

**INLAND WATERWAYS AUTHORITY OF INDIA**  
**5<sup>th</sup> floor, Bismaun Bhawan,**  
**PATNA-800 001.**

**NOTICE INVITING TENDER**

No-12-IWAI/Engg/P(26)/08-09

Dated 09-07-2009

Sealed tender are invited from reputed and experienced ship repairers and Marine contractors for the repair of various vessels / dredgers as mentioned below:

S. N	Name of vessels / dredgers	Schedule	Type of repair	Completion Period	Estimated cost (in Lakh)	Earnest Money (in Rs.)	Place of work
1	CSD Mahananda	A-1	Dry Dock	60 days	2.99	7475.00	Patna/Kolkata
2	CSD Yamuna	A-2	Afloat	30 days	1.95	4875.00	Patna
3	HSD Sone	A-3	Afloat	30 days	3.27	8175.00	Patna

Tender documents can be obtained from the office of the Director, IWAI, Bismaun Bhawan, 5<sup>th</sup> Floor, Patna -1 on any working day from 10/07/2009 to 20/07/2009 Price of tender documents for each vessels / dredgers is Rs. 500/- payable in the form of D.D (non-refundable) drawn from any nationalized bank in R/o "IWAI, FUND" payable at Patna. The firm may inspect the vessels / dredgers before submitting the tender at their respective location from 10.00 A.M to 5.00 P.M.

The tender document can also be downloaded from the IWAI's website "[www.iwai.nic.in](http://www.iwai.nic.in)". Bidder submitting the downloaded version of tender document are required to submit Rs. 500/- (Rupees Five hundred only) i.e. an amount equal to the cost of tender document along with tender in the form of non refundable demand draft made in favour of 'IWAI fund' payable at Patna at any nationalized/ schedule bank. A signed declaration stating that no alteration has been made in any form in the downloaded tender document is to be enclosed with the tender by the bidder for downloaded tenders.

Tender complete in all respect must reach IWAI, Patna latest by 1500 hrs on 22/07/2009 which shall be opened on 22/07/2009 at 1600 hrs

For further details please contact IWAI office between 10:00 AM to 5:00 PM or visit website at '[www.iwai.nic.in](http://www.iwai.nic.in)'.

**2. FOR SPECIAL ATTENTION**

- (A) ALL TENDERERS ARE CAUTIONED THAT TENDERS CONTAINING ANY DEVIATIONS WHATSOEVER FROM THE TERMS AND CONDITIONS, SPECIFICATIONS AS CONTAINED IN THE TENDER DOCUMENTS ARE LIABLE TO BE REJECTED AS NON RESPONSIVE.
- (B) THE TENDERERS ARE REQUIRED TO SUBMIT THE DETAILS OF THEIR EXPERIENCES ON THE REPAIR WORK / CONSTRUCTION WORK ETC. AND THE FACILITIES, PLANT, EQUIPMENT AND MACHINERY ALONG WITH TECHNICAL PERSONS EMPLOYED AS WELL AS FINANCIAL CONDITIONS ETC.
- (C) ACCORDINGLY TENDERS ARE TO BE SUBMITTED IN TWO PARTS. FIRST PART I.E. "TECHNICAL BID" SHOULD CONTAIN DETAILS AS IN (B) AS WELL AS DETAIL WORK SCHEDULE, BAR CHART, EARNEST MONEY DEPOSIT ETC. SECOND PART I.E. "FINANCIAL BID" SHALL CONTAIN ONLY THE RATES OF THE ITEM OF WORKS AS IN SCHEDULE A. THESE TWO BIDS SHALL BE SUBMITTED IN TWO SEPARATE SEALED COVERS SUPERSCRIBING AS "TECHNICAL BID" AND "FINANCIAL BID". FINANCIAL BID SHALL BE

UNCONDITIONAL AND ANY FINANCIAL BID IF SUBMITTED WITH ANY CONDITIONS SHALL REJECTED

**3. SUBMISSION OF TENDERS**

Sealed tenders as described above and as in the tender form and Bill of quantity etc. may be submitted to Director, Inland Waterways Authority of India, 5<sup>th</sup> Floor, Biscomaun Bhawan, West Gandhi Maidan, Patna-800 001 at his office on 22-07-2009 at 15:00 hrs or before.

4. Tender received late on account of any reason whatsoever and telegraphic tenders will not be entertained.
5. Earnest Money Deposit shall accompany each tender technical bid and the tender not accompanied by the earnest money deposit shall be rejected as NON RESPONSIVE. Separate EMD shall be submitted for work in each bill of quantity proposed to be bidder.

**6. OPENING OF TENDERS AND EVALUATION**

- i) Tenders will be opened by the Director, IWAI, Patna at his office, 5<sup>th</sup> Floor, Biscomaun Bhawan, Patna-800 001 at 16:00 hrs. on 22-07-09 in the presence of representatives of the tenderers who choose to remain present.
- ii) After the opening of tenders, the first part i.e. Technical bid will be evaluated by the Tender Evaluation Committee constituted by this Authority. The second part i.e. Financial bid will be opened on a suitable date by the same T.E.C. only for those tenderers who become technically qualified after the evaluation of technical bids.

**7. TENDER VALIDITY PERIOD**

The tender shall be valid for a period of not less than 90 days after the date of opening of tenders.

**8. CLARIFICATION AND PERSONS TO CONTACT**

Tenderers must read "Information and Instruction for Tenders" and inspect the vessels, Dredgers, Launches, or any thing if considered necessary before the submission of the tenders. In case of any discrepancy, clarifications and for any further information on the tender, Director, Inland Waterways Authority of India, 5<sup>th</sup> Floor, Biscomaun Bhawan, Patna-800 001 (Phone 0612-2230442, 2230789, 2624703 and 2235225) or Director IWAI. P-78, Garden Reach Road, Kolkata – 43 may be contacted.

9. The Authority shall have the right of rejecting all or any of the tenders and will not be bound to accept the lowest or any other or to give any reason for such decision. The authority shall also have the right to award work is any or all the scheduled (BOQ) or part of works in any schedule at its description.

**Director  
Inland Waterways Authority of India  
PATNA.**

TENDER FORMS AND SCHEDULES

TENDER FORM

To

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**I/We have read and examined the following tender documents relating to the**

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Notice Inviting Tender 2 pages.

Information and instruction for tenders 4 pages.

Warranty 2 pages.

Schedule A (Bill of Quantity) B and C.

General conditions of contract 35 pages.

Special and technical conditions 4 pages.

Contract agreement form 2 pages.

I/We hereby tender for execution of the works referred to in the documents mentioned in paragraph 1 above upon the terms and conditions contained or referred to in the aforesaid documents and in accordance with the specification, designs, drawings and other details given therein and at the rates contained in Schedule 'A1 – A3' and within the period (s) of completion of work and subject to such terms and conditions as stipulated in clause 34.

3. I/We agree to keep this tender open for acceptance for 90 days from the date of opening thereof and also agree not to make any modifications in its terms and conditions on our own accord.
4. A sum of Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_) is hereby forwarded in form of Demand Draft of a Nationalised / Schedule Band as Earnest Money. A demand draft (s) for Rs. .... each is also forwarded herewith towards cost of tender document. I/We fail to keep the validity of tender open, as aforesaid, or I/We make any modifications in the terms and conditions of my/our. Tender on our own accord and / or after the acceptance of our tender if I/We fail to commence the execution of the works as provided in the documents referred to in paragraph 1 above. I/We shall become liable for forfeiture of my / our earnest money, as aforesaid, and the Authority shall without prejudice to any other rights or remedy, be at liberty to forfeit said earnest money absolutely.

- 5. Should this tender be accepted. I/We agree to abide by and fulfill all the terms and conditions and provisions of the above mentioned tender documents.
- 6. I/We certify that the tender submitted by me / us is strictly in accordance with terms, conditions, specifications etc. as contained in your tender documents referred to in paragraph 1 above, and it is further certified that it does not contain any deviations to the aforesaid documents.

Signature alongwith seal of company

\_\_\_\_\_

(Duly authorized to sign the tender on behalf of the contractor)

Name \_\_\_\_\_

Witness \_\_\_\_\_

Designation \_\_\_\_\_

Signature \_\_\_\_\_

Name of Company \_\_\_\_\_

\_\_\_\_\_

(IN BLOCK LETTERS)

Date: \_\_\_\_\_

Name & Address \_\_\_\_\_

\_\_\_\_\_ Postal Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ Telegraphic Address \_\_\_\_\_

\_\_\_\_\_ Telephone No. \_\_\_\_\_

Fax No. \_\_\_\_\_

## INFORMATION AND INSTRUCTIONS FOR TENDERERS

1. The Details of work to be carried out and its scope are given in the “Technical Specifications” of these documents which also indicate a brief description of the work to be executed. The Tenderers are advised to study the same carefully before tendering and they shall be deemed to have fully acquainted themselves with the same.
- 2.1 The tenders, in their own interest, are also advised to inspect and examine the site / vessel and its surrounding and satisfy themselves, before submitting their tenders. In respect of the site conditions including but not restricting to the following which may influence or effect the work or cost thereof under the contract.
  - a) Site conditions including access to the site, existing and required roads and other means of transport / communication for use by him in connection with the work.
  - b) Requirement and availability of land and other facilities for his enabling works, colonies, stores and workshops etc.
  - c) Ground conditions including those bearing upon transportation, disposal, handling and storage of materials required for the work or obtained therefrom;
  - d) Source of extent of availability of suitable materials including water etc. and labour (skilled and unskilled), required for work and Laws and Regulations governing their use and employment:
  - e) Geological, meteorological, topographical, hydrological, morphological and other general features of the site and its surroundings as are pertaining to and needed for the performance of the work.
  - f) The type of equipment and facilities needed, preliminary to for and in the performance of the work and;
  - g) All other information pertaining to and needed for the work including information as to the risks, contingencies and other circumstances which may influence or affect the work or the cost thereof under this contract.
- 2.2 The tenderers should note that information, if any in regard to the vessel site and local conditions as contained in these tender documents except for the material agreed to be supplied by the Authority. It has been given merely to assist the tenderers and is not warranted to be complete.
- 2.3 The tenderers should note and bear in mind that the Authority shall bear no responsibility for the lack of acquaintance of the site vessel, it’s machineries, systems etc. and other conditions or any information relating thereto, on their part. The consequence of the lack of any knowledge, aforesaid, on the part of the tenderers shall be at their risk and cost and no charges or claims whatsoever consequent upon the lack of any information, knowledge or understanding shall be entertained or payable by the Authority.

