the Taking-Over Certificate is issued is less than half of the Retention Money, the difference between half of the Retention Money and the amount guaranteed under the Performance Security] is to be made against a Retention Money guarantee.

At the request of the Applicant, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____ [insert amount in figures] (_____) [amount in words]¹ upon receipt by us of the Beneficiary's first demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in

¹ The Guarantor shall insert an amount representing the amount of the second half of the Retention Money or if the amount guaranteed under the Performance Guarantee when the Taking-Over Certificate is issued is less than half of the Retention Money, the difference between half of the Retention Money and the amount guaranteed under the Performance Security and denominated either in the currency(ies) of the second half of the Retention Money as specified in the Contract, or in a freely convertible currency acceptable to the Beneficiary.

breach of its obligation(s) under the Contract, without your needing to prove or show grounds for your demand or the sum specified therein.

A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the second half of the Retention Money as referred to above has been credited to the Applicant on its account number _____ at _____ [insert name and address of Applicant's bank].

This guarantee shall expire no later than the day of, 2...², and any demand for payment under it must be received by us at the office indicated above on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

² Insert the same expiry date as set forth in the performance security, representing the date twenty-eight days after the completion date described in GC Clause 11.9. The Employer should note that in the event of an extension of this date for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

Form of Designer's Warranty

(Refer. Sub - Clause 7.1 of the PC)

THIS AGREEMENT is made the day of

BETWEEN:

- (1) [] [whose registered office is at]/[of] [] ("the Designer"); and
- (2) The Maharashtra Metro Rail Corporation Limited (together with its successors and assigns, "the Employer") of
_____ [address].

WHEREAS:

- (a) By a contract _____ dated [] ("the Contract") made between (1) Maharashtra Metro Rail Corporation Limited ("the Employer") and (2) [] ("the Contractor"), the Contractor has agreed to design, execute, complete, test and commission (including Integrated Testing and Commissioning) and remedy any defect in the Works upon the terms and conditions contained in the Contract.
- (b) The Designer has had an opportunity of reading and noting the provisions of the Contract (other than details of the Contractor's prices and rates).
- (c) Pursuant to the Contract, the Contractor wishes to enter into an agreement with the Designer and Designer agrees to the wishes of the Contractor (the Consultancy agreement) to carry out the Contractor's obligations under the Contract in relation to the design and functions ascribed to the Designer in the Contract.
- (d) The Contract stipulates that the Contractor shall ensure that the Designer executes a warranty agreement in favour of the Employer.

NOW IT IS HEREBY AGREED as follows:

1. In consideration of the Employer not objecting to the Contractor and the Designer entering into the Consultancy Agreement, the Designer warrants and undertakes to the Employer that he has exercised and will continue to exercise all the skill and care to be expected of a professionally qualified and competent designer experienced in work of similar nature and scope as the Works in carrying out the design of the Works and in performing the other duties and functions ascribed to him in the Contract.
2. The Designer agrees that, in the event of the termination of the Contract by the Employer, the Designer will, if so required by notice in writing given by the Employer, except subject to Clause 4 the instructions of the Employer or his appointee to the exclusion of the Contractor in respect of the carrying out and completion of the Works upon the terms and conditions of the Consultancy Agreement.
3. The Designer further agrees that he will not, without first giving the Employer not less than 21 days' previous notice in writing, exercise any rights it may have to terminate the Consultancy Agreement or to treat the same as having been as repudiated by the Contractor or to discontinue the performance of any duties to be

