



BRIHANMUMBAI MUNICIPAL CORPORATION

Mumbai Sewage Disposal Project Stage II - Priority Works Priority Sewer Tunnel – Phase 2

BID DOCUMENT

FOR

PRIORITY SEWER TUNNEL – PHASE 2

Design and Build Contract

Bid No. 7200036535

VOLUME – I

CONDITIONS OF CONTRACT

EMPLOYER

Brihanmumbai Municipal Corporation
Municipal Head Office Building,
Mahapalika Marg, Fort, Mumbai - 400001
India

CONSULTANT

Tata Consulting Engineers Limited,
15th floor Empire Tower ,
Opp Reliable Tech Park
Cloud City Campus, Airoli
Navi Mumbai 400708.

September 2022

PRIORITY SEWER TUNNEL – PHASE 2

DESIGN-BUILD CONTRACT

Layout of the Documents

This volume is one of several that comprise the Documents.

These are:

	Instructions to Tenderers
Volume I	Conditions of Contract
Volume II	Employer's Requirements
Volume IIA	General Specification
Volume IIB	Void
Volume IIC	Drawings
Volume III	Schedule of Payments
Volume IV	Contract Forms
Volume V	Site Data

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1. INTRODUCTION

1.1 Introduction

This volume contains the Particular Conditions of Contract for the Priority Sewer Tunnel– Phase 2 Design-Build Contract.

1.2 Conditions of Contract

The Conditions of Contract are comprised of:

- the “General Conditions” which are the “Conditions of Contract for Plant and Design Build for Electrical and Mechanical Plant and Building and Engineering Works, Designed by the Contractor First Edition 1999” published by the Federation Internationale des Ingenieurs-Conseils(FIDIC) (the “FIDIC Yellow Book”);
- “Particular Conditions Part A – Contract Data”; and
- “Particular Conditions Part B – Special Provisions”, which include amendments and additions to such General Conditions.

Copies of the FIDIC Conditions of Contract can be obtained from:

Federation International des Ingenieurs – Conseils (FIDIC)

World Trade Centre II

P O Box 311

1215 GENEVA 15 (Switzerland)

Facsimile : 41 22 799 4900

Telephone : 41 22 799 4901

India Address :

Ravindra Saxena

Sara Book Private Limited

G-1, Vardaan House, 7/28 Ansari Road,

Daryaganj, New Delhi 110002, India

Tel. No. - 91 11 23266107 / 65676781

Fax No. - 91 11 23266102

Mobile - +9111040727

Email - ravindrasaxena@sarabooksindia.com

2. PARTICULAR CONDITIONS PART A – CONTRACT DATA

2.1 Contract Data

FIDIC Yellow Book (General Conditions) Provision	Description of Item	Data
1.1.2.2 & 1.3	Employer's name and address:	The Deputy Municipal Commissioner (Special Engineering), Brihanmumbai Municipal Corporation, 3rd Floor, Extension Building Mahapalika Marg Port, Mumbai – 400 001.
1.1.2.3 & 1.3	Contractor's name and address ¹	<i>To be entered when the name of the Contractor is known.</i>
1.1.2.4 & 1.3	Engineer's name and address:	The Chief Engineer (Mumbai Sewage Disposal Project), Brihanmumbai Municipal Corporation 2nd Floor, Engineering Hub Building Dr. E. Moses Road, near Worli Naka Worli, Mumbai 400 018
1.1.3.3 & 8.2	Time for Completion of Works	42 months (Including monsoon period)
1.1.3.7	Defects Notification Period:	The defect notification period (defect liability period) shall start from the date of completion and shall continue till Three (3) calendar years.
1.3 (a)	Agreed systems of electronic transmission:	Facsimile/e-mail
1.3 (b)	Address of Employer for communications:	The Deputy Municipal Commissioner (Special Engineering), Brihanmumbai Municipal Corporation, 3rd Floor, Extension Building Mahapalika Marg Port, Mumbai – 400 001
1.3 (c)	Address of Employer's Representative for communications:	The Chief Engineer (Mumbai Sewage Disposal Project), Brihanmumbai Municipal Corporation 2nd Floor, Engineering Hub Building, Dr. E. Moses Road, near Worli Naka Worli, Mumbai 400 018

FIDIC Yellow Book (General Conditions) Provision	Description of Item	Data
1.4	Governing Law:	The laws of Republic of India in courts of Mumbai
1.4	Ruling language:	English
1.4	Language for communications:	English
4.2	Amount of Performance Security:	2% of the Contract Sum (Accepted Contract Price + 4% Physical Contingency). It shall remain valid until performance certificate is issued, plus 28days The Performance Security shall be released after the successful completion of defect liability period (3Year) by prompt rectification of all defects to the entire satisfaction of the Engineer, and Performance certificate is issued in accordance with clause 11.9 of Conditions of Contract and ITT 21
5.1	Period for notifying errors, faults and other defects found in the Employer's Requirements:	56 days from Commencement Date
8.7 & 14.15(b)	Delay damages for the Works:	For delay in completion of the Works at: 0.05% of the Accepted Contract Amount per week of delay to the maximum of 10% of the Contract Price
8.7	Maximum amount of delay damages:	10% of the Accepted Contract Price
13.5	Percentage for adjustment of Provisional Sums:	Provisional Sum set aside is Fixed sum, can be utilized with the approval of Engineer.
14.2	Amount of Advance Payment:	10% of Accepted contract price against Bank guarantee amount of 108% Bank Guarantee of Advance Amount (issued by a Nationalized or schedule commercial bank as per Annexure) with 8% simple interest per annum.
14.2	Number and timing of instalments	Two instalments of 5% each payable upon receipt of Advance Payment Guarantee
14.3	Percentage of retention:	2.4% from each interim payment of statement
14.3	Limit of Retention Money:	Maximum 2% of the Accepted Contract Value
14.5(b)	Plant and Materials for payment when shipped en route to the Site	Not applicable