3. Immediately upon receipt of the Tender documents from the Authority, all the tenderers are urged to submit a written request at least two days prior to the date fixed for pre bid conference to the Engineer-in-charge issuing the tender enquiry, on matters where clarifications or additional information is desired.
4. The tender should be submitted in the prescribed form and the same should be signed in all pages and in all copies properly as laid down hereunder:-
  - a) If the tender is submitted by an individual, it shall be signed by the proprietor with his full name and full name of his firm with its current business address.
  - b) If the tender is submitted by a proprietary firm, it shall be signed by the proprietor with his full name and full name of his firm with its current business address.
  - c) If the tender is submitted by a firm in partnership, it shall be signed by all the partners of the firm with their full names and current business addresses, or by a partner holding the power of attorney for the firm by signing the tender in which case a certified copy of the power of attorney shall accompany the tender. A certified copy of the partnership deed and current business address of all the partners of the firm shall also accompany the tender.
  - d) If the tender is submitted by a limited company or limited corporation, it shall be signed by a duly authorised person holding the power of attorney for signing the tender in which case a certified copy of the power of attorney shall accompany the tender. Such limited company or corporation may be required to furnish satisfactory evidence of its existence before the contract is awarded.
  - e) If the tender is submitted by a group of firms, the sponsoring firm shall submit complete information pertaining to each firm in the group and state alongwith the bid as to which of the firms shall have the responsibility for tendering and for completion of the contract documents and furnish evidence admissible in law in respect of the authority assigned to such firm on behalf of the group of firms for tendering and for completion of the contract documents. The full information and satisfactory evidence pertaining to the participation of each member of the group of firms in the tender shall be furnished alongwith the tender.
  - f) All witness and sureties shall be persons of status and their full names, occupations and address shall be stated below their signature. All signature affixed on each page in the tender will be dated.
  - g) A tenderer or tenderers who himself / themselves has / have tendered or who may and has / have tendered for the same works shall not be a witness. Failure to observe this condition shall render the tender of the tenderer tendering as well as of those witnessing the tender liable to rejection.

5. The tenderer shall furnish with his tender : -
  - a) The details of construction plant, equipments and machinery / infrastructure, docking / blocking facilities, workshop facility and its planning schedule in the form of Barchat as required and available vide schedule 'C' of the tender document.
  - b) Detail of technical and supervisory personnel already employed by tenderer which he proposes to utilize for this work and such other personnel which he proposes to employ further for this work.
  - c) Relevant information on the capacity; financial resources and experience about himself.
  
6. a.) Earnest money (Separate demand draft for works in each schedule) purposed to be bidder must accompany the tender. This deposit shall be in favour of Inland Waterways Authority of India, fund in the shape of: -
  - i) A demand draft on any Nationalised bank or scheduled bank of India, payable at PATNA.
  - b. Tenders not accompanied by Earnest Money deposit (s) shall be rejected. If during the tender validity period, the tenderer withdraws his tender the earnest money deposit shall be forfeited.
  - c. The Earnest Money Deposit will be Refunded to the unsuccessful tenderers.
  - d. Interest will not be paid on Earnest Money Deposited.
  
7. The rate shall be written both in words and in figures. Tenderer shall also show the total of each item, the total of each schedule and the Grand total of whole contract corrections, if any, shall be made by crossing out, initialising dating and rewriting. In case of conflict between the figures and words in the rates, the latter shall prevail.
  
8. The Authority shall have the right of rejecting all or any of the tenders and will not be bound to accept the lowest or any tender or to give any reasons for their decision.
  
9. The TEC will open the tenders in the presence of tenderers who may be present at the time. If any of the tenderer or his agent is not present at the time of opening of tender, the TEC will on opening of tenders of the absentee tenderer prepare a statement of the attested and unattested corrections in the tender over his signature. Such a list shall then be binding on the absentee tenderer.
  
10. The tenderers shall not be entitled during the period of validity of their offered, without the written consent of the Authority to revoke or withdraw their tenders or vary in any respect the tender given or any term thereof. In case of tenderer revoking or with drawing, his tender or varying any terms in regard thereof without the consent of the Authority in writing, his earnest money paid alongwith the tender shall be forfeited.

11. The “Notice Inviting Tender” and this “Information and Instruction for tenders” shall form part of the Tender Documents.

**12. BANNED OR DELISTED CONTRACTORS:**

The bidder shall give a declaration that they have not been banned or delisted by any Govt. or Quasi Govt. Agency or Public Sector Undertaking.

If a bidder has been banned by any Govt. or Quasi Govt. Agency or PSU, this fact must be clearly stated and it may not necessarily be a cause of disqualifying the firm. If this declaration is not given the bid will be rejected as non responsive.

**WARRANTY FORM**

M/s -----  
 -----having its registered office at -----  
 ----- (hereinafter referred to as the contractor) having carefully studied all  
 the documents, specifications, designs, drawings etc pertaining to the contract for works required  
 for the work of -----  
 -----  
 -----  
 -----  
 -----

and the local and site conditions and having under taken to execute the said works :-

**DO HEREBY WARRANT THAT :**

- 1- The contractor is familiar with all the requirements of the contract.
- 2- The contractor has investigated the site, vessel & machineries etc. and satisfied himself regarding the character of the work and local condition that may affect the work or its performance.
- 3- The contractor is satisfied that the work can be performed and completed as required in the contract.
- 4- The contractor accepts all risks directly or indirectly, connected with the performance of the contract.
- 5- The contractor has no collusion with other contractors, with any of the man of the Engineer-in-charge or with any other person in Authority to execute the said works according to the terms and conditions of the said contract.
- 6- The Contractor has not been influenced by any statement or promise of the Authority or Engineer-in-charge but only by the contract documents.
- 7- The contractor is financially solvent.
- 8- The contractor is experienced and competent to perform the contract to satisfaction of the Engineer-in-charge.
- 9- The Statement submitted by the contractor is true.
- 10- The contractor is familiar with all general and special laws, Acts, ordinance, Rules & regulation of the municipalities, District, State and Central Governments that may affect the work its performance or personnel employed therein or environment.

Date

For and on behalf of the Contractor

**SCHEDULE B -1****(Schedule B1 to B3 shall be corresponding to works / BOQ s in schedule A1 to A3)**

DETAIL WORK PROGRAMS ON -----

[In the form of Bar Chart]

Sl. No.	Details of work	Time period in week/								Remarks
		1	2	3	4	5	6	7	8	

A]

- 1.
- 2.
- 3.

**SCHEDULE B -2****(Schedule B1 to B3 shall be corresponding to works / BOQ s in schedule A1 to A3)**

DETAIL WORK PROGRAMS ON -----

[In the form of Bar Chart]

Sl. No.	Details of work	Time period in week/								Remarks
		1	2	3	4	5	6	7	8	

A]

- 1.
- 2.
- 3.

**SCHEDULE B -3****(Schedule B1 to B3 shall be corresponding to works / BOQ s in schedule A1 to A3)**

DETAIL WORK PROGRAMS ON -----

[In the form of Bar Chart]

Sl. No.	Details of work	Time period in week/								Remarks
		1	2	3	4	5	6	7	8	

A]

- 1.
- 2.
- 3.



### TENDER SUBMISSION PROCEDURE

1. The tender shall be submitted in two cover system viz. Technical bid and price bid in separate sealed covers superscripted accordingly.
2. The technical bid should be duly superscribed as Technical bid for ----- work at Patna / Calcutta and should include the following.
  - a. The entire tender duly signed except “Schedule IV A”. (Financial bid)
  - b. EMD as prescribed.
  - c. Recent Income Tax clearance certificate.
  - d. Details of work experience in similar jobs with proof if any as in schedule IV C.
  - e. Bio-data of the key personnel and infrastructure, financial condition etc. as in schedule IV C.
3. The second cover should contain the financial [price] bid of the tender duly placing the quotation in the prescribed form i.e. Schedule IV A duly superscribing financial bid for ----- work at Patna / Calcutta. No extra condition or any other statement other than price bid shall enclosed in price bid.
4. The address of tendering firm, name of the tenderers and address should be written / typed clearly on each envelope.
5. Both the envelopes should be placed in a single sealed envelope superscribed as tender for repairs of -----.
6. The tender may be sent by registered post or hand delivered or by courier to reach Director, IWAI, Noida before the specified closing time to receive tenders.
7. The second cover i.e. price bid will be summarily rejected if the requisite details are not submitted in the “Technical Bid” I<sup>st</sup> cover and the firm not found suitable / capable / for conducting the work. The Authority also reserves the right not to open the price bids of any one or all the tenderers without assigning any reason whatsoever.

**GENERAL CONDITIONS OF CONTRACT****CLAUSE -1 DEFINITION**

In the contract, the following words & expressions shall, unless context otherwise requires, have the meaning thereby respectively assigned to them :

- i) **Contract** : means the document forming the tender acceptance thereof and the formal agreement executed between the Inland Waterways Authority of India and the contractor, together- with documents referred to therein, otherwise, it shall mean the notice inviting tender, instructions for tenderer, (including the warranty, schedule or quantities and prices, and other schedules attached thereto) / general conditions, and the terms of contract, special conditions if any specifications designs, drawings and work order thereof etc.
- ii) **Contact sum** : means the amount arrived at by multiplying the quantities shown in the schedule of quantities and price by the respective item rates as allowed.
- iii) **Contractor** : means the successful tenderer who is awarded the contract to perform the work covered under this tender documents and shall be deemed to include the contract's successors, executors, representatives or assignee approved by the Engineer – in – charge.
- iv) **Authority** : means the Inland Waterways Authority of India, IWAI, having its office at A-13, Sector-1 NOIDA (UP)- 201301 and includes therein legal representatives, successors and assigns.
- v) **Day** : means a calendar day beginning and ending at midnight.
- vi) **Drawings** : means the drawings referred to in the specifications and / or appended with the tender document, any modifications of such drawings approved in writing by the Engineer-in-charge and shall also include drawings issued for actual execution of the work time to time by the Engineer –in-charge.
- vii) **Chairman** : means chair-man of Inland Waterways Authority of India.
- viii) **Engineer-In-Charge** : means the officer nominated by the Authority to sign or cause to sign the contract agreement on behalf of the and / or the Engineering officer appointed by the IWAI or its duly authorized representative to direct, supervise and be in-charge of the work for the purpose of this contract.
- ix) **Chief Engineer** : means the Chief Engineer of the Authority as the case may be.
- x) **Director** : means the Director of the Authority as the case may be.

- xi) Deputy Director : means the Deputy Director of the Authority as the case may be.
- xii) Asst. Director : means the Asst. Director of the Authority as the case may be.
- xiii) Work Order : means a letter from the Engineer –in-charge / conveying the acceptance of the tender / offer subject to such reservations as may have been stated therein.
- xiv) Month : means the Calendar month.
- xv) Site : means the land and / or other places through which the works are to be executed.
- xvi) Vessel : means the vessel craft belonging to Authority for carrying out the repair, overhauling / servicing of it's machineries / equipment etc.
- xvii) Urgent Works : means any urgent nature which in the opinion of the Engineer-in-charge become necessary at the time of execution and / or during the progress of work to obviate any risk or accident or failure or to obviate any risk of damage to the vessel structure, or required to accelerate the progress of work or which become necessary for security or for any other reason the Engineer-in-charge may deem expedient.
- xviii) Week : means seven consecutive calendar days.
- xix) Work/Works : means work / works to be executed in accordance with the contract.

### **Clause -2 : Interpretations**

- 2.1 Words imparting the singular only shall also include the plural ; he includes she and vice-versa unless this is repugnant to the context.
- 2.2 Heading and marginal notes in these General conditions shall not be deemed to form part thereof or be taken into consideration in the interpretation of construction thereof of the contract.