- performed by the Designer pursuant thereto. The Designer's right to terminate the Consultancy Agreement or to treat the same as having been repudiated or to discontinue the performance thereof shall cease if, within such period of notice and subject to Clause 4, the Employer shall give notice in writing to the Designer requiring the Designer to accept the instructions of the Employer or his appointee to the exclusion of the Contractor in respect of the carrying out and completion of the Contract Works upon the terms and conditions of the Consultancy Agreement.
4. Any notice given by the Employer under Clause 2 or 3 shall state that the Employer or his appointee accepts liability for payment of the fees payable to the Designer under the Consultancy Agreement and for performance of the Contractor's obligations under the Consultancy Agreement, including payment of any fees outstanding at the date of such notice.
 5. The Employer shall be entitled to assign the benefit of this Warranty at any time without the consent of the Designer being required.
 6. All documents arising out of or in connection with this Warranty shall be served:
 - (1) upon the Employer at [] marked for the attention of [];
 - (2) upon the Designer at [].
 7. The Employer and the Designer may change their respective nominated addresses for service of documents to another address in India but only by prior written notice to each other. All demands and notices must be in writing.
 8. This Warranty shall be governed by and construed according to the laws for the time being in force in India.
 9. Except to the extent (if any) expressly permitted by the Consultancy Agreement, the Designer shall not sub-contract any of the Designer's obligations under the Consultancy Agreement without the prior written consent of the Employer's Representative.
 10. Without prejudice to its obligations under this Warranty, the Designer shall maintain with well established underwriters of repute and on terms and conditions reasonably acceptable to the Employer, professional indemnity insurance (as per sub-clause 18.1 of the General Conditions) in respect of the Designer and its sub-consultants for Indian Rupees (*in words..... Rupees*) in relation to his design of the Works for any one occurrence or series of occurrences arising out of any one event from the date of notification of acceptance until 5 years after the issue of Performance Certificate for the whole of works. The Designer shall immediately inform the Employer if for any reason professional indemnity insurance is not maintained in accordance with this Warranty or becomes void or unenforceable.
 11. Insofar as the patent, copyright or other intellectual property rights in any Design Data (as defined in the Contract), plans, calculations, drawings, documents, materials, computer software, know-how and information relating to the Works shall be vested in the Designer, the Designer grants to the Employer his successors and assigns a royalty-free, non-exclusive and irrevocable licence (carrying the right to grant sub-licences) to use and reproduce any of the works designs or inventions incorporated and referred to in such documents or materials and any such know-how and information for all purposes relating to the Works (including without limitation the design, construction, reconstruction, completion, reinstatement, extension,

repair and operation of the Works). To the extent beneficial ownership of any such patent, copyright or other intellectual property right is vested in anyone other than the Designer or the Contractor, the Designer shall use his best endeavours to procure that the beneficial owner thereof shall grant a like licence to the Employer. Any such licence granted shall not be determined if the Designer shall for any reason cease to be employed in connection with the Works.

12. (1) Any dispute or difference of any kind whatsoever between the Employer and the Designer arising under out of or in connection with this Warranty shall be referred to arbitration in accordance with Clause 20 of GC "Claims, Disputes and Arbitration" as defined in the Contract shall be deemed to include any such dispute or difference between the Employer and the Designer.
- (2) In the event that the Employer is of the opinion that the issues in such a dispute or difference will or may touch upon or concern a dispute or difference arising under out of or in connection with the Contract ("the Contract Dispute") then provided that an arbitrator has not already been appointed, the Employer may by notice in writing to the Designer require and the Designer shall be deemed to have consented to the referral of such dispute or difference to the arbitrator to whom the Contract Dispute has been or will be referred.
- (3) Save as expressly otherwise provided, the arbitrator shall have full power to open up, review and revise any decision, opinion, instruction, notice, order, direction, withholding of approval or consent, statement of objection, determination, certificate, assessment or valuation by the Employer's Representative or the Contractor, relating to the dispute or difference.

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

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

DELETED

Parent Company Undertaking

THIS UNDERTAKING is issued on the _____ day of _____

BY _____ [whose registered office is at] / [of] _____ ("the Parent Company").

In favour of Maharashtra Metro Rail Corporation Limited together with its successors and assigns, (the Employer"):

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

WHEREAS

(A) By a Contract for _____ in respect of Pune Metro Rail Project

Contract No: P1C-...../2017 ("the Contract") made between

(1) Pune Metro Rail Corporation Limited (the "Employer")

and

(2) _____ (the "Contractor") the Contractor has agreed to design, execute, complete and remedy any defects in the works ("the Works") upon the terms and conditions contained in the Contract.

(B) Pursuant to the terms of the Contract, the Contractor has agreed to procure the provision of an undertaking in the terms hereof.

(C) The Parent Company is the beneficial owner of ____ % [see Note 1] of the issued share capital of [the Contractor] [see Note 2].

(D) At the request of the Contractor, the Parent Company has agreed to provide this undertaking.

NOW IT IS HEREBY UNDERTAKEN AND AGREED as follows:

1. In consideration of the Employer entering into the Contract with the Contractor, the Parent Company hereby undertakes to the Employer that, without the written consent of

the Employer, it will not [and will ensure that none of the companies referred to in Recital (C) will] [see Note 5]:

- a. Sell, transfer, assign or otherwise dispose of or deal with ownership of the whole or any part of EITHER [the share holding or other interest in the [Contractor] [see Note 3] OR [the share holdings or other interests] [see Note 4] referred to in Recital (C) in any way which will affect the beneficial ownership and control in [the Contractor] [see Note 3] of the Parent Company [and the other companies referred to in Recital (C)] [see Note 5]; and
- b. take any action which may result in the Contractor being unable to comply with its obligations or perform in any way its duties under the Contract [or take any action which may result in [the Member forming part of the Contractor] [see Note 3] being unable to comply with its obligations or perform in any way its duties under the [Consortium or other relevant] agreement] [see Note 6]