FIDIC Yellow Book (General Conditions) Provision	Description of Item	Data																
14.5(c)	Plant and Materials for payment when delivered to the Site:	Not Applicable																
14.6	Minimum Amount of Interim Payment Certificate:	Single bill payment, monthly																
14.8	Financing charges for delayed payment:	NA																
14.15	Currency/currencies of payment:	INR (Indian Rupee)																
14.15	Proportions of Local and Foreign Currencies are:	100% in INR (Indian Rupee)																
18.1	Periods for submission of insurance: (a) evidence of insurance (b) relevant policies	14 Days 28 Days																
18.1	<table border="1"> <thead> <tr> <th>Insurance</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>Professional Indemnity Insurance</td> <td>10% of cost of Design build of the works</td> </tr> <tr> <td>Contractor’s All Risks Insurance</td> <td>As required in CoC Sub-clause 18.2</td> </tr> <tr> <td>Public Liability Insurance/Third party insurance</td> <td>Rs. 25 Cr</td> </tr> <tr> <td>Employer’s Liability Insurance</td> <td>Rs. 10 Cr</td> </tr> <tr> <td>Motor Insurance</td> <td>As per local regulations</td> </tr> <tr> <td>Insurance Against Accident to Workmen</td> <td>As per local regulations</td> </tr> <tr> <td>Insurance of Employer’s site staff</td> <td>Rs. 500,000(5.0lakh) for each of the Employer’s site staff.</td> </tr> </tbody> </table>		Insurance	Amount	Professional Indemnity Insurance	10% of cost of Design build of the works	Contractor’s All Risks Insurance	As required in CoC Sub-clause 18.2	Public Liability Insurance/Third party insurance	Rs. 25 Cr	Employer’s Liability Insurance	Rs. 10 Cr	Motor Insurance	As per local regulations	Insurance Against Accident to Workmen	As per local regulations	Insurance of Employer’s site staff	Rs. 500,000(5.0lakh) for each of the Employer’s site staff.
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18.2 (d)	Maximum amount of deductibles for insurance of the employer’s risks	Maximum deductible of 5% of contract value																
20.2	The DAB shall comprise:	3 members, each to be based in India																
20.3	Appointing entity (official) for DAB members, if not agreed:	President of Institute of Engineers of India																
20.8	Language of arbitration	English																

3. PARTICULAR CONDITIONS PART B – SPECIAL PROVISIONS

3.1 Amendments

FIDIC Yellow Book (General Conditions) Provision	Item	Amendment
1.1.1.1	Contract	<p>Delete this Sub-Clause and replace with: “Contract” means:</p> <ul style="list-style-type: none"> (a) Contract Agreement; (b) Letter of Acceptance; (c) Letter of Tender (d) Addendum and Corrigendum, if any (e) Conditions of Contract consisting of: <ul style="list-style-type: none"> i. the “General Conditions” which are the “Conditions of Contract for Plant and Design Build First Edition 1999” published by the Federation Internationale des Ingenieurs-Conseils (FIDIC), as amended by the Particular Conditions Part A and the Particular Conditions Part B; ii. Particular Conditions Part A – Contract Data; and iii. Particular Conditions Part B – Special Provisions; (f) Employer’s Requirements; (g) General Specification (h) Drawings (i) Price Schedules; (j) Contract Forms; and (k) Tender Submission Extracts. (l) Appendix A, B, D, E and F of the Instructions to Tenderers (m) The further documents (if any) which are listed in the Contract Agreement or in the Letter of Acceptance (n) Site data
1.1.1.8	Tender	<p>Delete the definition of “Tender” and replace with: "Tender" means the Letter of Tender.</p>
1.1.1.8.1 New	Tender Tender Submission Extracts	<p>Add New Sub-Clause: “Tender Submission Extracts” means those portions of the Contractor’s Tender Submission (including, for clarity, forms submitted as part of the Contractor’s Tender Submission) which the Employer, at its sole discretion, has included as a schedule to this Contract.</p>

FIDIC Yellow Book (General Conditions) Provision	Item	Amendment
1.1.2.2	Employer	Delete this sub clause and replace with “The employer shall mean the Brihanmumbai Municipal Corporation / Municipal Commissioner for Greater Mumbai or time being holding of said office and also his successors and shall also include all “Additional Municipal Commissioners, and the Deputy Municipal Commissioners (Engineering) and its any BMC officer to whom the powers of the Municipal commissioner have been deputed under section 56 &56 –B of Mumbai municipal corporation Act”
1.1.2.4	Engineer	Delete this sub clause and replace with The "Engineer" shall mean the City Engineer/ the Hydraulic Engineer/ the Chief Engineer/ the Special Engineer, appointed for the time being or any other officer or officers of the Municipal Corporation who may be authorised by the Commissioner to carry out the functions of the City Engineer/the Hydraulic Engineer/ the Chief Engineer/the special Engineer.
1.1.3.1	Base Date	At the end of the Sub-Clause 1.1.3.1 add, “and is the date stated in the [Contract Agreement].”
1.1.3.9	Days in Year	Add the following at the end of the Sub-clause: “or 366 days in a leap year.”
1.1.6.6	Performance Security	Delete the definition of ‘Performance Security’ and replace with: “Performance Security” means the security under Sub-Clause 4.2 [Performance Security] which is also referred to as “Performance Bank Guarantee” within the Contract. “
1.1.6.10 NEW	Management Meeting	Add as a new Sub-Clause 1.1.6.10: 1.1.6.10 Management Meeting “Management Meeting’ means a meeting called by either the Engineer or the Contractor’s Representative’ in accordance with Sub-Clause 3.6.”
1.1.6.11 NEW	Early Warning Meeting	“Early Warning Meeting” means a meeting called in accordance with Clause 3.7 [Early Warning Meetings]
1.1.6.12 NEW	Early Warning Register	“Early Warning Register” is a register of the risks identified which may have an impact on the cost or time of completion of the Works. Add the following at the end of the Sub-clause: “The Contractor shall promptly give notice to the Engineer of specific probable future events or circumstances which may adversely affect the work, increase the Contract Price or