### **Clause -3 : Security Deposit for Performance .**

- 3.1 The contractor, whose tender is accepted will be required to furnish security deposit for the due fulfillment of the contract, such sum will amount to 10% of the contract value subject to a maximum limit of Rs. 5.00/- lakhs. The security amount will be accepted only in the form of crossed Demand Draft on any nationalized Bank or Scheduled Bank of India in favour of Inland Waterways Authority of India, Fund, payable at PATNA. The Security Deposit thus collected from the contractor will be returned only after satisfactory completion of the work. The Security money shall be deposited within 15 days of award of work. In case of successful tenderer, the earnest money deposited shall be a part of the security deposit. Hence the successful bidder shall have to deposit the balance amount so that the total amount, including the earnest money deposit, forms the total security deposits. Interest, will not be paid on security deposit.

- 3.2 In respect of PSU / Autonomous Bodies /Govt. And Semi Govt. Organisation / Security in the form of Bank Guarantee is acceptable.
- 3.3 If the contractor having been called upon by the Chairman to furnish the security fails to do so within the specified period the EMD submitted by the contractor shall be forfeited. It shall be lawful for the / Chairman.
- i) To recover the amount of such security deposit by deducting the amount from the pending bills of the contractor under the contract for any other contract with the authority or
- ii) To cancel the contract or any part thereof and to carried out the wok or authorized he carried out the work at the risk and cost of the contractor of General conditions and special condition clause as applicable.
- 3.4 No claim shall lie against the authority either in respect of interest or any depreciation in value of any security.
- 3.5 If the contractor fails or neglect to observe or perform any of his obligations under the contract, it shall be lawful for the Chairman to forfeit either in whole or in part, the security deposit furnished by the contractor. Same as aforesaid, if the contractor duly performs and completes the contract in all respects and presents in absolute "No DEMAND CERTIFICATE" in the prescribed form, the Chairman shall refund the security deposit to the contractor after deducting of cost and save expenses that the purchaser may have incurred an all payments and other money including all losses and damages which the authority is entitled to recover from the Contractor.
- 3.6 In case of delay in the progress of work, the Engineer-in-Charge shall issue to the contractor a memo in writing pointing out the delay in progress and calling upon the contractor to explain the causes for the delay within 3 days of receipt of the memo and 10 days from issuance of memo whichever is earlier. If the Engineer-in-charge is not satisfied with the explanations offered, he may forfeit the security deposit and / or with hold payment of pending bills in while or in part.
- 3.7 All compensation or other sums of money payable by the contractor under the terms of the contract or any other contract or o any other account whatsoever, may be deducted from or paid by the sale of as sufficient part of his security or from the interest arising therefrom or from any sums which may be due or may become due to the contractor by the Authority on any account whatsoever. Also in the event of the contractor's security deposit being reduced by reasons of such deductions or sale, as aforesaid the contractor shall, within 14 days of receipt of notice of demand from the Engineer-in-charge make good the deficit in his security deposit.

**Clause-4 : Sufficiency\_of\_Tender :**

The contractor shall be deemed to have satisfied himself before tendering as to the correctness and sufficiency of his tender for the works and of the rates quoted in the schedule of Quantities and Prices which shall (except as otherwise provided in the contract), cover all his obligations under the contract and all matters and things necessary for the proper execution and completion of the works in accordance with the provisions of the contract and its maintenance during execution of work.

**Clause-5 : Contract\_Documents :**

- 5.1 The language in which the contract documents shall be drawn up shall be English and if the said documents are written in more than one language, the language according to which the contract is to be constructed and interpreted shall be English and designated as the 'Ruling Language'.
- 5.2 The Contractor shall be furnished free of charge two certified true copies of the contract documents.
- 5.3 One copy of the Contract Documents furnished to the Contractor as aforesaid shall be kept by the Contractor on the Site in good order and the same shall at all reasonable time be available for inspection and use by the Engineer-in-charge, his representatives or by other Inspecting officers of the Authority.
- 5.4 None of these Documents shall be used by the contractor for any purpose other than that of this contract.

**Clause-6 : Discrepancies\_and\_adjustment\_of\_errors:**

- 6.1 Detailed drawings shall be followed in preference to small scale drawings and figured dimensions in preference to scaled dimensions. The case of discrepancy between the schedule of Quantities and prices, the specifications and / or the drawings, the following order of precedence shall be observed :-
  - (a) Description in the schedule of Quantities and prices.
  - (b) Relevant specifications and special conditions, if any.
  - (c) Drawings.
  - d) General Specifications.

- 6.2 The contractor shall study and compare the drawings, specifications and other relevant information given to him by the Engineer-in-charge and shall report in writing to the Engineer-in-charge any discrepancy and inconsistency which he notes. The decision of the Engineer-in-charge regarding the true intent and meaning of the drawings and specifications shall be final and binding.
- 6.3 Any error in description, quantity or price in Schedule of Quantities and Prices or any omission therefrom shall not vitiate the Contract or release the Contractor from the execution of the whole or any part of the Works comprised therein according to drawings and specifications or from any of his obligations under the contract.
- 6.4 If on check there is difference in the amount worked out by contractor in the schedule of quantities and prices and General summary the same shall be adjusted in accordance with the following rules :
- a) In the event of error occurring in the amount column of schedule of quantities and prices as result of wrong multiplication of unit price and quantity, the unit price shall be regarded as firm and multiplication shall be amended on the basis of the quoted price.
  - b) All errors in totaling in the amount column and in carrying forward totals shall be corrected.
  - c) The totals of various sections of schedule of quantities and price amended shall be carried over to the General Summary and the tendered sum amended accordingly. The tendered sum so altered shall, for the purpose of tender, be substituted for the sum originally tendered and considered for acceptance instead of the original sum quoted by the tenderer. Any rounding off of quantities or in sections of schedule of quantities and prices or in General summary by the tenderer shall be ignored.

**Clause-7: DUTIES AND POWERS OF ENGINEER-IN-CHARGE'S REPRESENTATIVE:**

- 7.1 The duties of the representative of the Engineer-in-charge are to watch and supervise the works and to test and examine any materials parts to be used or workmanship employed in connection with the works. He shall have no authority to order any work involving any extra payment by the Authority nor to make any variation in the works.
- 7.2 The Engineer-in-charge may, from time to time in writing, delegate to his representatives any of the powers and authorities, vested in the Engineer-in-charge and shall furnish to the contractor a copy of all such written delegation of powers and authorities. Any written instruction or written approval given by the representative of the Engineer-in-charge to the

contractor within the terms of such delegation shall bind the contractor and Authority as though it has been given by the Engineer-in-charge.

- 7.3 Failure of the representative of the Engineer-in-charge to disapprove any work or materials shall be without prejudice to the power of the Engineer-in-charge thereafter to disapprove such work or materials and to order the pulling down, removal or breaking up thereof. The contractor shall, at his own expense, again carry out such works as directed by the Engineer-in-charges.
- 7.4 If the Contractor is dissatisfied with any decision of the representative of the Engineer-in-charge, he will be entitled to refer the matter to the Engineer-in-charge who shall thereupon confirm, reverse or vary such decision and the decision of the Engineer-in-charge in this regard shall be final and binding on the contractor.

**Clause-8: ASSIGNMENT AND SUB-LETTING:**

The Contractor shall not sub-let, transfer or assign the whole or any part of the work under the contract. Provided that the Engineer-in-charge may at his discretion, approve and authorise the Contractor to sub-let any part of the work, which in his opinion, is not substantial, after the contractor submits to him in writing the details of the part of the work(s) or trade proposed to be subject, to name of the sub-contractor thereof together with his past experience in the said work/trade and the form of the proposed sub-contract. Nevertheless any such approval or authorisation by the Engineer-in-charge shall not relieve the contractor from his any or all liabilities, obligations, duties and responsibilities under the contract. The contractor shall also be fully responsible to the Authority for all the acts and omissions of the sub-contractor his employees and agents or persons directly employed by the contractor. However, the employment of piece rate works shall not be construed as sub-letting.

**Clause-9 : FACILITIES TO OTHER CONTRACTORS**

The contractors shall, in accordance with the requirements of the work as decided by the Engineer-in-charge, afford all reasonable facilities to other contractors engaged contemporaneously on separate contracts and for departmental labour and labour of any other properly authorised authority or statutory body which may be employed at the site for execution of any work not included in the contract which the Authority may enter into in connection with or ancillary to the works. In all matters of conflict of interest, the Engineer-in-charge shall direct what compromise should be made and his decision shall be final and binding on the parties.

**Clause-10 : CHANGE IN CONSTITUTION:**

Where the contractor is partnership firm, prior approval in writing of the Engineer-in-charge shall be obtained before any change is made in the constitution of the firms, where the contractor is an individual or a HINDU undivided family business concern, such approval, as aforesaid, shall likewise be obtained before the contractor enters into any partnership firm which would have the right to carryout the work undertaken by contractor. If prior approval as aforesaid is not obtained the contractor shall be deemed to have been assigned in contravention to clause 33 hereof and the same action will be taken and the same consequences shall ensure as provided for in the said clause-33.

**Clause-11: COMMENCEMENT OF WORK:**

- 11.1 The contractor shall commence the work(s) within 10 days after the issue of Letter of Award or immediately after placing the vessel at their yard and shall proceed with the same with the expedition and without delay as may be expressly sanctioned or ordered by the Engineer-in-charge. If the contractor commits default in the commencement of the work as aforesaid, the Engineer-in-charge shall without prejudice to any other right or remedy be at liberty to cancel the contract and forfeit the earnest money.
- 11.2 The contractor shall strictly adhere to the construction / repair schedule i.e. schedule 'B' attaché with the tender document.
- 11.3 The contractor shall submit alongwith his tender the planning, phasing & sequence of repair time & progress within the framework of schedule 'B' for achieving the completion targets of work (s) as a whole and also each group / sub-group work (s) by which the contractor proposes to carryout the works. Such charts or programme shall be prepared as per schedule 'B'.

**Clause-12: WORKS TO BE CARRIED OUT IN ACCORDANCE WITH SPECIFICATION DRAWINGS AND ORDERS ETC:**

- 12.1 The Contractor shall execute the whole and every part of the work in the most substantial and workman like manner and both as regards material and otherwise in every respect in strict conformity with the specification laid down or as may be laid down by the Engineer-in-charge under the terms of the contract. The contractor shall also conform exactly, fully and faithfully to the designs, drawings specifications and instructions in writing in respect of the work, dully signed by the Engineer-in-charge as may be issued from time to time.
- 12.2 The contractor shall be entitled to receive, on demand, in addition to the contract documents, in accordance with the provisions of Clause 5.2, the documents set forth herein in respect of the work on commencement on during the performance of the contract.

- (a) Contract drawings and revisions thereto
- (b) Specifications or revisions thereof other than standard printed specifications.
- (c) Explanations, instructions etc.

Such further drawings, explanation, modifications and instruction, as the Engineer-in-charge may issue to the contractor from time to time in respect of the work shall be deemed to form integral part of the contract and the contractor shall be bound to carry out the work accordingly.

- 12.3 All instructions and orders in respect of the work shall be given by the Engineer-in-charge in writing. However, any verbal instructions or order shall be confirmed by the Engineer-in-charge as soon as practicable without loss of time only such written instruction shall be deemed to be valid.

**Clause-13: URGENT WORKS:**

If any urgent work (in respect where the decision of the Engineer-in-charge shall be final and binding) becomes necessary, the contractor shall execute the same as may be directed.