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

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

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

3. This Undertaking shall extend to any variation of or amendment to the Contract and to any agreement supplemental thereto agreed between the Employer and the Contractor [and/or [_____]] [see Note 7] and for the avoidance of doubt the Parent Company hereby authorises the Employer and the Contractor [and/or [_____]] [see Note 7] to make any such amendment, variation or supplemental agreement.
4. All documents arising out of or in connection with this Undertaking shall be served:
 - a. upon the Employer, at _____ marked for the attention of _____;
 - b. upon the Parent Company, at _____
5. The Employer and the Parent Company may change their respective nominated addresses for service of documents to another address but only by prior written notice to each other. All demands and notices must be in writing.
6. This Undertaking shall be governed by and construed according to the laws for the time being in force in India and the Parent Company agrees to submit to the exclusive jurisdiction of the courts at Pune, Maharashtra, India.

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

Name:

Designation:

Date of Board resolution authorizing executant to execute this undertaking

Place:

Notes:

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

1. If the Parent Company is not the immediate parent company, the chain of ownership must be recited, identifying each company in the chain and the shareholdings or other interests in each subsidiary.
2. If the Contractor is a Consortium, that fact and the Consortium or other relevant agreement must be recited. In such case, insert the name of the Members of the Consortium in respect of which the parent company undertaking is being given. In such a case, the parent company of each of the Members is required to give the undertaking.
3. If Note 2 applies, refer to the Member relating to that Parent Company (which is giving this undertaking) and not the Contractor.
4. If Note 1 applies, use this alternative.
5. If Note 1 applies, add this provision.

6. If Note 2 applies, add this provision.
7. If Note 2 applies, add this provision and insert the name of the Member.
8. The notarized copy of the board resolution of the Parent Company must also accompany this Undertaking. In case the Parent Company is a foreign entity, then such board resolution should be notarized by a notary in its home country followed by the consularisation by the Indian Embassy there, or apostilised as per Hague Convention, as the case may be.

DELETED

Parent Company Guarantee

THIS GUARANTEE is made the _____ day of _____

BY _____ whose registered office is at _____ [and _____ whose registered office is at _____] ("the Guarantor").

To Maharashtra Metro Rail Corporation Limited together with its successors and assigns, "the Employer") of:

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

WHEREAS

(A) By a Contract for _____ of Pune Metro Rail Project

Contract No: _____ ("the Contract") made between

(1) Maharashtra Metro Rail Corporation Limited (the "Employer")

and

(2) _____ (the "Contractor") the Contractor has agreed to design, execute, complete and remedy any defects in the works ("the Works") upon the terms and conditions contained in the Contract.

(B) Pursuant to the terms of the Contract, the Contractor has agreed to procure the provision of a guarantee in the terms hereof. [see Note 1]

(C) At the request of the Contractor, the Guarantor has agreed to guarantee performance of the Contract by the [Contractor] [see Note 2] as set out herein.

IT IS HEREBY AGREED AS FOLLOWS:

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

than are imposed on the [Contractor] [see Note 2] in the Contract.

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

such claims shall be satisfied by the Contractor [and/or _____] [see Note 3] or the Guarantor as the case may be. To that intent the Guarantor shall not claim or have the benefit of any security which the Employer holds or may hold for any monies or liabilities due or incurred by the Contractor [and/or _____] [see Note 3] to the Employer and, in case the Guarantor receives any sum from the Contractor [and/or _____] [see Note 3] in respect of any payment by the Guarantor hereunder, the Guarantor shall hold such sum in trust for the Employer for so long as any sum is payable (contingently or otherwise) under this Guarantee.

6. The Employer shall be entitled to assign the benefit of this Guarantee at any time without the consent of the Guarantor or the [Contractor] [see Note 2] being required.
7. All documents arising out of or in connection with this Guarantee shall be served:
 - a. upon the Employer, at _____ marked for the attention of _____;
 - b. upon the Guarantor, at _____ India [see Note 5]
8. The Employer and the Guarantor may change their respective nominated addresses for service of documents to another address but only by prior written notice to each other. All demands and notices must be in writing.
9. This Guarantee shall be governed by and construed according to the laws for the time being in force in India and the Guarantor agrees to submit to the exclusive jurisdiction of the courts at Pune, Maharashtra, India.

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

.....

Name:

Designation:

Date of Board resolution authorizing executant to execute this undertaking

Place:

Notes:

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

1. If the Contractor is a Consortium, that fact and the Consortium or other relevant agreement and the relationship of the Guarantor to the concerned Members forming part of the Contractor must be recited.
2. If Note 1 applies, replace the word "Contractor" with name of the concerned Member of the Consortium being guaranteed.