FIDIC Yellow Book (General Conditions) Provision	Item	Amendment
		<p>delay the execution of the Works. The Engineer may require the Contractor to submit an estimate of the anticipated effect of the future event or circumstances, and/or a proposal under Sub-Clause 13.3 [Variation Procedure].”</p>
1.5	<p>Priority of Documents</p>	<p>Change the title of the section to “Priority of Documents and Inconsistencies”</p> <p>Delete the wording of the Sub-Clause and replace with the following:</p> <p>“The documents forming the Contract are to be taken as mutually explanatory of one another. For the purposes of interpretation, the priority of the documents shall be in accordance with the following sequence:</p> <ul style="list-style-type: none"> (a) the Contract Agreement; (b) the Letter of Acceptance; (c) the Letter of Tender (d) Addenda and Corrigenda (e) the Particular Conditions – Part A (Contract Data); (f) the Particular Conditions – Part B (Special Conditions); (g) the Schedule of Payments (h) the General Conditions of Contract;(FIDIC yellow book) (i) the Contract Forms (j) the Employer’s Requirements (k) the Drawings (l) the General Technical Specifications (m) the Physical Modelling Specification (n) the Contractor’s Proposals and any other documents forming part of the Contract (o) Tender submission extracts (p) Site data <p>In the event of any ambiguities, conflicts or inconsistencies between or among standards or requirements set out in the Contractor’s Proposals, the remainder of the Contract (including the Employer's Requirements) and applicable Law, the most stringent standards or requirements shall govern and take precedence over the lower standards or requirements.</p> <p>If either party becomes aware of any conflict or</p>

FIDIC Yellow Book (General Conditions) Provision	Item	Amendment
		<p>inconsistency between or within any of the documents forming this Contract or any requirement thereof or any instruction issued there under, that party shall promptly inform the other of the conflict or inconsistency. Thereafter, the parties shall meet, discuss in good faith and use reasonable effort to agree to the manner in which the conflict or inconsistency is to be resolved.</p> <p>Failing such agreement, the matter shall be determined by the Engineer in his absolute discretion, and any such determination shall, notwithstanding the Dispute resolution clause, be final and binding on the parties. It is expressly acknowledged by the Contractor that in no circumstances will any such conflict and/or inconsistency (or its resolution) give rise to an entitlement on the part of the Contractor to an adjustment to the Contract Price and/or an extension of time and/or any other payment whatsoever.”</p>
1.6	Contract Agreement	<p>Delete the final word of this clause, ‘Employer’, and replace with “Contractor”.</p> <p>Add the following to the end of the sub-clause: “The Contractor shall bear the stamp duty on the Contract as per prevailing rate and legal and stationery charges for preparation of the Contract Agreement as ruling on the date of execution of the Contract. Stamp duty shall be paid by the Contractor to the appropriate authority authorized to collect stamp duty.”</p>
1.7	Assignment	<p>Delete the Sub-Clause and replace with the following: “</p> <p>The Employer may, for reasons of re-organisation of the Employer’s responsibilities and powers or otherwise, wish to restructure or adjust elements of the Contract including in particular, but not limited to, the assignment or transfer or novation of the Contract by the Employer to an associated body or entity (such a body may be a local or national government agency or a corporate body or any other outsourced entity). The Contractor agrees to co-operate with the Employer in any restructuring or adjustments to the Contract.</p> <p>In the event of a restructuring involving the assignment, transfer or novation of the Contract by the Employer to an associated body or entity, the Contractor shall thereafter continue to perform all obligations and responsibilities in accordance with the Contract on behalf of the new Employer who shall, thereafter, undertake the obligations, responsibilities and entitlements of the Employer.”</p>
1.8	Care and Supply of	<p>Add at the end of the last paragraph: “The Party shall immediately give a copy of the notice to the</p>

FIDIC Yellow Book (General Conditions) Provision	Item	Amendment
	Documents	Engineer.”
1.12	Confidential Details	<p>Delete Sub-Clause 1.12 and replace with:</p> <p>“Each Party shall treat the details of the Contract and any information received or obtained in connection with negotiating and performing the Contract, or any transaction contemplated by the Contract (collectively, the "Confidential Information"), as confidential and not disclose to a third party any such information unless permitted under this Sub-Clause 1.12.</p> <p>Notwithstanding the foregoing and any other provision of the Contract, either Party may disclose to a third party Confidential Information if and to the extent:</p> <ul style="list-style-type: none"> a) necessary for the purpose of performing the Contract or for obtaining/maintaining financing or insurance relating to the Contract , provided, however, that the disclosing Party shall exercise reasonable efforts to ensure that the receiving third party abides by the same principles of confidentiality as set out herein; b) applicable Laws require such disclosure, provided, however, that the disclosing Party has taken all reasonable legal steps to prevent such disclosure; c) the other Party has given its prior approval in writing to such disclosure; d) such disclosure occurs, for the purpose of resolving a Dispute in accordance with Clause 20 [Claims, Disputes and Arbitration]; e) such Confidential Information has entered the public domain for any reason other than a breach of this Sub-Clause 1.12; f) this Contract contemplates such disclosure for purposes of carrying out a Party's obligations hereunder, including disclosure of Confidential Information to the Engineer; or g) any other agreement related to the Works that are the subject of this Contract. . <p>The Contractor shall disclose all such confidential and other information as the Engineer may reasonably require in order to verify the Contractor's compliance with the Contract.”</p>
1.13	Compliance with Laws	<p>Delete the wording of the Sub-Clause and replace with the following:</p> <p>“Except for any approvals already obtained by the Employer, the Contractor shall obtain all permits, licences and approvals in respect of all matters arising in the performance of the Contract. The Contractor shall comply with, give all notices under, and pay all fees required by, the</p>