**Clause-14: DEVIATIONS:**

- 14.1 The Engineer-in-charge shall have powers to make any deviations in the original specifications or drawings or designs of the works or any part thereof that are in his opinion, necessary at the time of or during the course of execution of the works for the aforesaid purpose or for any other reason, if it shall, in the opinion of the Engineer-in-charge, be desirable, he shall also have the powers to make Deviations, such as (i) Variations (ii) Extra (iii) Additions / Omissions and (iv) Alterations or Substitutions of any kind. No such Deviations in the specification or drawings or designs or schedule of Quantities, as aforesaid, shall in any way vitiate or invalidate the contract and any such Deviations which the contractor may be directed to do shall form integral part of the contract as if originally provided therein and the contractor shall carry out the same on the same conditions in all respects on which he agreed to do the works under the contract.
- 14.2 The rates for such items of work as are required to be executed due to deviations, as stated in sub clause.
- 14.2.1 Above shall be payable in the manner as stated hereunder subject to the conditions that the variations so ordered do not exceed plus or minus 10% (ten percent) in respect of individual items and provided further that the cost of work executed / to be executed by the contractor including the cost of deviations is not more than 10% (ten percent) of the contract sum.

- i) The rates already provided in the schedule of quantities, shall apply in respect of the same item (s) of work to be executed due to variation.
  - ii) In case some items are not available in the schedule of quantities, the rates of such items as far as practicable shall be derived from the quoted rates of analogous item (s) in the schedule of quantities after actual observance at site. The decision to select analogous item (s) shall be taken by the Engineer-in-charge which shall be conclusive and binding on the contractor.
  - iii) Provided where some extra items and / or analogous items are not available in the schedule of Quantities and for the variation in respect of individual items exceeding the prescribed limit of 10% as aforesaid, the rates for such item (s) to be executed shall be determined by the Engineer-in-charge on the basis of actual analysed cost comprising of the cost of material to be supplied by the contractor (including transportation and taxes, levies if paid), labour actually engaged for the particular work, cost of operation of plant and machinery used for the work plus such percentage to cover the overheads, profits, contractor's supervision and other charges, if any. The decision of the Engineer-in-charge in deriving rates as aforesaid shall be conclusive and binding the contractor.
- 14.3 If requested by the contractor the time for completion of the work shall, in the event of any deviation resulting in additional cost over the contract sum be extended in the proportion which altered, additional or substituted work bears to the original contract sum plus such further additional time as may be considered reasonable by the Engineer-in-charge whose decision shall be conclusive as to such provision:
- 14.4 Under the circumstances, the contractor shall at any stage not suspend the work on account of non-settlement of rates of such Deviated items.

**Clause-15: CONTRACTORS SUPERVISION:**

- 15.1 The contractor shall either himself supervise the execution of the works or shall appoint at his own expense, an Engineer as his accredited agent approved by the Engineer-in-charge, if contractor has himself not sufficient knowledge or experience to be capable of receiving instruction or cannot give his full attention to the works. The contractor or his agent shall be present at the site (s) and shall supervise the execution of the works with such additional assistance in each trade, as the work involved shall require and considered reasonable by the Engineer-in-charge, directions / instructions given by the Engineer-in-charge to the contractor's agent shall be considered to have the same force as if these had been given to the contractor himself.

- 15.2 If the contractor fails to appoint a suitable agent as directed by the Engineer-in-charge shall have full powers to suspend the execution of the works until such date as a suitable agent is appointed by the contractor and takes over the supervision of the work. For any such suspension, the contractor shall be held responsible for delay so caused to the works.

**Clause-16 : INSTRUCTION AND NOTICES:**

- 16.1 Except as otherwise provided in this contract, all notices to be given on behalf of the Authority and all other actions to be taken on its behalf may be given or taken by the Engineer-in-charge or any officer for the time being entrusted with the functions duties and powers of the Engineer-in-charge.
- 16.2 All instructions, notices and communications etc. under the contract shall be given in writing and any such oral orders / instructions given shall be confirmed in writing and no such communication which is not given or confirmed in writing shall be invalid.
- 16.3 All instructions, notices and communications shall be deemed to have been duly given or sent to the contractor, if delivered to the contractor, his authorised agent, or left at, or posted to, the address given by the contractor or his authorised agent or to the last known place of abode or business of the contractor or his agent of services by post shall be deemed to have been served on the date when in the ordinary course of post these would have been delivered to him and in other cases on the day on which the same were so delivered or left.
- 16.4 The Engineer-in-charge shall communicate or confirm the instructions to the contractor in respect of the execution of work in a work site order book maintained in the office of the Engineer-in-charge and the contractor or his authorised representative shall confirm receipt of such instructions by signing the relevant entries in this book. If required by the Contractor, he shall be furnished a certified true copy of such instruction (s).

**Clause-17 : PLANT AND EQUIPMENT:**

- 17.1 The Contractors shall provide and install all necessary plant, equipment and machinery required for the execution of the work under the contract, at his cost and shall use such methods and appliances for the purpose of all the operations connected with the work covered by the contract which shall ensure the completion of work (s) within the specified time.
- 17.2 The tenderer shall submit as per schedule 'C' full details of his plant, tools, equipment & machinery proposed to be deployed for work (s) alongwith its planning schedule, showing phasing in accordance with the schedule i.e. schedule 'B'. The schedule 'C' submitted by the tenderer should conform to the schedule i.e. schedule 'B'. The plant, equipment & machinery schedule as submitted shall be mutually discussed and finalised with the

successful tenderer and approved before award of work and these shall form integral part of agreement.

- 17.3 Subject to the availability of any item of Authority's plant, equipment and machinery and at the written request of the contractor, such plant, equipment and machinery may be issued to the contractor on hire for being deployed on the work contracted for, at predetermined rates, terms and conditions at the sole discretion of the Engineer-in-charge.

**Clause-18: PATENT RIGHTS:**

The contractor shall indemnify the Authority its representatives or its employees against any action, claim or proceeding relating to infringement or use of any patent or design or any alleged patent or design rights and shall pay any royalties or other charges which may be payable in respect of any article or material or part thereof included in the contract. In the event of any claim being made or action being brought against the Authority or any agent, servant or employee in respect of any such materials as aforesaid the contractor shall immediately be notified thereof. Provided that such indemnity shall not apply when such infringement has taken place in complying with the specific directions issued by the Authority but the contractor shall pay any royalties or other charges payable in respect of any such use, the amount so paid being reimbursement to the contractor only if the use was the result of any drawings and or specifications issued after submission of the tender.

**Clause-19: MATERIALS:**

- 19.1 The Contractor shall at his own expenses provide / arrange all materials required for the bonafied use on work under the contract and also for initial mobilisation, preliminary, enabling and Ancillary works.
- 19.2 All materials parts to be provided by the contractor shall be in conformity with the specifications laid down in the contract and the contractor shall furnish from time to time proof and samples, at his cost, of the materials parts as may be specified by the Engineer-in-charge shall also have powers to have such tests, in addition to those specified in the contract, as may be required and the contractor shall provide all facilities to carry out the same. The cost of materials parts consumed in such testes and also expenses incurred thereon shall be borne by the contractor in all cases and also where such tests which are in addition to those provided in the contract disclose that the materials are in conformity with the provisions of the contract.
- 19.3 The Engineer-in-charge or his representative shall be entitled at any time to inspect and examine any materials parts intended to be used in or the works, either on the site or at factory or workshop or other place (s) where such materials are assembled, fabricated, manufactured or any place where these are lying or from where these are being obtained. For this, purpose, the contractor shall afford such facilities as may be required for such inspection and examination.

**Clause-20: LAWS GOVERNING THE CONTRACT:**

The courts at Delhi only shall have the jurisdiction for filling the award of the arbitration and for any other judicial proceedings.

**Clause-21: WATCHING AND LIGHTING:**

The Contractor shall provide and maintain at his expense all lights, guards, fencing and watching when and where necessary or as required by the Engineer-in-charge for the protection of the works or for the safety and convenience of those employed on the works or the public.

**Clause-22: WORK DURING NIGHT OR ON SUNDAY AND HOLIDAYS:**

- 22.1 Subject to any provisions to the contrary contained in the contract, none of works shall be carried out during Sundays or holidays without the permission in writing of the Engineer-in-charge. However, when work is unavoidable or necessary for safety of life, property or works, contractor shall take necessary action immediately and advise the Engineer-in-charge accordingly.
- 22.2 The Engineer-in-charge may, however, direct the contractor that the work may be carried out on holidays, Sundays and / or extra shifts to ensure completion of works under the contract as scheduled.

**Clause-23: LABOUR:**

- 23.1 (a) The Contractor shall employ labour in sufficient numbers to maintain the required rate of progress and of quality to ensure workmanship of the degree specified in the contract and to the satisfaction of the Engineer-in-charge. The Contractor shall not employ in connection with the works any person who has not completed eighteen years of age.
- (b) If any foreigner is employed by the contractor to work within the site the latter shall ensure that such foreigner possesses the necessary special permit issued by the Civil Authorities in writing and also comply with the instructions issued therefore from time to time. In the event of any lapse in this regard on the part of such foreigner the contractor shall be personally held responsible for the lapse & Authority shall not be liable in any event.

- (c) The Contract is liable for cancellation if either the contractor himself or any of his employee is found to be a person who has held class-I post under the Authority immediately before retirement and has within two years of such retirement accepted without obtaining the previous permission of the Authority or of the Chairman as the cases may be and employment as contractor for, or in connection with the execution of the public works, or as an employee of such contractor. If the contract is terminated on account of the failure of the contractor to comply with the above clause, The Authority shall be entitled to recover from him such damages as may be determined by the Engineer-in-charge with due regard to the inconvenience caused to the Authority on account of such termination without prejudice to the Authority's right to proceed against such officer.
- 23.2 The contractor shall furnish and deliver fortnightly to the Engineer-in-charge, a distribution return of the number and description by trades of the works of people employed on the works. The contractor shall also submit on the 4<sup>th</sup> and 19<sup>th</sup> of every month and the first half of the current month, to the Engineer-in-charge a true statement-showing in respect of the second half of the proceeding month.
- i) Any accidents if occurred during the said fortnight showing the circumstances under which they happened and the extent of damage and injury caused by them and.
- ii) The number of female workers who have been allowed maternity benefit as provided in the Maternity Benefit Act 1961 or Rules made thereunder and the amount paid to them.
- 23.3 The Contractor shall pay to labourer employed by him either directly or through sub-contractors wages not less than wages as defined in Contract labour (Regulation and Abolition) Act 1970 with General Rules framed thereunder and amendments made from time to time.
- 23.4 The Contractor shall in respect of labour employed by him either directly or through sub-contractor comply with or cause to be complied with the contract labour (Regulation and Abolition) Act 1970 and Rules framed thereunder in regard to all matters provided therein.
- 23.5 The Contractor shall comply with the provision of all the Acts Laws, any Regulation or Bye Laws of any Local or other Statutory Authority applicable in relation to the execution of works. Such as: -
- i) Payment of wages Act. 936 (Amended)
- ii) Minimum wages Act. 1948 (Amended).
- iii) The Contract Labour (Regulation & Abolition) Act, 1970 with Rules framed thereunder as amended.
- iv) Workmen compensation Act. 1923 as amended by Amendmed Act No. 65 of 1976.