3. If Note 1 applies, add additional wording and insert the name the concerned Member of the Consortium being guaranteed.
4. The notarized copy of the board resolution of the Guarantor must also accompany this Guarantee. In case the Guarantor is a foreign entity, then such board resolution should be notarized by a notary in its home country followed by the consularisation by the Indian Embassy there, or apostilised as per Hague Convention, as the case may be.
5. The address for service shall be in India.

Contractor's Warranty

THIS WARRANTY is made the _____ day of _____

BY _____ of _____ [and [see Note 1]] ([jointly] "the Contractor")

To Maharashtra Metro Rail Corporation Limited together with its successors and assigns, "the Employer") of:

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

WHEREAS

(A) By a Contract for _____ of Pune Metro Rail Project

Contract No: ("the Contract") made between

(1) Maharashtra Metro Rail Corporation Limited (the "Employer")

and

(2) _____ (the "Contractor"), the Contractor has agreed to design, execute, complete, test and commission (including Integrated Testing and Commissioning) and remedy any defects in the works ("the Works") upon the terms and conditions contained in the Contract.

(B) [See Note 3].

(C) At the request of the Employer and pursuant to the terms of the Contract the Contractor has agreed to provide this Warranty.

NOW IT IS AGREED AS FOLLOWS:

1. The Contractor hereby warrants and undertakes that:

- a. the Contractor will design, execute, complete, test and commission (including Integrated Testing and Commissioning) and remedy any defect in the Works in accordance with the terms of the Contract; and
- b. the Contractor owes a duty of care to the Employer in relation to the performance of its duties under the Contract; and

- c. the Contractor will rectify or replace free of cost to the Employer any defect or failure of equipment provided in the Works for a period of 24 months from the date of taking over of section of the Works; and
 - d. the Contractor agrees that should any modification be required to any part of the construction work as a consequence of failure analysis, the aforesaid period of 24 months shall re-commence from the date when the modified part is commissioned into service if the date of modification is later than the date of taking over of last trainset, and such modification shall be carried out free of cost to the Employer in all sections; and
 - e. the Contractor shall maintain the manufacture & supply of spares (including those of its Sub-Contractors / vendors) for the equipment supplied in the Contract-work for at least 5 years from the date of Completion of the Contract; and
 - f. the Contractor has exercised and will continue to exercise in the design of the Works all the skill and care to be expected of a professionally qualified and competent designer experienced in work of similar nature and scope as the Works; and
 - g. the Works will, when completed, comply in all respects with the Employer's Requirements, the Contractor's Technical Proposals, the final Design Document and the intended use of the Works; and
 - h. the Works has been or will be designed and manufactured to the highest standards available using internationally proven up-to-date good practice; and
 - i. the Works will, when completed, comply with enactments and regulations relevant to the Works; and
 - j. no Materials generally known to be deleterious or not in accordance with good engineering practice have been or will be specified or selected or incorporated in the Works by the Contractor.
2. The liability of [the companies comprising [see Note 3]] the Contractor under this Warranty [shall be joint and several and [see Note 3]] shall not be released, diminished or in any way affected by any independent inquiry or investigation into the Works or any matter related to the Contract whether carried out by or on behalf of the Employer or any liability or right of action which may arise out of such inquiry or investigation.
3. Insofar as the copyright or other intellectual property rights in any plans, calculations, drawings, documents, materials, plant, know-how and other information relating to the Works shall be vested in [the Contractor] [see Note 5], the [Contractor] [see Note 5] grants to the Employer its successors and assigns a royalty free, non-exclusive and irrevocable licence (carrying the right to grant sub-licences) to use and reproduce any of

the works designs, inventions or other information incorporated and referred to in such documents or materials and any such know-how and information for all purposes relating to the Works of the Pune Metro Rail Project including without limitation the design, manufacture, installation, completion, testing and commissioning (including Integrated Testing and Commissioning) reinstatement, extension and the remedy of any defect in the Works. To the extent that beneficial ownership of any such copyright or other intellectual property rights is vested in anyone other than the [Contractor] [see Note 5], the [Contractor] [see Note 5], shall use best endeavours to procure that the beneficial owner thereof shall grant a like licence to the Employer. For the avoidance of doubt, any such licence granted shall not be determined if the [Contractor] [see Note 5], shall for any reason cease to be employed in connection with the Works.