FIDIC Yellow Book (General Conditions) Provision	Item	Amendment
		<p>provisions of any national or state statute, ordinance or other applicable law, or any regulation of any legally constituted public authority having jurisdiction over the Works. The Contractor shall obtain all permits, licences and approvals required for any part of the Works in reasonable time taking into account of the times for delivery of the Plant and Materials and for completion of the Works. In addition to complying with all Laws of India in the performance of the Works, if the Contractor performs any work pertaining to this Contract outside of India the Contractor shall comply with the Laws of each country where activities are performed. During the term of the Contract, the Contractor shall be deemed to be the “occupier” and “manager” of a “factory” within the meaning of the <i>Indian Factories Act, 1948</i>.</p> <p>Details of any permits, licences and approvals already obtained by the Employer are indicated in the Employer Requirements. The Contractor shall make its own judgment as to the completeness and sufficiency of such permits, licences and approvals in the context of his own completion of the Works.</p> <p>The Contractor shall at all times and in all respects comply with, give all notices under, and pay all fees required by any permit, licence or approval obtained by the Employer in respect of the Site or the Works, and whether relating to the Works on or off the Site.”</p>
1.14	Joint and Several Liability	<p>Delete the wording of the Sub-Clause and replace with the following:</p> <p>“If the Contractor constitutes (under applicable Laws), or submitted its Tender Submission in the tender process which preceded this Contract as, a joint venture, consortium or other incorporated or unincorporated grouping of two or more persons:</p> <p>a) these persons shall be deemed to be jointly and severally liable to the Employer for the performance of the Contract;</p> <p>b) these persons shall in writing notify the Employer of their leader who shall have authority to bind the Contractor and each of these persons; Such writing shall be registered; and</p> <p>c) the Contractor shall not alter his composition or legal status without the prior consent of the Employer.”</p>
2.1	Right of Access to the Site	<p>In the last line of the first paragraph of Sub-Clause 2.1, after the words ‘Performance Security’ insert the words:</p> <p>“and evidence that the insurances required by the Contract have been effected.”</p>
2.2	Permits,	<p>Add the following paragraph at the end of this Sub-Clause:</p>

FIDIC Yellow Book (General Conditions) Provision	Item	Amendment
	Licences or Approvals	“However, the Employer shall not be liable to the Contractor for any loss resulting from permits, licences or approvals being delayed or refused.”
2.4	Employer’s Financial Arrangements	This sub clause to be deleted
3.4	Replacement of the Engineer	This sub clause to be deleted
3.5	Determinations	Add as a separate paragraph at the end of the clause: “However, no Party shall be entitled to refer a determination made by the Engineer to the DAB unless it is referred by the Party to the DAB under this Sub-Clause 20.4 [Obtaining Dispute Adjudication Board’s Decision] within four weeks of the date of the Engineer’s determination under this Sub-Clause 3.5 [Determinations].”
3.6 NEW	Management Meetings	Add as new Sub-Clause 3.6: “The Engineer or the Contractor’s Representative may require the other to attend a Management Meeting in order to review the arrangements for future work. The Engineer shall record the business on the Management Meetings and supply copies of the record to those attending the meeting and to the Employer. In the record, responsibilities for any actions shall be in accordance with the Contract.”
3.7 NEW	Early Warning Meetings	Add as new Sub-Clause 3.7: Either the Engineer or the Contractor may require the other to attend an Early Warning Meeting. Each may instruct other people to attend if the other agrees. At an Early Warning Meeting, those who attend shall review the Early Warning Register and co-operate in a) making and considering proposals for how the effect of the noted probable future events or circumstances can be avoided or reduced, b) seeking solutions that will bring advantage to all those who will be affected, c) deciding on the actions which will be taken and who, in accordance with this Contract, will take them and d) deciding which probable future events or circumstances have now been avoided or have passed and can be removed from the Early Warning Register. The Engineer shall revise the Early Warning Register to record the decisions made at each Early Warning Meeting

FIDIC Yellow Book (General Conditions) Provision	Item	Amendment
		and issue the revised Early Warning Register to the Contractor. If a decision requires a change to the Employer’s Requirements, the Engineer shall instruct the change at the same time as he issues the revised Early Warning Register.
4.1	Contractor’s General Obligations	Add the following at the end of this Sub-Clause: “The Contractor shall at all times be an independent contractor. The Employer shall have no responsibility with respect to the obligations assumed by the Contractor and nothing in this Contract shall be deemed to constitute an agency, partnership or create any fiduciary relationship between the Employer and the Contractor.”
4.2	Performance Security	Add the following at the end of the Sub-Clause: If provision of the Performance Security requires the payment of any levy, tax, stamp duty or royalty then such payment shall be at the expense of the Contractor.
4.4	Subcontractors	Delete and Replace with: The Contractor can subcontract the works maximum up to 40% of Design Build cost for the entire Design Build period. If at any point of time during contract, the employer finds/notices such subcontracting more than 40%, the contract shall be terminated and no payment will be made to Contractor for the executed work and work will be re-assigned to other contractor at sole discretion of Employer at the risk and cost of Principal Contractor. The Contractor shall be responsible for the acts or defaults of any Subcontractor, his agents or employees, as if they were the acts or defaults of the Contractor. Unless otherwise stated in the Particular Conditions: (a) the Contractor shall not be required to obtain consent to suppliers of Materials, or to a subcontract for which the Subcontractor is named in the Contract; (b) the prior consent of the Employer’s Representative shall be obtained to other proposed Subcontractors including the scope, terms, and conditions of the proposed subcontract; and (c) the Contractor shall give Notice to the Employer's Representative not less than 28 days' prior to the intended date of the commencement of each Subcontractor's work, and of the commencement of such work on the Site. (d) Sub-contracting as mentioned herein shall not relieve the Contractor of his obligations and responsibilities under this Contract. Also, in no case shall sub-contractors pass on any claim/ liability to Employer.

FIDIC Yellow Book (General Conditions) Provision	Item	Amendment
		<p>(e) The Contractor shall record the following information about all Subcontractors engaged in the Works:</p> <ul style="list-style-type: none"> • name and address • date of subcontract • scope of work covered in the subcontract • commencement date of the work(s) subcontracted • completion date of the work(s) subcontracted • value of the subcontract • terms and conditions of payments • details of labour, temporary works and Subcontractor's equipment and • progress of the work(s) subcontracted. <p>The Contractor shall provide a copy of the above record to the Engineer and the Employer on monthly basis.</p> <p>The Contractor shall, when seeking consent to subcontract part of the Works provide the Engineer with the following:</p> <ol style="list-style-type: none"> a) details of the value of the subcontract; b) evidence to confirm that the proposed Subcontractor: <ol style="list-style-type: none"> i. is experienced and competent in the relevant work proposed to be subcontracted; and ii. is properly registered or licensed to undertake the work; and iii. such other information as the Engineer may reasonably require. <p>Where practicable the Contractor shall give a fair and reasonable opportunity for contractors from the Country to be appointed as Subcontractors.”</p> <p>Subcontractor is not liable to claim any payment from BMC.</p> <p>If any Subcontractor is entitled under any contract or agreement relating to the Works to relief from any risk on terms additional to or broader than those specified in the Contract, such additional or broader events or circumstances shall not excuse the Principal Contractor's non-performance or entitle him to relief under the Contract.</p>
4.6	Co-operation	In Sub-Clause 4.6(a) , insert after ‘Personnel’: “or others authorized by the Employer.”
4.7	Setting Out	Delete the wording of the Sub-Clause and replace with the following: “The Contractor shall set out the Works in relation to original points, lines and levels of reference specified in the