- v) Employer's Liability Act 1938 (Amended)
- vi) Maternity Benefit Act 1961 (Amended)
- vii) The Industrial Employment (Standing orders) Act 1946 (Amended).
- viii) The Industrial Disputes Act 1947 (Amended)
- ix) Payment of bonus Act 1965 and Amended Act No. 43 of 1977 and No. 48 of 1978 and any amended thereof:
- x) The personal injuries (compensation Insurance) Act 1963 and any modifications thereof and rules made thereunder from time to time. The Contractor shall take into account all the above and financial liabilities in his quoted rates and nothing extra, whatsoever, shall be payable to him on this account.

23.6 The Contractor shall be liable to pay his contribution and the employee contribution to the State Insurance Scheme in respect of all labour employed by him for the execution of the contract, in accordance with the provision of "the Employees State insurance Act 1948" as amended from time to time. In case the Contractor fails to submit full details of his account of labour employed and the contribution payable the Engineer-in-charge shall recover from the running bills of the contribution an amount of contribution as assessed by the actual contribution payable for Employees State Insurance.

23.7 The Engineer-in-charge shall on a report having been made by an inspecting officer defined in the Contract Labour (Regulation and Abolition) Act and Rules or on his own in his capacity as Principal Employer, have the power to deduct from the amount due to the contractor any sum required on estimated to be required for making good the loss suffered by worker (s) by reason of non-fulfillment of the conditions of the contract for the benefit of workers, non-payment of wages or of deduction made from him for wages which are not justified by the terms of the contract or non-observance of the said Act and Rules framed thereunder with amendments made from time to time.

23.8 The Contractor shall indemnify the Authority against any payments to be made under and for observance of the Regulation Laws, Rules as stipulated in Clause-23.5 above without prejudice to his right to claim indemnity from his sub-contractors. In the event of the contractor's failure to comply with the provisions of all the Act/Laws stipulated in Clause-23.5 or in the event of degree or award or order against the contractor having been received from the competent authority on account of any default or breach or in connection with any of the provisions of the Act/Law/Rules mentioned in sub-clause 23.5 above, the Engineer-in-charge without prejudice to any other right or remedy under the contract shall be empowered to deduct such sum or sums from the Bill of the contractor or from his security deposit or from other payment due under this contract or any other contract to satisfy within a reasonable time the provisions of the various Act/Laws/Rules/Codes as mentioned under

Sub-Clause 23.5 above, on the part of the contractor under the contract on behalf of and at the expenses of the contractor and make payment and / or provide amenities / facilities / Services accordingly. In this regard, the decision of the Engineer-in-charge shall be conclusive and binding on the contractor.

- 23.9 In the event or the Contractor committing a default or breach of any of the provisions of the aforesaid contract's Labour (Regulation and Abolition) Act and Rules as amended from time to time or furnishing any information or submitting or filling any form/Register/Slip under the provisions of these Regulations which is materially incorrect then on the report of the Inspecting officer as defined in the relevant Acts and Rules as referred in clause 23.5 above, the Contractor shall without prejudice to any other liability pay to the Authority a sum not exceeding Rs. 50/- (Rs. Fifty only) as liquidated damages for every default, breach or furnishing, making, submitting, filling materially incorrect statement as may be fixed by the Engineer-in-charge. The decision of the Engineer-in-charge in this respect shall be final & binding.
- 23.10 The Contractor shall at his own expenses Comply with or cause to be complied with the provisions/ Rules provided for welfare and health of Contract Labour in the Contract Labour (Regulation and Abolition) Act and other relevant Acts and Rules framed thereunder or any other instructions issued by the Authority in this regard for the protection of health and for making sanitary arrangements for workers employed directly or indirectly on the works. In case, the contractor fails to make arrangements as aforesaid, the Engineer-in-charge shall be entitled to do so and recover the cost thereof from the contractor.
- 23.11 The Contractor shall at his own expense arrange for the safety or as required by the Engineer-in-charge, in respect of all labour directly or indirectly employed for performance of the Works and shall provide all facilities in connection therewith. In case the contractor fails to make arrangements and provide necessary facilities as aforesaid, the Engineer-in-charge shall be entitled to do so and recover the cost thereof from the Contractor. But this will not absolve the contractor of his responsibility or otherwise thereof.
- 23.12 Failure to comply with "Provisions/Rules made for welfare and Health of Contract Labour" Safety Manual, or the provisions relating to report on accidents and grant of maternity benefits to female workers and the relevant Act/Rules referred in clause 25.5 above shall make the contractor liable to pay to the Authority as liquidated damages an amount not exceeding Rs. 50/- for each default or materially incorrect statement. The decision of the Engineer-in-charge in such matter based on reports from the inspecting officers as defined in the relevant acts and rules as referred in clause 23.5 above shall be final and binding and deductions for recovery of such liquidated damaged may be made from any amount payable to the contractor. In the event of any injury, disability or death of any workmen in or about the work employed by the contractor either directly or through his sub-contractor , contractor shall at all time indemnify and save harmless the authority against all claims, damages and compensation under the workmen compensation act 1923 as amended from time to time or in other law for the time being in force and rules thereunder from time to

time and also against all costs, charges and expenses of any smooth action by proceedings arising out of such accidents or injury, disability or death or a workmen and against contractor be paid to compromise or compound any claim in this regard. If any award, degree or order is passed against the contractor for recovery or any compensation under the workmen compensation act, 1923 , for any injury, disability or death of a workmen by any competent court, the said sum or sums shall be deducted by the Engineer-in-charge from any sum then due or that may become due to the contractor or from his security deposit or sale thereof in full or part under the contract or any other contract with the Authority towards fulfillment of the said degree, award or orders.

23.13 Provided always that the contractor shall have no right to claim payments/ claims whatsoever on account of his complains with his obligations under this clause and labour regulation.

23.14 **REMOVAL OF CONTRACTOR'S MEN**

The contractor shall employ for the execution of the works only such persons as are skilled and experienced in their respective trades and Engineer-in-charge shall be at liberty to object to any require the contractor to remove from the works any persons employed by the contractor for the execution of the works who, in the opinion of the Engineer-in-charge, misconduct himself or is incompetent or negligent in the proper performance of his duties. The contractor shall forthwith comply with such requisition and such person shall not be again employed upon the works without permission of the Engineer-in-charge.

**Clause -24: FORCE MAJEURE**

24.1 The term force Majeurs shall herein mean Riots [other than among than contractor's employees], civil commotion (to the extent no insurable), War (whether declared or not), invasion , act of foreign enemies , hesitations, civil war, rebellion , revolution , insurrection, military or usurped power, damage from aircraft, nuclear fission , act of God, such as earthquake (above 7 magnitude on Richter Scale), lightning , unprecedented floods, / fires not caused by contractor's negligence an other such causes over which the contractor has no control and are accepted as such by the Engineer-in-charge, whose decision shall be final and binding. In the event of either party being rendered unable by Force Majeure to perform any obligation required to the performed by them under this contract, the relative obligation of the party effected by such Force Majeure shall be treated as suspended for the period during which such Force Majeure cause lasts, provided the party alleging that it has been rendered unable as aforesaid , thereby shall notify within 15 days of the alleged beginning and ending thereof giving full particulars and satisfactory evidence in support of such cause.

- 24.2 For delays arising out of Force Majeure, the bidder will not claim extension in completion date for a period exceeding the period of delay attributable to the causes of Force Majeure and neither the Authority nor the bidder shall be liable to pay extra costs provided it is mutually established that Force Majeure condition did actually exist.
- 24.3 If any of the Force Majeure conditions exists in the places of operation of the bidder even at the time of submission bid, he will categorically specify in his bid and state whether they have been taken into consideration in their quotations.

**Clause-25: LIABILITY FOR DAMAGE, DEFECTS OR IMPERFECTIONS AND RECTIFICATIONS THEREOF**

- 25.1 If the contractor or his labour or sub-contractor, injure destroy or damage road, fence enclosures, water pipe, cables, buildings, drains, electricity or telephone posts, wires, trees, grass line, cultivated land in the area in which they may be working or in the area contiguous to the premises on which the work or any part of it is being executed or if any damage is caused during the progress of work, the contractor shall upto receipt of a notice in writing in that behalf from the Engineer-in-charge, make the same good at his cost.
- 25.2 If it appears to the Engineer-in-charge or his representative at any time during repair or prior to the expiration of the Defects Liability period that any work has been executed with unsound, imperfect or unskilled workmanship or that any materials or articles provided by the contractor for execution of the work are unsound or of a quality inferior to that contracted for, or otherwise not in accordance with the Contract, or that any defect, shrinkage or other faults found in the work arising out of defective or improper materials or workmanship, the contractor shall, upon receipt of a notice in writing in that behalf from the Engineer-in-charge forthwith rectify or remove and reconstruct the work so specified in whole or in part, as the case may be, and/or remove the materials/articles so specified and provide other proper and suitable materials at his expense.

**Clause-26: CONTRACTOR'S LIABILITY AND INSURANCE:**

26.1 From commencement to completion of the work [s] as a whole, the contractor, shall take full responsibility for the care thereof and for taking precautions to prevent loss or damage. He shall be liable for any damage or loss that may happen to the works or any part thereof and to the Authority's Plant, Equipment and Material [hired or issued to the contractor] shall be in good order and condition and in conformity in every respect with the requirements of the contract and instructions of the Engineer-in-charge.

26.2 i) Neither party to the contract shall be liable to the other in respect of any loss or damage which may occur or arise out of "Force Majeure" to the works or any part thereof on to any material or article at site but not incorporated in the works or to any person or anything or material whatsoever or either party provided such a loss or damage could not have been foreseen or avoided by a prudent person and the either party shall bear losses and damage in respect of their respective men and materials. As such liability or either parties shall include claims compensations of the third party also.

ii) Provided, however, in an eventuality as mentioned in sub-clause-26.2 (i) above, the following provisions shall also have effect:

(a) The contractor shall, as may be directed in writing by the Engineer-in-charge proceed with the completion of the works under and in accordance with the provisions and conditions of the contract, and

(b) The contractor shall, as maybe directed in writing by the Engineer-in-charge, re-execute the works lost or damaged, remove from the site any debris and so much of the works as shall have been damaged and carry the Authority's T & P, Plant and Equipment, Material etc to the Authority's store. The cost of such re-execution of the works, removal of damaged works and carrying of Authority's store shall be ascertained in the same manner as for deviations and this shall be ascertained added to the contract sum.

Provided always that the contractor shall, at his own cost, repair and make good so much of the loss or damage as has been occasioned by any failure on his part to perform his obligations under the contract or not taking precautions to prevent loss or damage or minimize the amount of such loss or damage, final assessment of loss or damage shall be decided by the Engineer-in-charge and his decision shall be final and binding.

26.3 The contractor should take special precautions to see that public places and road adjacent to contractors yard are not blocked at anytime either by his material or by his workmen. The roads are to be kept always clear and no equipment/ materials shall be stacked.