4. The provisions of this Warranty shall be without prejudice to and shall not be deemed or construed so as to limit or exclude any rights or remedies which the Employer may have against the Contractor, whether in tort or otherwise.
5. Nothing contained in this Warranty shall vary or affect the Contractor's rights and obligations under the Contract.
6. The address for service of all documents arising out of or in connection with this Warranty shall be:

a. Upon the Employer at:

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

b. Upon the Contractor at _____ India. [Note 4]

7. The Employer and the Contractor may change their respective nominated addresses to another address in India but only by prior written notice to each other. All notices must be in writing.
8. This Warranty shall be governed by and construed according to the laws for the time being in force in India.
9.
 - (1) Any dispute or difference of any kind whatsoever between the Employer and the Contractor arising under out of or in connection with this Warranty shall be referred to arbitration in accordance with the provisions relating to 'Conciliation and Arbitration' as set out in the General Conditions of Contract. "Dispute" as defined in the Contract shall be deemed to include any such dispute or difference between the Employer and Contractor.
 - (2) In the event that the Employer is of the opinion that the issues in such a dispute or

difference will or may touch upon or concern a dispute or difference arising under out of or in connection with the Contract ("the Contract Dispute") then provided that an arbitrator has not already been appointed pursuant to Clause 9(1), the Employer may by notice in writing to the Contractor require and the Contractor shall be deemed to have consented to the referral of such dispute or difference to the arbitrator to whom the Contract Dispute has been or will be referred.

(3) Save as expressly otherwise provided, the arbitrator shall have full power to open up, review and revise any decision, opinion, instruction, notice, order, direction, withholding of approval or consent, determination, certificate, statement of objections relating to the dispute.

(4) Subject to the foregoing provisions of this clause 9, the Employer and the Contractor agree to submit to the exclusive jurisdiction of the Courts of India at Pune.

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

.....

Name:

Designation:

Date of Board resolution authorizing executant to execute this undertaking

Place:

Notes:

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

1. If the Contractor is a Consortium,, each Member of such Consortium shall be a party and liability under this warranty will be joint and several, with consequential grammatical changes.
2. If Note 1 applies, that fact and the Consortium or other relevant agreement must be recited.
3. Delete if Note 1 does not apply.
4. The address for service shall be in India.
5. If Note 1 applies, then insert the name of each Member.

Sub-Contractor's / Vendor's Warranty

(As applicable)

THIS WARRANTY is made the _____ day of _____

BY _____ [whose registered office is at] / [of] _____ ("the Sub-contractor") and

To Maharashtra Metro Rail Corporation Limited together with its successors and assigns, "the Employer") of:

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

WHEREAS

(A) By a Contract for _____ of Pune Metro Rail Project

Contract No: ("the Contract") made between

(1) Maharashtra Metro Rail Corporation Limited (the "Employer")

and

(2) _____ (the "Contractor"), the Contractor has agreed to _____ and remedy any defects in the works ("the Works") upon the terms and conditions contained in the Contract.

(B) The Sub-contractor / vendor has had an opportunity of reading and noting the provisions of the Contract (other than details of the Contractor's prices and rates).

(C) Pursuant to the Contract, the Contractor wishes to enter into an agreement ("the Sub-contract") with the Sub-contractor / Vendor to carry out and complete a part of the Works as more particularly described in the Sub-contract ("the Sub-contract Works").

(D) The Contract stipulates that the Contractor shall obtain the consent of the Engineer before entering into the Sub-contract, and that the Contractor shall procure that the Sub-contractor executes a warranty in favour of the Employer.

NOW IT IS HEREBY AGREED as follows:

1. In consideration of the Engineer consenting to the Contractor and the Sub-contractor / Vendor entering into the Sub-contract, the Sub-contractor warrants and undertakes to

the Employer that:

- a. he will execute and complete the sub-contracted Works / supply, and will carry out each and all of the obligations, duties and undertakings of the Sub-contractor / Vendor under the Sub-contract when and if such obligations, duties and undertakings shall become due and performable, in accordance with the terms of the Sub-contract (as the same may from time to time be varied or amended with the consent of the Employer); and
 - b. he will supply to the Contractor and in specific cases wherever required to the Engineer with all information as may be required from time to time in relation to progress of the Sub-contract Works.
2. The Sub-contractor / Vendor undertakes to indemnify the Employer against each and every liability which the Employer may have to any person whatsoever and against any claims, demands, proceedings, loss, damages, costs and expenses sustained, incurred or payable by the Employer provided that the Sub-contractor / Vendor shall have no greater liability to the Employer by virtue of this Warranty than the liability of the Contractor to the Employer under the Contract insofar as and to the extent that the same has arisen by reason of the execution of the Sub-Contract or any breach by the Sub-contractor / Vendor of his obligations under the Sub-contract.
3. No allowance/extension of time by the Employer hereunder or by the Contractor under the Sub-contract nor any forbearance or forgiveness in or in respect of any matter or thing concerning this Warranty or the Sub-contract on the part of the Employer or the Contractor, nor anything that the Employer or the Contractor may do or omit or neglect to do, shall in any way release the Sub-contractor / Vendor from any liability under this Warranty.
4. The Sub-contractor / Vendor agrees that he will not without first giving the Employer not less than 21 day's prior notice in writing exercise any right he may have to terminate the Sub-contract or treat the same as having been repudiated by the Contractor or withhold performance of its obligations under the Sub-contract.
5.
 - (1) In the event that the Contract or the employment of the Contractor under the Contract is terminated for any reason whatsoever and if so requested by the Employer in writing within 21 days of such termination, the Sub-contractor / Vendor shall carry out and complete his obligations under this Warranty and shall enter into a novation agreement with the Employer and the Contractor in which the Sub-contractor will undertake inter alia to perform the Sub-contract and be bound by its terms and conditions as if the Employer had originally been named as a contracting party in place of the Contractor. The said novation agreement will be in such form as the Employer may reasonably require.
 - (2) In the event that the Employer does not require the Sub-contractor / Vendor to enter