FIDIC Yellow Book (General Conditions) Provision	Item	Amendment
		<p>Contract or notified by the Engineer. The Contractor shall be responsible for the correct positioning of all parts of the Works, and shall rectify any error in the positions, levels, dimensions or alignment of the Works at his own cost.</p> <p>The Contractor shall also be responsible for the verification of all reference levels and datum provided in the Contract Documents during the design of the works at his own cost”</p>
4.10	Site Data	<p>Delete:</p> <p>‘The Employer shall have made available to the Contractor for his information, prior to the Base Date, all relevant data in the Employer’s possession on sub-surface and hydrological conditions at the Site, including environmental aspects. The Employer shall similarly make available to the Contractor all such data which comes into the Employer’s possession after the Base Date. The Contractor shall be responsible for interpreting all such data.’</p> <p>and replace with:</p> <p>“The Employer has made available to the Contractor for his information, prior to the Base Date, the Site data as included in the Volume V. The Employer shall similarly make available to the Contractor all such data which comes into the Employer’s possession after the Base Date.</p> <p>All Data provided by the Employer, including any background information provided by the Employer during the tender process that preceded this Contract is indicative and for the information of the Contractor only, and any reliance by the Contractor on the Data shall be at the Contractor’s own risk. The Contractor shall be deemed to have inspected and examined the Site for the purpose of preparing the Tender Submission and the Schedule of Payments, and is deemed to have made all sufficient enquiries to satisfy himself with respect to the accuracy, completeness and fitness for purpose of the Data, the existing structures and facilities, the Site conditions and ground conditions and other surroundings and utilities, including, but not limited to, the following matters:</p> <ol style="list-style-type: none"> a) the form and nature of the Site, including the above ground and sub-surface conditions, the existing structures and other installations; b) the hydrological and climatic conditions; c) the extent and nature of the work and Materials necessary for the execution and completion of the Works, and the remedying of any defects; d) the means of access to the Site and the accommodation he may require; e) the adequacy, suitability and reliability of the data

FIDIC Yellow Book (General Conditions) Provision	Item	Amendment
		<p>provided for use in preparation of his Tender Submission and execution of the Works,</p> <p>f) Works necessary in obtaining and due compliance with all necessary consents, permissions, licences, easements and statutory requirements in order to execute the Works; any interference or disruption to the Works caused by third parties; and</p> <p>g) any nuisance, interference and compliance with directions from statutory and public bodies.</p> <p>The Employer provides no warranty or undertaking of whatever nature in respect of the Data. The Contractor acknowledges and confirms that:</p> <p>1) it was cautioned during the tender process that preceded this Contract that the interpretation and use of the Data is at the Contractor’s own risk;</p> <p>2) it has conducted its own analysis and review of the Data and has, before the execution and delivery of this Contract, satisfied itself as to the accuracy, completeness and fitness for purpose of any such Data upon which it places reliance; and</p> <p>3) it shall not be entitled to and shall not make any claim against the</p> <p>Employer (whether in contract, or or otherwise), including, without limitation, any claim in damages, for extensions of time or for additional payments under this Contract on the grounds:</p> <p>A) of any misunderstanding or misapprehension in respect of the Data; or</p> <p>B) that the Data was incorrect or insufficient,</p> <p>nor shall the Contractor be relieved from any of its obligations under this Contract on any such ground.</p>
<p>4.12</p>	<p>Unforeseeable Physical Conditions</p>	<p>Delete the wording of the Sub-Clause and replace with the following:</p> <p>“In this Sub-Clause, "physical conditions" means natural physical conditions and man-made and other physical obstructions and pollutants, which the Contractor encounters at the Site when executing the Works, including sub-surface and hydrological conditions but excluding climatic conditions.</p> <p>If the Contractor encounters adverse physical conditions which he considers to have been Unforeseeable, the Contractor shall give Notice to the Engineer as soon as practicable.</p>

FIDIC Yellow Book (General Conditions) Provision	Item	Amendment
		<p>This Notice shall describe the physical conditions, so that they can be inspected by the Engineer, and shall set out the reasons why the Contractor considers them to be Unforeseeable. The Contractor shall continue executing the Works, using such proper and reasonable measures as are appropriate for the physical conditions, and shall comply with any instructions which the Engineer may give. If an instruction constitutes a Variation, Clause 13 [Variations and Adjustments] shall apply.</p> <p>If and to the extent that the Contractor encounters physical conditions which are Unforeseeable, gives such a Notice, and suffers delay due to these conditions, the Contractor shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:</p> <p>(a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion].</p> <p>The Contractor shall not be entitled to payment of any additional Cost associated with unforeseeable physical conditions encountered</p> <p>After receiving such Notice and inspecting and/or investigating these physical conditions, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) whether and (if so) to what extent these physical conditions were Unforeseeable, and (ii) the matter described in subparagraph (a) above.</p> <p>The Engineer may take account of any evidence of the physical conditions foreseen by the Contractor when submitting the Tender, which may be made available by the Contractor, but shall not be bound by any such evidence.”</p>
4.14	Avoidance of Interference	<p>In Sub-Clause 4.14 delete paragraph (b) and add:</p> <p>b) the access to and use and occupation of all roads, footpaths and any other right of way, irrespective of whether they are public or in the possession of the Employer or of others.</p> <p>Add new sub-paragraph (c) as follows:</p> <p>c) the Employer's or any other authority's supplies and services on the Site including without limitation oil, electricity, water and gas, telephone, buried cables and sewerage.</p>
4.15	Access Route	<p>In Sub-clause 4.15 (a), delete:</p>