- 26.4 The navigable waterways shall not be blocked by contractor's vessels. The anchor dropped in the waterways shall be properly marked and removed after done with.
- 26.5 The contractor shall indemnify and keep indemnified the Authority against all losses and claims for death, injuries or damage to any person or any property whatsoever which may arise out of or in consequence of the construction and maintenance, of works during the contract period and also against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect of or in relation thereto, and such liabilities shall include claims / compensations of the third party.
- 26.6 (a) Before commencing execution of the work, the contractor shall without in any way limiting his obligations and responsibilities under this condition, insure against any damage, loss or injury which may occur to any property [excluding that of the Authority but including the Authority building rented to the contractor wholly or in part and any part of which is used in part and any part of which is used by him for storing combustible materials] public liability by arising out of the carrying out of the contract. For this purpose the contractor shall take out, pay all costs and maintain throughout the period of his contract public liability with the following coverage.
- i) Public liability limits for bodily injury or death not less than Rs. 1, 00,000 for one person and Rs 2, 00,000 for each accident.
  - ii) Property liability limits for each accident not less than Rs. 1,00,000 :
- (b) The Contractor shall prove to the Engineer-in-charge from time to time that he has taken out all the insurance policies referred to above and has paid the necessary premiums for keeping the policies alive till expiry of the defects liabilities period.
- (c) The contractor shall ensure that similar insurance policies are taken out by his sub-contractor [if any] and shall be responsible for any claims, or losses to the Authority resulting from their failure to obtain adequate insurance protection in connection thereof. The Contractor shall produce or cause to be produced by his sub-contractors [ if any] as the case may be , relevant, policy or policies and premium receipt as and when required by the Engineer-in-charge.
- 26.7 If the contractor and / or his sub-contractor [if any] shall fail to effect and keep in force the insurance referred to above or any other insurance which he/they may be required to effect under the term of the contract then and in any such case the Authority may, without being bound to effect and keep in force may such insurance and pay such premium or premiums as may be

necessary for that purpose and from time to time deduct the amount so paid by the Authority from any moneys due or which may become due to the contractor or recover the same as a debt due from the contractor.

- 26.8 The contractor shall at his own expenses arrange for the safety provisions as required in respect of the works covered under this contract as per the instruction of Engineer-in-charge. In case, the contractor fails to comply with the provisions or the safety the Engineer-in-charge shall be entitled to and make the necessary arrangement at the risk and cost of the contractor. This will, however, not absolve the contractor of his overall responsibility to execute the works under the contract.

**Clause-27 : SUSPENSION OF WORKS**

- 27.1 The contractor shall on the order of the Engineer-in-charge suspend the progress of the works or any part thereof for such time or times and in such manner as the Engineer-in-charge may consider necessary and shall during such suspension properly protect and secure the work so far as is necessary in the opinion of the Engineer-in-charge. If such suspension is :-

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

The contractor shall not be entitled to extra costs [if any] incurred by him during the period of suspension of the works, but in the event of any suspension ordered by the Engineer-in-charge for reasons other than aforementioned and when each such period of suspension exceeds 14 days, the contractor shall be entitled to such extension of time for completion of the works as the Engineer-in-charge may consider proper having regard to the period or periods of such suspensions and to such compensation as the Engineer-in-charge may consider reasonable in respect of salaries or wages paid by the contractor to his employees during the periods of such suspension.

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

**Clause-28 : Foreclosure Of Contract In Full Or In Part Due To Abandonment Or Reduction In Scope Of Work**

28.1 If at any time after acceptance of the tender the Authority decides to abandon or reduce the scope of the works for reason whatsoever and hence does not require the whole or any part of the works to be carried out, the Engineer-in-charge shall give notice in writing to that effect to the contractor and the Contractor shall have no claim to any payment of compensation or otherwise whatsoever, on account of any profit or advantage which he might have derived from the execution of the works in full but which he could not derive in consequence of the fore closure of the whole or part of the works.

**Clause-29 : TERMINATION OF CONTRACT ON DEATH**

If the Contractor is an individual or a proprietary concern and the individual or the proprietor dies, or if the contractor is a partnership concern and one of the partners dies, then, unless the Engineer-in-charge is satisfied that the legal representatives of the individual contractor or of the proprietor of the proprietary concern and in the case of partnership, the surviving partners are capable of carrying out and completing the contract, the Engineer-in-charge shall be entitled to terminate the contract as to its incompleting part without the Authority being in anyway liable to payment of any compensation whatsoever on any account to the estate of the deceased contractor and/or to the surviving partners of the contractor's firm on account of termination of the contract. The decision of the Engineer-in-charge that the legal representatives of the deceased contractor or the surviving partners of the contractor's firm cannot carry out and complete the works under the contract shall be final and binding on the parties. In the event of such termination, the Authority shall not hold the estate of the deceased contractor and / or the surviving partners of the contractor's firm liable for damages for not completing the contract. Provided that the power of the Engineer-in-charge of such termination of contract shall be without prejudice to any other right or remedy which shall have accrued or shall accrue to him under the contract.

**Clause-30 : CORRUPT PRACTICE & TERMINATION OF CONTRACT IN FULL OR IN PART**

30. i) If the contractor :

Commits default in complying with or commits breach of any of the terms and conditions of the contract and does not remedy it or take effective steps to remedy it immediately and not later than 10 days in any case after a notice in writing is given to him in that behalf by the Engineer-in-charge: or

ii) Fails to complete the work (s) or any item or work (s) within the time or any extended time under the contract and does not complete the work (s) or any item of works within the period specified in a notice given in writing in that behalf by the Engineer-in-charge : or

iii) Assigns, transfers, sublets (engagement of labour on a piece-work basis or of labour with materials not being incorporated in the work shall not be deemed to be subletting) or attempts to assign, transfer or sublet the entire works or any portion thereof without the prior written approval of the Engineer-in-charge.

The Engineer-in-charge shall have powers to terminate the contract in full or in part as aforesaid without prejudice to any other right or remedy which shall have accrued or shall accrue of which cancellation notice in writing to the Contractor under the hand of the Engineer-in-charge shall be conclusive evidence.

### **30.2 CORRUPT PRACTICE:**

- (i) The contractor shall not offer or to give to any person in the employment of the purchaser or working under the orders of the Chairman any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of the contract or any other contract with the purchaser or for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with the purchaser. Any breach of the aforesaid condition by the contract, or any one employed, by him or acting on his behalf (whether with or without the knowledge of the contractor) or the commission of any offence by the Contractor or by any one employed by him or acting on his behalf under chapter IX of the Indian Penal Code, 1860 or the Prevention of Corruption Act.

1947 or any other Act enacted for the prevention of corruption by Public Servant shall entitle the Chairman to cancel the contract and all or any other contracts with the contractor and to recover from the Contractor the amount of any loss arising from such cancellation in accordance with the provisions of General condition and Special conditions.

- 30.3 The Engineer-in-charge shall, on such termination of the contract, have powers (i) to take possession of the site of work under the contract as well as the land premises allotted to the contractor for his preliminary, Enabling and Ancillary works and (ii) also any materials, constructional plant, equipment, implements, stores, structures etc. thereon. The Engineer-in-charge shall also have powers to carry out the incomplete work by any means or through any other agency or by himself at the risk and cost of the contractor. In such agencies shall be credited to the contractor at his contract

prices and the contractor shall pay the excess amount, if any, incurred in completing the work as aforesaid, as stipulated under sub-clause 30.5 hereunder.

- 30.4 On termination of the contract in full or part, the Engineer-in-charge may direct that a part or whole of such plant, equipment and materials, structures be removed from the site of the work as well as from the land/premises allotted to the contractor for his preliminary, enabling and ancillary works, within a stipulated period if the contractor shall fail to do so within the period specified in a notice in writing by the Engineer-in-charge, the Engineer-in-charge may cause then to be sold, holding the net proceeds of such sale to the credit of the contractor, which shall be released after completion of works and settlement of amounts under the contract.
- 30.5 If the expenses incurred or to be incurred by the Authority for carrying out and completing the incomplete work or part of the same, as certified by the Engineer-in-charge, are in excess of the value of the work credited / to be credited to the contractor, the difference shall be paid by the contractor to the Authority. If the contractor fails to pay such an amount, as aforesaid, within thirty days of receipt of notice in writing from the Engineer-in-charge, the Engineer-in-charge shall be empowered to recover such amount from any sum due to the contractor on any account under this or any other contract or from his security deposit or otherwise.
- 30.6 Also, the Engineer-in-charge shall have the right to sell any or all of the contractor's unused materials, constructional plant, equipment, implements, temporary building / structures etc. and apply the proceeds of sale thereof towards the satisfaction of any sums due from the contractor under the contract and if thereafter there may be any balance outstanding from the contract, the Engineer-in-charge shall have powers to recover the same in accordance with the provisions of the contract.
- 30.7 The contractor shall not construct any structure even of a temporary nature for any other purpose on IWAI office premises & Engineer-in-charge's representative's office or houseboat, or any such things except with written permission of the EIC and any such construction, so put up shall be removed by the contractor whenever the EIC or his representative calls upon the contractor to remove.

Any dispute or difference in respect of either the interpretation effect or application of the above conditions or of the amount recoverable there under by the purchaser from the Contract, shall be decided by the Chairman.

**Clause-31: COMPLETION TIME AND ESTENSIONS:**

- 31.1 Time allowed for execution of the work as specified or the extended time, if any, in accordance with these conditions shall be essence of the contract.

- 31.2 However, if the work is delayed on account of :
- i) Increase in the quantity of work to be done under the contract as per clause 14, or
  - ii) Suspension of work as per clause 27; or
  - iii) Rebuilding of work as per clause 26; or
  - iv) “Force Majeure” ; or
  - v) Any other cause which, in absolute discretion of the Engineer-in-charge is beyond the contractor’s control: then immediately upon the happening of any such events as aforesaid, the contractor shall inform the Engineer-in-charge accordingly, but the contractor shall nevertheless use constantly his best endeavours to prevent and / or make good the delay and shall do all that may be required in this regard. The Contractor shall also request, in writing, for extension of time, to which he may consider himself eligible under the contract, within fourteen days of the date of happening of any such events as indicated above.
- 31.3 In any such case as may have arisen due to any of the events, as aforesaid, and which may have been brought out by the contractor in writing, the Engineer-in-charge may give a fair and reasonable extension of time, after taking into consideration the nature of the work delayed and practicability of its execution during the period of extension. Provided in the event of non-receipt of a request for such extensions from the contractor for reasons whatsoever, the Engineer-in-charge may, at his sole discretion and with due regard to the event, grant fair and reasonable extension of time suo motto. Such extensions, if admissible, shall be communicated to the contractor by the Engineer-in-charge in writing within one month of the date of receipt of such request or within one month of the occurrence of the event, but in any case before expiry of the contract period.

## **32. LIQUIDATED DAMAGES**

- 32.1 If the contractor fails to complete all items of works within the period (s) of completion as stipulated in the aforesaid tender or any extended period (not due to the fault of the contractor) as may be agreed he shall without prejudice to any other right or remedy of the Authority on account of such default, pay compensation (not by way of penalty) at the rate of ½% per week on the total value of the order under 75% of the value of order is completed within the stipulated period subject to a maximum of 10% of the total value of the contract.
- 32.2 The amount of compensation may be adjusted, withheld deducted or set off against any sum due or payable to the contractor under this or any other contract with the Authority.

- 32.3 Where 75% of the value of the work has been completed within the stimulated delivery period, liquidated damages will be imposed on the ordered value of delayed work however, where in judgment of the Authority, the partly completed work does not fulfill the operating need, liquidated damages will be imposed on full value of the work. The decision of chairman shall be final and binding.
- 32.4 All sums payable by way of compensation under any of the conditions will be considered as reasonable compensation without reference to the actual loss or damage which will have been sustained.
- 32.5 Payment of such damages shall not relieve the contractor of his obligations to complete the work or from any other of his obligation or liabilities under the contract.