into a novation agreement as required by Sub-clause 5 (1), the Sub-contractor shall have no claim whatsoever against the Employer for any damage, loss or expense howsoever arising out of or in connection with this Warranty.

6. Insofar as the copyright or other intellectual property rights, in any plans, calculations, drawings, documents, materials, know-how and information relating to the Sub-contract Works shall be vested in the Sub-contractor / Vendor, the Sub-contractor / Vendor grants to the Employer, his successors and assignees a royalty free, non-exclusive and irrevocable licence (carrying the right to grant sub-licences) to use and reproduce any of the works designs, inventions or other information incorporated and referred to in such documents or materials and any such know-how and information for all purposes relating to the Works of the Pune Metro Rail Project, without limitation the design of enabling facilities, construction, installation, reconstruction, completion, reinstatement, extension, remedy of any defect of the Works. To the extent beneficial ownership of any such copyright or other intellectual property right is vested in anyone other than the Sub-contractor / Vendor, the Sub-contractor shall use best endeavours to procure that the beneficial owner thereof shall grant a like licence to the Employer. For the avoidance of doubt, any such licence granted shall not be determined if the Sub-contractor / Vendor shall for any reason cease to be employed in connection with the Sub-contract Works.
7. In the event of any ambiguity or conflict between the terms of the Sub-contract and this Warranty, the terms of this Warranty shall prevail.
8. The provisions of this Warranty shall be without prejudice to and shall not be deemed or construed so as to limit or exclude any rights or remedies which the Employer may have against the Sub-contractor / Vendor whether in tort or otherwise.
9. Nothing contained in this Warranty shall vary or affect the Sub-contractor's / Vendor's rights and obligations under the Sub-contract.
10. The Employer shall be entitled to assign the benefit of this Warranty at any time without the consent of the Sub-contractor / Vendor being required.
11. All documents arising out of or in connection with this Warranty shall be served:
 - a. Upon the Employer at:
.....
.....
 - b. Upon the Sub-Contractor / Vendor at _____ India.
12. The Employer and the Sub-contractor / Vendor may change their respective nominated addresses for service of documents to another address in India but only by prior written notice to each other. All demands and notices must be in writing.

13. This Warranty shall be governed by and construed according to the laws for the time being in force in India.

14.

- (1) Any dispute or difference of any kind whatsoever between the Employer and the Sub-contractor / Vendor arising under out of or in connection with this Warranty shall be referred to arbitration in accordance with the arbitration provisions as described in the Contract.
- (2) In the event that the Employer is of the opinion that the issues in such a dispute or difference will or may touch upon or concern a dispute or difference arising under out of or in connection with the Contract ("the Contract Dispute") then provided that an arbitrator has not already been appointed pursuant to Clause 14 (1), the Employer may by notice in writing to the Sub-contractor / Vendor require and the Sub-contractor / Vendor shall be deemed to have consented to the referral of such dispute or difference to the arbitrator to whom the Contract Dispute has been or will be referred.
- (3) Save as expressly otherwise provided, the arbitrator shall have full power to open up, review and revise any decision, opinion, instruction, notice, order, direction, withholding of approval or consent, determination, certificate, statement of objection, assessment or valuation by the Engineer or the Contractor relating to the dispute or difference.
- (4) Subject to the foregoing provisions of this clause 14, the Sub-Contractor agrees to submit to the exclusive jurisdiction of the Courts at Pune, Maharashtra.

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

.....