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		<p>‘maintenance which may be required for his use of access routes’</p> <p>and replace with:</p> <p>“maintenance and/or repairs which may be required due to his use of access routes”</p>
4.18	Protection of the Environment	<p>Add the following at the end of this Sub-Clause:</p> <p>“The Contractor shall conform to the Employer’s Requirements and shall indemnify the Employer against any liability or damages or claims arising out of the Contractor’s operations. The Contractor shall be responsible and liable for any stoppage, closure or suspension of the works due to any contravention of statutory requirements relating to the protection of the environment and shall indemnify and keep indemnified the Employer in this regard.”</p>
4.19	Electricity, Water and Gas	<p>Replace with</p> <p>Electricity , Water and Gas</p> <p>“The contractor shall be responsible for provision of all power water and other services he may require.”</p> <p>Delete the remaining two paragraphs in the clause 4.19 of FIDIC YELLOW</p>
4.21	Progress Reports	<p>In Sub-clause 4.21(g), delete:</p> <p>‘public relations; and’</p> <p>and replace with:</p> <p>“public relations;”</p> <p>In Sub-clause 4.21(h), delete:</p> <p>‘delays.’</p> <p>and replace with:</p> <p>“delays; and”</p> <p>Add at the end of Sub-Clause 4.21:</p> <p>“(i) progress in obtaining all necessary approvals or permits</p> <p>(j) details of the projected and actual payment profiles and estimated amounts to be included in the Contractor’s Statements in monthly periods to the issue of the Taking-Over Certificate.”</p> <p>(k)an update of the latest programme submitted under Sub-Clause 8.3.</p> <p>Insert a new paragraph at the end on the Sub-Clause as follows:</p>

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		<p>“The Engineer shall review and may comment on the monthly report, and may table at a Management Meeting any issues that in the Engineer’s reasonable opinion the Contractor must revise, clarify or correct. For the avoidance of doubt, no review, comment (or absence of review or comment) shall relieve the Contractor from any responsibility he has under the Contract.”</p>
4.25 NEW	Changes in the Contractor’s Financial situation	<p>Add New Sub-Clause: 4.25 Changes in the Contractor’s Financial Situation If the Contractor becomes aware of any change in the Contractor’s financial situation which will or could adversely affect his ability to complete and fulfill all his obligations under the Contract, he shall immediately give Notice to the Employer with the detailed particulars. Within 28 days of receiving such Notice, the Employer shall advise the Contractor of what action he intends to take and/or what action the Employer requires the Contractor to take. In any event, the Contractor shall provide the Employer annually with his audited financial statements and reports.</p>
4.26 NEW	Collateral Warranties	<p>Add New Sub-Clause: 4.26 Collateral Warranties during design build period The Contractor shall ensure that, each of its Subcontractors/consultant that enters into a contract with the Contractor and that the Employer requires to provide a Collateral Warranty shall provide a Collateral Warranty to the Employer, in the form included in Volume IV of the Contract or in another form previously approved by the Employer, to be executed under Seal and furnished to the Employer. The Contractor shall furnish to the Employer such Collateral Warranty no later than 60 days after the date of engagement of the Consultant, Subcontractor or Additional Consultant, together with evidence that the professional indemnity insurances referred to in the Collateral Warranties have been effected by each of the designers for an amount of cover to be not less than the amount stated in the Contract Data under 18.</p>
4.27 New	Member Shareholding	<p>Add New Sub-Clause: 4.29 Member Shareholding If the Contractor constitutes (under applicable Laws) a joint venture, of two members, then the following shareholding rules shall apply: i) the shareholding percentage amounts of all original members shall be maintained throughout the Contract Period; ii) the Lead members shall maintain a highest shareholding for the entire Contract Period minimum of 51%); iii) JV member shall maintain a shareholding of at least 26% for the</p>

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		<p>entire Contract Period.</p> <p>iv) If members of the JV change the share holding percentage, at any time, during the Contract period, without prior intimation and approval of the Employer, in such a case, the Employer reserves the right to rescind the Contract Agreement and the Performance Security shall be forfeited.</p> <p>If the Contractor is a Company incorporated under the Indian Companies Act or any other applicable laws for incorporation and registration of a Company, there shall not be any change in the management structure of the JV Company during the Contract period without prior written approval of the Employer. If it is noticed that a change in the management structure of the company has been done without prior approval, the Employer reserves the right to terminate the contract without any further notice and the performance security shall be forfeited</p>
<p>5.2</p>	<p>Contractors document</p>	<p>Delete the wording of the Sub-Clause and replace with the following:</p> <p>The Contractor's Documents shall comprise the technical documents specified in the Employer's Requirements, documents required to satisfy all permits, licences and approvals, and the documents described in Sub-Clause 5.6 [As-Built Documents] and Sub-Clause 5.7 [Operation and Maintenance Manuals]. Unless otherwise stated in the Employer's Requirements, the Contractor's Documents shall be written in the language for communications defined in Sub-Clause 1.4 [Law and Language].</p> <p>The Contractor shall prepare all Contractor's Documents, and shall also prepare any other documents necessary to instruct the Contractor's Personnel. The Contractor shall prepare Contractor's Documents and sufficient detail to satisfy all requirements for permits, licences and approvals, to provide suppliers and construction personnel sufficient instruction to execute the Design Build of the Works, and to describe the operation and maintenance of the completed Works. The Employer's Representative shall have the right to inspect the preparation of all these documents, wherever they are being prepared.</p> <p>Each of the Contractor's Documents shall, when considered ready for use, be submitted to the Employer's Representative for review in accordance with the Employer's Requirements. In this Sub-Clause "review period" means the period for review established by the Employer's Representative, acting reasonably, at the time of submission of the applicable Contractor's document taking account of the type, complexity and extent of Contractor's Document to be reviewed.</p> <p>The review period shall be 28 days unless otherwise stated in /the Employer's Requirements or otherwise agreed by the Employer's Representative and the Contractor. The review period shall be calculated from the date on which the Employer's Representative receives a Contractor's Document for review in accordance with this Sub-Clause and for use.</p> <p>If the Employer's Representative, within the review period</p>