**Clause – 33 : INSPECTION AND APPROVAL :**

- 33.1 All works involving more than one process shall be subject to examination and approval at each stage thereof and the contractor shall give due notice to the Engineer-in-charge on his authorized representative, when each stage is ready. In default of such notice, the Engineer-in-charge shall be entitled to appraise the quality and extent thereof and the decision of the Engineer-in-charge in this regard shall be final and binding.
- 33.2 No work shall be put out of view without the approval of the Engineer-in-charge or his authorized representative and the contractor shall afford full opportunity for examination. The contractor shall give due notice to the Engineer-in-charge or his authorized representative whenever any such work is ready for examination and the Engineer-in-charge or his representative shall, without unreasonable delay, unless he consider it necessary and advise the contractor accordingly, examine and measure such work. In the event of the failure or the contractor to give such notice, he shall if required by the Engineer-in-charge , uncover such work at the contractor's expenses.
- 33.3 The Engineer-in-charge or his representative shall have powers at any time to inspect and examine any part of the works and the contractor shall give such facilities as may be required for such inspection and examination.

**Clause-34 : completion certificate :**

- 34.1 The work shall be completed to the entire satisfaction of the Engineer-in-charge and within the specified time limit and terms and conditions mentioned in clause 31. As soon as the work under the contract is completed as a whole the contractor shall give notice of such completion to the Engineer-in-charge.

The Engineer-in-charge, within thirty days of receipt of such notice, shall inspect the work and shall satisfy himself that the work (s) has been completed in accordance with the provisions of the contract and then issue to the contractor a certificate of completion indicating the date of completion. Should the Engineer-in-charge notice that there are not considered to be complete, he shall issue a notice in writing to the Contractor to rectify / replace the defective work or any part thereof or complete the work, as the case may be within such time as may be notified and after the contractor has complied with as aforesaid and gives notice of completion the Engineer-in-charge shall inspect the work and issue the completion certificate in the same manner as aforesaid.

- 34.2 No certificate of completion shall be issued as stipulated under 33.6 above unless the contractor shall have removed from the work site and / or premises all his belongings / temporary arrangements brought / made by him for the site and / or premises in all respects and made the whole or the site and / or premises fit for immediate occupation / use to the satisfaction of the Engineer-in-charge. If the contractor fails to comply with the above mentioned requirements on or before the date of completion of the work, the Engineer-in-charge, may as he thinks fit and at the risk and cost of the contractor, fulfill such requirements and remove / dispose of the contractor's belongings / temporary arrangements less the cost of fulfilling the said requirements and any other amount that may be due from the contractor. Should the aforesaid account exceed the amount realized by sale of such contractor's belongings / temporary arrangement then the contractor shall on demand pay the amount of such excess expenditure.

**Clause-34: DEFECTS LIABILITY PERIOD.**

The contractor shall be responsible to make good and remedy, at his cost, within such period as may be stipulated by the Engineer-in-charge, any defects which may be developed or may be noticed before the expiry of the period mentioned in schedule 'B' from the certified date of completion of the entire work [including and comprising of all the group, sub-group of works, if any] covered under the contract.

**Clause-35 : MEASUREMENTS :**

- 35.1 The Engineer-in-charge, shall except as otherwise stated ascertain and determine by measurement the value of work done in accordance with the contract.

- 35.2 Notwithstanding any provision in the relevant standard method of measurement or any general or local custom, measurement of work done under the contract shall be taken in accordance with the procedure set for the in the Technical specification or schedule of Quantities under the contract. In case of items of work which are not covered by the Technical specification or schedule of quantities measurement shall be taken in accordance with the relevant standard methods of measurement laid down by the Bureau of Indian standard .
- 35.3 All items having a financial value shall be entered in measurement book prescribed by the Authority so that the complete all work performed under the contract.
- 35.4 Measurement shall be taken jointly by the Engineer-in-charge or his authorized representative and by the contractor or his authorized representative.
- 35.5 Before taking measurement of any works, the Engineer-in-charge or representative deputed by him for the purpose, shall give a reasonable notice to the contractor. If the contractor fails to attend or send an authorized representative for measurement after such notice or fails to countersign or to record the objection within a week from the date of taking the measurement, taken by the Engineer-in-charge shall be taken to be correct and final measurement of such works.
- 35.6 The contractor shall, without extra charge, provide assistance with every appliances, labour and other things necessary for measurement.
- 35.7 Measurement shall be signed and dated by both parties each day on the site on completion of measurement. If the contractor objects to any of the measurement recorded by the representative of the Engineer-in-charge a note to the effect shall be made in the item objected to and such note shall be signed and dated by both parties engaged in taking the measurement. The decision of the Engineer-in-charge on any such dispute or difference or interpretation shall be final and binding on the contractor in respect of all contract items, substituted items, extra items and deviations.

#### **Clause – 36: PAYMENT ON ACCOUNTS**

- 36.1 Interim bills shall be submitted by the contractor monthly on or before the date fixed by the Engineer-in-charge for the items of work completed. The Engineer-in-charge shall then arrange to have the bills verified with reference to the measurement recorded in the measurement book [s].
- 36.2 Payment on account for amount admissible shall be made in the Engineer-in-charge, certifying the sum to which the contractor is considered entitled by way of interim payment for the work executed, after deducting there from the amount already paid, the security deposit and such other amounts as may be withheld, deduction or recoverable in terms of the contract.

- 36.3 Payment of the contractor's bills shall be made by the Authority within 30 days from the date of submission of the bill subject to the acceptance of the Engineer-in-charge.
- 36.4 Payments due to the contractor shall be made by crossed cheque by the Engineer-in-charge, or his authorized representative. Such cheques shall be issued direct to the contractor on furnishing a stamped receipt for the amount of the cheque or to his constituted attorney duly authorized to receive such payments from the Engineer-in-charge.
- 36.5 Any interim certificate given relating to work done or materials delivered may be modified or corrected by any subsequent interim certificate or by the final certificate. No certificate [s] of the Engineer-in-charge supporting an interim payment shall itself be conclusive evidence that any work or materials to which it relates is / are in accordance.
- 36.6 Should there be a request for extension of date of completion, pending its consideration interim payments shall continue to be made as provided herein.

**Clause – 37: TAXES, DUTIES AND LEVIES ETC:**

- 37.1 All existing sales tax or any other tax or duty or levy such as octroi, Dhorat, Royalty, Terminal Tax etc. on all materials , including steel, wood POL [and increase if any, on these during the currency of the contract] that the contractor has to purchase for the performance of the contract, shall be payable by the contractor and the Authority will not entertain any claim for compensation whatsoever, in this regard. The rates quoted by the contractor shall be deemed to be inclusive of all such taxes, duties, levies etc.
- 37.2 Any variation due to fluctuation in foreign exchange rates if applicable and / or statutory levies after opening of price bid upto 1% of the original contract price will not be compensated by the Authority and has to be borne by contractor himself. In case of increase beyond 1% of the original quoted price the same will be considered subject to production of supporting documents there.

**Clause – 38 : PAYMENT OF FINAL BILL**

The final bill shall be submitted by the contractor within on month of the date fixed for completion of the work or of date the certificate of completion furnished by the Engineer-in-charge. No further claim in this regard unless as specified herein under shall be entertained. Payment shall be made within three months if the amount of the contract plus that of the additional items is upon Rs 2 lakhs and in 6 months if the same exceeds Rs 2 lakhs of the submission of such bill. If there shall be any dispute about any item or items of the work then the undisputed item or items only shall be paid within the said period of three months or six months, as the case may be. The contractor shall submit a list of the dispute items within

thirty days from the disallowance thereof and if he fails to do so, his claim shall be deemed to have been fully waived and absolutely extinguished.

**Cluse-39 : OVER PAYMENTS AND UNDER PAYMENTS**

- 39.1 Whenever any claim whatsoever for the payments of a sum of money to the Authority arises out of or under this contract against the contractor, the same may be deducted by the Authority from any sum then due or which at anytime thereafter may become due to the contractor under this contract and failing that under any other contract with the Authority or from any other sum whatsoever due to the contractor from the Authority or from the Authority or from his security deposit, or he shall pay the claim on demand.
- 39.2 The Authority reserves the right to carryout post-payment audit and technical examination of the final bill including all supporting voucher, abstracts, etc. The authority further reserves the right to enforce recovery of any over payment when detached not-with-standing the fact that the amount of the final bill may be included by one of the parties as an item of dispute before an arbitrator appointed under clause 43 of this contract and notwithstanding the fact that the amount of the final bill figures in the arbitration award.
- 39.3 If as a result of such audit and technical examination any over payment is discovered in respect of any work done by the contractor or alleged to have been done by him under contract, it shall be recovered by the Authority from the contractor by any of all of the methods prescribed above, an if any under payment is discovered, the amount shall be duly paid to the contractor by the Authority.
- 39.4 Provided that the aforesaid right of the Authority to adjust over-payment against amount due to the contractor under any other contact with the Authority shall not extend beyond the period of two years from the date of payment of the final bill or in case the final bill is a MINUS bill, from the date the amount payable by the Contractor under the MINUS final bill is communicated to the contractor.
- 39.5 Any sum of money due and payable to the Contractor (including the Security deposit returnable to him) under the contract may be withheld or retained by way of lien by the Engineer-in-Charge or Authority against any claim of the Authority or such other person or persons in respect of payment of a sum of money rising out of or under any other contract made by the contractor with the Engineer-in-Charge or Authority or with such other person or persons.

The sum of money so withheld or retained under this clause by the Engineer-in-Charge or Authority will be kept withheld or retained as such by the Engineer-in-Charge or authority or till his claim arising out of in the same contract or any other

contract is either mutually settled or determined by the arbitrator, if the contract is governed by the arbitration clause under the clause 43 or by the competent court hereinafter provided, as the case may be, and the contractor shall have not claim for interest or damages whatsoever on this account or any other ground in respect of any sum of money withheld or retained under this clause.

**Clause-40 : CONTRACT MATTERS TO BE TREATED AS CONFIDENTIAL.**

40.1 All documents, correspondence, decisions and orders concerning the contract shall be considered as confidential and / or restricted in nature by the contractor and he shall not divulge or allow access to them by any unauthorized person.

40.2 The contractor shall take necessary steps to ensure that all persons employed on any work in connection with this contract have noted that the Indian Official Secrets Act, 1923 (XIX of 1923) applies to them and shall continue so to apply even after the execution of such under the contract.

**Clause-41 : FINALITY CLAUSE**

It shall be accepted and inseparable part of the contract that in matters regarding materials, workmanship, removal of improper work, interpretation of the contract drawings and contract specifications mode of procedure and the carryout of the work as stipulated in the clause Nos. 6,7,9,13,14,17,19,23 the decision of the Engineer-in-Charge which shall be given in writing shall be final and binding of the contractor.

**Clause-42 : SUM PAYABLE BY WAY OF COMPENSATION TO BE CONSIDERED IS REASONABLE WITHOUT PREFERENCE TO ACTUAL LOSS.**

All sum payable by way of compensation to the Authority under any of these conditions shall be considered as reasonable compensation without reference to the actual loss or damage sustained and whether or not damage shall have been sustained.

**Clause-43 : ARBITRATION.**

43.1 Except as otherwise provided herein before, all questions, disputes or difference in respect of which the decision has not been final and conclusive arising between the contractor and the Authority in relating to or in connection with contract shall be referred for arbitration in the manner provided as under and to the sole arbitrator appointed as follows:

(i) Either of the parties may give to the other notices in writing of the existence of such question dispute or difference.