Name:

Designation:

Date of Board resolution authorizing executant to execute this undertaking

Place:

Note: The notarized copy of the board resolution of the Sub-Contractor/vendor must also accompany this Warranty. In case the Sub-Contractor/vendor is a foreign entity, then such board resolution should be notarized by a notary in its home country followed by the consularisation by the Indian Embassy there, or apostilised as per Hague Convention, as the case may be.

Indemnity Bond

THIS INDENTURE made onbetween(hereinafter called the Contractor) which expression shall where the context do admits or implies be deemed to include its executors, administrators and assigns of the one part and the Maharashtra Metro Rail Corporation Ltd. (hereinafter called Maha-Metro) of the other part.

WHEREAS by the agreement (LOA No dated.....) (hereinafter called the said agreement) the contractor has agreed to “-----” and whereas the contractor has applied to the Maha-Metro that they may be allowed advance on the security of materials absolutely belonging to them and brought by them to the site of the works covered under the project of the said agreement for use in the construction of such of the work as they have under taken to execute at rates fixed for the finished work (inclusive of the cost of materials and labour and other charges).

AND WHEREAS the Maha-Metro has agreed to make stage payment to the contractor the total sum of Rs.----- (Rupees -----only) for stage payment Bill. The quantities and other particulars of which are detailed in this bill for the said works signed by the Contractor on “-----” and Maha-Metro has reserved to itself option of making any further advances till date on the security of other materials brought by the contractor to site of the said work.

NOW THIS INDENTURE WITNESS that in pursuance of the said agreement and its consideration of the sum of Rs. ----- (Rupees -----only) on or before the execution of these present amount paid to the contractor by the Maha-Metro (the receipt where of the contractor) both hereby acknowledge and of such further Stage payment, if any, as may be made to him so aforesaid to the contractor do the covenant and agreed with the Maha-Metro and declare as follows:

1. That the said sum of Rs. ----- (Rupees ----- only) so Stage Payment by the Maha-Metro to the contractors as aforesaid and all or any further sum or sum's advanced as aforesaid shall be employed by the contractor in or towards the execution of the said works and for no other purpose whatsoever.
2. That the Stage Payment detailed in the said running account bill which have been offered to and accepted by the Maha-Metro as security are absolutely the contractor's own property and free from encumbrances of any kind and the contractor's shall not make any application for or receive any further payments on the security of work executed which are not absolutely his own property and free from encumbrances of any kind the Contractor indemnifies the Maha-Metro against all claims on any materials in respect of which any Stage Payment has been made to him as aforesaid.

3. That the Stage Payment detailed in the said running account bill and all other stage payments on the security of which further payments or Stage Payment any hereafter be made as aforesaid (hereinafter called the said materials) shall be used by the contractor solely in the execution of the said works in accordance with the directions of the Engineer / Maha-Metro and in the terms of the said agreement.
4. That the contractor shall be fully liable for the materials/components and shall make at his own cost all necessary and adequate arrangement for the proper watch, safe custody and protection against all risks including, acts of the God of the said materials/components and provide on approved insurance in favour of Maha-Metro that until used in construction as aforesaid the said materials shall remain at the site of said works in the contractor's custody and on his own responsibility and shall at the time be open to inspection by the Engineer/ Maha-Metro. This insurance will be valid for a period until this material is approved and fixed in the building or advance has been fully recovered from contractor.
5. That the said materials/components shall not on any account be removed/shifted from the site of the works except with the written permission of the Engineer/ Maha-Metro.
6. That issue of any Stage Payment excess of what is finally required to be used at site would be the contractor's property without any liability on Maha-Metro, who would recover the cost of this from the contractor.
7. That the contractor hereby charges all the said materials components with the repayment to the Maha-Metro of the said sum of Rs. ----- (Rupees ---- ----- only) and any further sum or sums advanced as aforesaid and all cost charges. Damages and expenses payable under these presents provided always and it is hereby agreed and declared that not with power contained therein, if any, whenever the convenient for payment, and repayment herein before contained shall become enforceable and the money owned shall not be paid in accordance therewith, the Maha-Metro, may at any time thereafter adopt all or any of the following courses as he may deem best.
 - a. That if the contractor shall at any time not be able to complete any part of the Component / equipment as per provision in contract Agreement it shall be considered as the work being left incomplete by the contractor and action as per the conditions of the contract shall be taken.

- b. Deduct all or any of the money owing out of the performance security or any sum due to the contractor under the said agreement.

That in the event of any conflict between the provisions of these presents and the said agreement the provisions of these presents shall prevail.

This widening shall be co-extensive to the agreement dated between Maharashtra Metro Rail Corporation Limited, _____. (Client) and(Contractor).

IN WITNESS where of the said contractor and by the order under the direction of Maha-Metro has here set their respective hands the day and years first above written.