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		<p>established for a Contractor’s Document, notifies the Contractor that such Contractor’s Document fails (to the extent stated) to comply with the Employer's Requirements, the Contractor’s Document shall be rectified, resubmitted and re- reviewed (with a new review period as established by the Employer's Representative, acting reasonably), at the Contractor's cost. If the number of reviews of Contractor’s submission exceeds three revisions for any document / drawing, the Employer will levy a penalty at the rate specified in the Contract Data per occurrence of additional review per each document / drawing reviewed. Such penalty shall be deducted from any interim payments due to the Contractor.</p> <p>Except to the extent that the prior consent or approval of the Employer's Representative has been obtained;</p> <p>a) neither implementation of the Contractor’s Document nor execution of such part of the Works to which the Contractor’s Document applies shall commence until the Employer’s Representative has either approved or given his consent to the Contractor’s Document;</p> <p>b) Work shall be executed in accordance with applicable Contractor’s Documents; and</p> <p>c) if the Contractor wishes to modify any Contractor’s Document which has previously been submitted for review, the Contractor shall immediately notify the Employer's Representative, and shall subsequently submit a revised Contractor’s Document, and a written explanation of the need for the modification, to the Employer's Representative for review in accordance with Sub-Clause 5.2.</p> <p>If the Employer's Representative, acting reasonably, considers that additional Contractor’s Documents are necessary for the execution of the Design-Build of the Works, the Contractor shall, upon receiving the Employer's Representative’s request, prepare such Contractor’s Documents at the Contractor's cost.</p> <p>Errors, omissions, ambiguities, inconsistencies, inadequacies and other defects shall be rectified by the Contractor at his own cost. Any consent and/or approval (under this Sub- Clause or otherwise) shall not relieve the Contractor from any obligation or responsibility in accordance with this Contract.</p> <p>The Contractor shall not be entitled to an extension of the Time for Completion of Design-Build for delays incurred in preparing, correcting or completing Contractor’s Documents.</p>
6.1	Engagement of Staff and Labour	<p>Add as a second paragraph to Sub-Clause 6.1:</p> <p>“The contractor is encouraged, to the extent practicable and reasonable, to employ staff and labour with appropriate qualifications and experience from sources within India.”</p>
6.4	Labour Laws	<p>Add the following at the end of this Sub-Clause:</p> <p>“During continuance of the Contract, the Contractor and his</p>

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		<p>Subcontractors shall abide at all times by all existing labour enactments and rules made thereunder, regulations, notifications and bye laws of State or Central Government or local authority and any other labour law (including rules), regulations, bye laws that may be passed or notification that may be issued under any labour law in future either by the State or the Central Government or the local authority. Salient features of some of the major labour laws that are applicable to the construction industry are given below. The Contractor shall keep the Employer indemnified in case any action is taken against the Employer by the competent authority on account of contravention of any of the provisions of any Act or rules made thereunder, regulations or notifications including amendments, if any, on the part of the Contractor, the Engineer or the Employer shall also have right to recover from the Contractor any sum required or estimated to be required for making good the loss or damage suffered by the Employer.</p> <p>The employees of the Contractor and the Sub-contractor in no case shall be treated as the employees of the Employer at any point of time.</p> <p>SALIENT FEATURES OF SOME MAJOR LABOUR LAWS APPLICABLE TO ESTABLISHMENTS ENGAGED IN BUILDING AND OTHER CONSTRUCTION WORK.</p> <p><u>(i) Workmen Compensation Act 1923</u> The Act provides for compensation in case of injury by accident arising out and during the course of employment.</p> <p><u>(ii) Payment of Gratuity Act 1972</u> Gratuity is payable to an employee under the Act on satisfaction of certain conditions on separation if an employee has completed 5 years of service or more or on death at the rate of 15 days wages for each completed year of services. The Act is applicable to all establishments employing 10 or more employees.</p> <p><u>(iii) Employees PF and Miscellaneous Provision Act 1952</u> The Act provides for monthly contribution by the employer plus workers @ 10% or 8.33%. The benefits payable under the Act are:</p> <p>(a) Pensions or family pension on retirement or death as the case may be. (b) Deposit linked insurance on the death in harness of the worker. (c) Payment of PF accumulation on retirement/death etc.</p> <p>The Contractor should have the registration certificate of EPF and MP act 1952 and ESIC Act 1948. This is as per</p>

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		<p>circular dated 3.2.2012 of Chief Labour Officer.</p> <p><u>(iv) Maternity Benefit Act 1951</u> The Act provides for leave and some other benefits to women employees in case of confinement or miscarriage etc.</p> <p><u>(v) Contract Labour (Regulation and Abolition) Act 1970</u> The Act provides for certain welfare measures to be provided by the contractor to contract labour and in case the contractor fails to provide, the same are required to be provided by the Principal Employer by Law. The Principal Employer is required to take Certificate of Registration and the contractor is required to take a License from the designated officer. The Act is applicable to the establishments or contractor of Principal Employer if they employ 20 or more contract labour.</p> <p><u>(vi) Minimum Wages Act 1948</u> The employer is supposed to pay not less than the Minimum Wages fixed by appropriate Government as per provisions of the Act if the employment is a scheduled employment. Construction of Buildings, Roads, and Runways are scheduled employments.</p> <p><u>(vii) Payment of Wages Act 1936</u> This Act lays down by what date the wages are to be paid, when they will be paid and what deductions can be made from the wages of the workers.</p> <p><u>(viii) Equal Remuneration Act 1979</u> The Act provides for payment of equal wages for work of equal nature to male and female workers and for not discrimination against female employees in the matters of transfers, training and promotions etc.</p> <p><u>(ix) Payment of Bonus Act 1965</u> The Act is applicable to all establishments employing 20 or more workmen. The Act provides for payments of annual bonus subject to a minimum of 8.33% of wages and maximum of 20% of wages to employees drawing Rs. 3,500/- P.M. or less. The bonus to be paid to employees getting Rs. 2,500/-P.M. or above up to Rs. 3,500/- P.M. shall be worked out by taking wages as Rs. 2,500/- p.m. only. The Act does not apply to certain establishments. The newly set up establishments are exempted for five years in certain circumstances. Some of the State Governments have reduced the employment size from 20 to 10 for the purpose of applicability of the Act.</p> <p><u>(x) Industrial Disputes Act 1947</u> The Act lays down the machinery and procedure for resolution of industrial disputes, in what situations a strike or lock-out becomes illegal and what are the requirements for laying off or retrenching the employees or closing down the</p>