- (ii) Within thirty (30) days of receipt of such notice from either party the Engineer-in-Charge of work at the time of such dispute shall send to the Contractor panel of three persons and there after the Contractor within fifteen (15) days of receipt of such panel communicate to the Engineer-in-Charge the name of one of the persons from such panel and such a person shall then be appointed as sole arbitrator by the Chairman, IWAI. However, the arbitration so appointed shall not be an officer or the employee of Inland Waterways Authority of India.
- (iii) Provided that if the Contractor fails to communicate the selection of a name out of the panel so forwarded to him by the Engineer-in-Charge then after the expiry of the aforesaid stipulated period the Chairman, shall without delay select one person from the aforesaid panel and appoint him as the sole arbitrator.
- 43.2 The arbitrator to whom the mater is originally referred being transferred or vacating his office or being unable to act for any reason, then the Chief Engineer shall appoint another person to act as sole arbitrator, such person shall be entitled to proceed with the reference from the stage at which it was left by the predecessor.
- 43.3 The award of the Arbitrator shall be final and binding. The Arbitrator shall decide in what proportion the Arbitrator's fees, as well as the cost of Arbitration proceeding shall be borne by either party.
- 43.4 The Arbitrator with the consent of the parties can enlarge the time, from, time to time to make and publish his award.
- 43.5 A notice of the existence in question, dispute or difference in connection with the contract unless served by either party within 30 days of the expiry of the defects liability period, failing which all rights and claim under contract shall be deemed to have been waived and thus forfeited and absolutely barred.
- 43.6 The Arbitrator shall give reasons for the award if the amount of claim in dispute is Rs. 75,000 and above.
- 43.7 The work under this Contract shall continue during Arbitration proceedings and no payments due from or payment by the Authority shall be withheld on account of such proceedings except to the extent which may be in dispute.

43.8 The arbitration and conciliation Act 1996 with any statutory modifications or re-enactment thereof and the rules made there under and being in force shall apply to the Arbitration proceedings under this clause.

NOTE: In case of contract with another public sector undertaking, the 21.1 to 21.8 Clause shall stand deleted and the following Arbitration Clause shall apply :

“Except as otherwise provided, in case of a contract with a public sector undertaking if at any time any question dispute or difference whatsoever arises between the parties upon or in relation to, or in connection with this agreement, the same shall be settled in terms of the Ministry of Industry, Department of Public Enterprises O.M. No. 3/5/93-PMA dt. 30.06.93 or any modifications/amendments thereof.

“The Arbitrator shall have the power to enlarge the term to rate the award with the consent of the parties provided always that the commencement or continuation of the arbitration proceeding shall not result in cessation or suspension of any of other rights and obligations of the parties of any payments due to them hereunder.”

43.9 The Venue of the arbitration proceeding shall be at NOIDA/DELHI. It is further to clarify that both parties to this agreement hereby undertake not to have recourse to Civil Court to settle any of their dispute whatsoever, arising out of this agreement except through arbitration.

## VI. SPECIAL & TECHNICAL CONDITIONS OF CONTRACT.

1. The contractor shall forthwith dispatch raise and remove any plant (floating or otherwise ) belonging to him or to any person employed by him which may sunk in the course of execution and completion of the works or otherwise deal with the same as per E.I.C. or the representative may direct. Until the same shall be raised and removed the contractor shall display at night such lights and do all such things for the safety of navigation as may be required by the Department. In the event of the contractor not carrying out the obligation imposed upon him by this clause, the Engineer-in-charge shall raise and remove the same (without prejudice to the right of the Authority to hold the contractor liable) and the contractor shall pay to the Authority all costs incurred in connection therewith. The fact that broken vessel, craft or plant is insured or has been declared a total loss, shall not absolve the contractor from his obligation under this to raise and remove the same.

### **2. REPAIRING & TESTING OF THE VESSELS**

Subject to and in accordance with the provisions of the contract, the contractor shall and in the best and most workman like manner repair, equip and test the vessel to the satisfaction of the Engineer-in-charge or his representative. The vessel should be handed over to the Authority at the same place where the vessel was taken over for repair.

### **3. REPLACEMENT OF DEFECTIVE WORK, MATERIAL & FITTINGS**

All material used in carrying out his contract shall conform to the concerned standards and shall be to the entire satisfaction of the Engineer-in-charge or his representative. Any portion or portions of the materials, machinery or any of the work done under his contract which may be considered by the E.I.C. or his representative to be defective or unsatisfactory or not in accordance with the specifications and plans and the requirements of the vessel shall be replaced in a manner satisfactory of E.I.C. or his representative at the expenses of the contractor.

### **4. CONTRACTOR'S RESPONSIBILITY DURING THE REPAIR**

The said repairs and overhauling of the vessels shall be attended as required and the contractor shall pay and discharge all costs and liabilities there of an connected therewith and shall continue to be responsible for the safety of vessel until E.I.C. on his representative taken delivery of the vessel. If any loss (whether total or otherwise) shall be sustained or incurred by the vessel by any means or from any cause during the repairs / overhauling the contractor shall at his own expenses make good such loss to the entire satisfaction of the Engineer-in-charge.

## 5. MATERIAL AND WORKMANSHIP

All plates and sections used for ship repair will conform to IS 3026 or 226 as quality. All timber will be of best quality seasoned wood acceptable to Engineer-in-charge and free from sap rots and knots and latest IS code should be followed in all such cases. All welding should be done by electric arc welding method by skilled Welders and shall be approved by the Engineer in charge and shall conform to the latest relevant IS code on welding.

## 6. PAINTING PROTECTION

Surface preparation: All steel surface, angles and plates shall be work brushed and approved primer to be applied as specified. The vessel shall be painted with marine quality paint as specified on dry surface.

7. All measurements shall be done as per the standard code of practice or Practice or as directed by Engineer – in- charge or his representative.
8. Replaced old parts/equipment and scrap : In case of replacement of Spare parts and renewal of machinery, equipment etc. all the replaced old parts/equipment/machineries; unserviceable items are to be handed over to Authority. The steel or any other metal scrap generated during the repair work is to be taken over by the contractor at the prevailing market rate.
9. The contractor has to arrange for himself
  - i) The site of repair / overhaul
  - ii) Power supply
  - iii) Water & other requirements at his own cost to carry out the repair work.
10. The Authority will arrange to deliver the vessel at the contractor's yard.
11. **Survey: -**

All statutory survey by surveyor of IWT, State Government shall be arranged by the contractor on behalf of the Authority and survey as claimed by the IWT surveyor will only be reimbursed by authority. The survey of the vessel by the surveyor has to be conducted along with EIC or his representative. Hence contractor shall inform in advance regarding the surveyor's inspection / survey. On completion of the survey, joint inspection report signed by contractor, surveyor and EIC shall be made immediately along with the list of extra job to be undertaken, as per the recommendation of surveyor. Delay in completion of repair work to arranging the survey will not be considered under 'Force majored' and no extra time will be allowed on this account.

**12. APPROVAL TO THE ADDITIONAL WORK**

The list of the additional work which are considered necessary as per recommendation of the surveyor, and / or those which are directed during the course of repairs for satisfactory completion of repairs and subsequent commissioning of vessel, should be prepared jointly by EIC and contractor. Thereafter contractor shall furnish quotation for those items of work for which rate would be derived from the agreement or afresh as the case may be in force along with extra time required for completion of all the additional work. The rate for the additional work shall be approved as provided in clause No. 14 of General condition of agreement for execution.

13. In case of vessel is not delivered with in the specified time, no further Dock hire charges / mooring charges will be paid for contractual items.

14. The contractor shall for the period of six months from the date of handing over of the vessels after repairs & trials, guarantee for all the items that are attended / supplied/repared by the contractor and sub contractor on the vessel, against all defects which are due to defective material and / or workmanship. Guarantee period shall be extended by the NO. of days the vessel remains in operational due to the defects occurred during the guarantee and are to be rectified by the contractor. Contractor shall attend such defects at place (site) wherever the vessel is with in a reasonable period on receipt of the notice. If such repairs are not attended to as specified above and the vessel is to be kept idle, the Authority may levy penalty @ Rs. 100/- day, which will be recovered from security deposit.

15. Inspection of works : In addition to the provisions contained in the clause 33 of general conditions of contract, the authority may inspect/supervise the work by an employee/by the officer by the Authority or though third party/agency appointed by the authority for such purpose.

16. The Authority shall have right to supply store, spares, materials etc., if required.

**17. Material & workmanship for FRP/FRG repair work**

The resin and glass fiber used for FRP repair work shall be of approved quality either from MMD/ various standard organizations such as BIS on other Govt. agencies. These are to be obtained from recognized and approved firms. The chemical composition of the resin and glass fiber shall conform to IS/other standards. The workmanship of the work shall be of approved standard as prevailing in such type of work. The work shall be conducted by the experienced

and qualified molders / repairs. All the material for wood work i.e. timber, plywood, sun mica laminated ply board shall be of best quality and acceptable to engineer in charge. The timber must be seasoned and free from as & knot.

AGREEMENT FORMAT

This agreement made On.....day.....year.....between the Inland Waterways Authority of India (hereinafter called the 'IWAI' which expression shall unless excluded by or repugnant, to the context, be deemed to include their successors in office) on part and M/s .....(hereinafter called the 'CONTRACTOR' which expression, shall unless excluded by repugnant to the context be deemed to include his heirs, executors, Administrators, representatives and assigns of successors in office) on the other part.

WHEREAS THE IWAI desirous of undertaking repair work of  
 .....  
 .....  
 .....

WHEREAS the contractor has offered to execute and complete such works and whereas IWAI has accepted the tender of the contractor and WHEREAS the contractor has furnished.....  
 .....

as security for the due fulfillment for all the conditions of this contract.

NOW IN THIS AGREEMENT WITNESSETH AS FOLLOWS

In this agreement words and expression shall have the same meaning as are respectively as assignee to them in the conditions of contract hereinafter referred to :

The following documents shall be deemed to form and be read and construed as part of this agreement VIZ.

- i) (a) Notice Inviting Tenders
- (b) Tender form
- ii) Information & instruction for Tenders
- iii) Warranty
- iv) (a) Schedule 'A' - Bill of quantity
- (b) Schedule 'B' - Schedule for
- (c) Schedule 'C' - List of plant including machinery, floating crafts & equipment required and available with the contractor.
- v. General condition of contract
- vi. Special condition of contract
- vii. Technical conditions of contract.

The contract agreement has been compiled by the IWAI from the original tender document and all the correspondences from the tendering stage till acceptance. In the event of any difference arising from the completion of the contract, the original tender documents contractor's offer, minutes and meeting and correspondence between the party ended vide letter No.....  
.....

may be referred to by either party. These documents shall take precedence over the compiled documents.'

The contractor hereby covenants with the IWAI to complete and maintain the "Works" in conformity in all respect, with the provisions of the agreement.

The IWAI hereby covenants to pay the contractor in consideration of such completion of repair work, the contract price at the time and in the manner prescribed by the contract.

IN WITNESS WHEREOF the parties hereunto have set their hands and seals on the day year first written.

Inland Waterways Authority  
of India,

CONTRACTOR

Witness:

1)

1)

2)

2)