Signed, Sealed & Delivered by the said Contractor:

IN THE PRESENCE OF: WITNESS:

1. NAME: Signature:

SIGNED BY (ADDRESS)

BY THE ORDER AND DIRECTION OF THE Maha-Metro IN THE PRESENCE OF:

SIGNATURE: WITNESS

(NAME AND ADDRESS)

Guarantee for Safe Custody

(To be stamped in accordance with Stamp Act, of the country of issuing bank)

To:

MAHARASHTRA METRO RAIL CORPORATION LIMITED,

WHEREAS – the Consortium/ Joint venture consisting of:

(Name of Lead Member of the Group and address)

(Name of Member of the Group and address)

(Name of Member of the Group and address)

(hereinafter called “the Contractor”), with M/s----- as the lead member has undertaken, in pursuance of Contract No. [] datedfor [Note 4] (hereinafter called “the Contract”), AND WHEREAS according to the said Contract the Employer is obliged to pay to the Contractor the sum of [] ([]) (“the Payment on delivery”) as set out in the priced Bill of Quantities.

(A) Pursuant to the said activities, [Note 4] are to be manufactured offshore or in India for subsequent delivery to the Contractor’s premises in Pune, India and held in safe custody by the Contractor.

(B) Pursuant to the terms of the Contract, the Contractor, as a condition precedent to his entitlement to receive any payment for items including an element of [Note 4] Contract [] to the Contractor’s premises in Pune, is obliged to provide a Guarantee in the terms hereof for 95 percent of the Payment.

AND WHEREAS we (Insert name and address of scheduled commercial bank based in India) have agreed to give the Contractor such a Bank Guarantee:

NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Contractor up to a total of ----- (amount of Guarantee)----- (in words), such sum being payable in the types and proportion of currencies in which the Contract Price is payable and we hereby unconditionally, irrevocably and without demur undertake to immediately pay you, upon your first written demand and without cavil or argument any sum or sums within the limits of ----- (amount of guarantee) as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

1. We hereby waive the necessity of your demanding the said debt from the Contractor before presenting us with the demand.

2. We further agree that no change or addition to or other modification of the terms of the contract or of the Works to be performed there under or of any of the contract documents which may be made between you and the Contractor shall in any way release us from any liability under the guarantee and we hereby waive notice of any such change, addition or modification.
3. The Bank shall pay to the Employer the amount thus demanded without requiring further evidence or proof of:
 - a. the default of the Contractor; or
 - b. the Employer's entitlement to terminate the Contract or the employment of the Contractor under the Contract; or
 - c. any termination of the Contract or the employment of the Contractor under the contract; or
 - d. of the amount due and payable under this bank Guarantee.
4. The liability of the Bank under this Guarantee shall remain in full force and effect and shall not be affected or discharged in any way by and the Bank hereby waives notice of:
 - a. any suspension of the Works, variation to or amendment of the Contract (including without limitation extension of time for performance or adjustment to the Tender Total or other payment under the Contract) or any concession or waiver by the Employer in respect of the Contractor's obligations under the Contract;
 - b. the termination of the Contract or of the employment of the Contractor under the Contract solely as a result of default by the Contractor under the Contract;
 - c. any forbearance or waiver of any right of action or remedy the Employer may have against the Contractor or negligence by the Employer in enforcing any such right of action or remedy;
 - d. any other security or guarantee held or obtained by the Employer for any of the obligations of the Contractor under the Contract or any release or waiver thereof;
 - e. any act or omission of the Contractor pursuant to any other arrangement with the Surety.
5. The liability of the Bank under this Guarantee shall cease on whichever of the following events first occurs:
 - a. payment by the Bank of the Guaranteed Sum in full to the Employer; or
 - b. receipt of written notification from the Employer that the[Note 4] have been installed and tested to the satisfaction of the Employer.

6. Until the Maha-Metro has issued an instruction to the Bank to the effect that this Guarantee can be released, the Bank undertakes to extend the validity under the same conditions for successive periods of six (6) calendar months at a time and to forward the appropriate extension sheets to the Maha-Metro.

SIGNATURE AND SEAL OF THE GUARANTOR

NAME OF THE BANK-----

ADDRESS-----

DATE-----

Notes:

1. The stamp papers of appropriate value shall be purchased in the name of the Bank, who issues the 'Bank Guarantee'.
2. The Bank Guarantee shall be from a scheduled commercial bank based in India, acceptable to the Employer.
3. The amount payable under this Guarantee shall be 95 percent of the aggregate of the installments of the Payment made to the Contractor prior to the date of the written demand referred to above less the aggregate of any sums in respect of items installed, tested and certified by the Employer's Representative (as defined in the Contract) in accordance with the terms of the Contract.
4. Enter name of the Contract.