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		<p>establishment.</p> <p><u>(xi) Industrial Employment (Standing Orders) Act 1946</u> This Act is applicable to all establishments employing 100 or more workmen (employment size reduced by some of the States and Central Government to 50). The Act provides for the laying down rules governing the conditions of employment by the certified by the designated Authority.</p> <p><u>(xii) Trade Unions Act 1926</u> The Act lays down the procedure for registration of trade unions of workmen and employers. The trade unions registered under the Act have been given certain immunities from civil and criminal liabilities.</p> <p><u>(xiii) Child Labour (Prohibition and Regulation) Act 1986</u> The Act prohibits employment of children below 14 years of age in certain occupations and processes and provides for regulation of employment of children in all other occupations and processes. Employment of child labour is prohibited in Building and Construction industry.</p> <p><u>(xiv) Inter-State Migrant Workmen's (Regulation of Employment and Conditions of Service) Act 1979</u> The Act is applicable to an establishment which employees 5 or more inter-state migrant workmen through an intermediary (who has recruited workmen in one state for employment in the establishment situated in another state). The inter-state migrant workmen, in an establishment to which this Act becomes applicable, are required to be provided certain facilities such as housing, medical aid, travelling expenses from home up to the establishment and bank etc.</p> <p><u>(xv) The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act 1996 and the Cess Act of 1996.</u> All the establishments who carry on any building or other construction work and employs 10 or more workers are covered under this Act. All such establishments are required to pay cess at the rate of 1% of the cost of construction as may be notified by the Government. The employer of the establishment is required to provide safety measures at the Building or Construction work and other welfare measures, such as Canteen, First- aid facilities, Ambulance, Housing accommodations for Workers near the workplace etc. The employer to whom the Act applies has to obtain a registration certificate from the Registering Officer appointed by the Government.</p> <p><u>(xvi) The Factories Act 1948</u> The Act lays down the procedure for approval of plans</p>

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		before setting up a factory, health and safety provisions, welfare provisions, working hours, annual earned leave and rendering information regarding accident or dangerous occurrences to designated authorities. It is applicable to premises employing 10 persons or more with aid of power or 20 or more persons without the aid of power engaged in manufacturing process.”
6.6	Facilities for Staff and Labour	In Sub-Clause 6.6 insert after ‘accommodation’ in the second line “, transport”.
6.7	Health and Safety	<p>Insert after the first paragraph: “The Contractor shall provide all equipment necessary to protect personnel and property, maintain warning signs and lights, barricades, railings and other safeguards required by the conditions and the progress of the works. The Contractor shall issue appropriate and approved personal protective equipment to all workmen and authorized personnel on site.”</p> <p>Add the following at the end of this Sub-Clause: “The Contractor shall conform to the Employer’s Requirements and shall indemnify the Employer against any liability or damages or claims arising out of his operations. The Contractor shall be responsible and liable for any stoppage, closure or suspension of the works due to any contravention of statutory requirements relating to health and safety and shall indemnify and keep indemnified the Employer in this regard.”</p> <p>Without limiting the generality of Sub-Clause 1.13, the Contractor shall comply at all times during the Contract Period with all relevant health and safety Laws. For greater clarity: a) the Contract Price shall include all costs which may be incurred by the Contractor in complying with this Sub-Clause 6.7; and b) the Contractor acknowledges and agrees that the Time for Completion of Design-Build is adequate for the safe construction of the Works in accordance with this Sub-Clause 6.7.</p>
6.8	Contractor’s Superintendence	<p>Add the following to the end of this Sub-Clause: “The Contractor during all working hours shall have at least one designated person at site who is fluent in English, Hindi &/or Marathi.”</p>
6.12 NEW	Festivals and Religious Customs	<p>Add as Sub-Clause 6.12 “The Contractor shall, in all dealings with labour in his employment, have due regard to all recognised festivals,</p>

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		days of rest and religious or other customs.”
6.13 NEW	Employment of Local Personnel	Deleted entire clause
7.7	Ownership of Plant and Materials	<p>Add the following at the end of this Sub-Clause: “To the extent that the Contractor has received the benefit of any warranties from any Subcontractor or vendor or supplier of any Plant or Materials the Contractor shall assign the benefit of all such warranties to the Employer to the extent that the Contractor is legally able to do so, especially in the event that such warranty extends beyond the date of the Taking-Over Certificate.”</p>
7.9 – NEW	Origin of Goods	<p>Add New Sub-Clause: 7.9 Origin of Goods “The Goods and services to be supplied under the Contract may have their origin in any country subject to the restrictions specified in this Sub-Clause 7.9. Suppliers from a country or Goods manufactured in a country may be excluded if:</p> <ul style="list-style-type: none"> (a) as a matter of Law or official regulation, the Employer’s Country prohibits commercial relations with that country, provided that such exclusion does not preclude effective competition for the supply of the goods or works required; or (b) by an Act of Compliance with a Decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Employer’s Country prohibits any import of Goods from that country or any payments to persons or entities in that country. <p>All procurement of Goods and services under the Contract shall not contravene such restrictions. At the Employer’s request, the Contractor shall provide evidence of the origin of Goods and services. The Contractor is encouraged to use to the extent practicable and reasonable equipment, plant, materials and supplies from source within the country of the Employer.”</p>
8.3	Programme	<p>In Sub-Clause 8.3(a), after the word ‘including’ insert the following: “the critical path and”.</p> <p>In Sub-Clause 8.3, delete the word ‘and’ at the end of (c)</p>

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		<p>and after sub-paragraph (d) (ii), insert the following: “(e) the planned date when the Contractor intends any Sections and the whole of the Works to be complete and ready for taking over; and (f) other information which the Employer’s Requirements requires the Contractor to show on a programme.”</p> <p>Add a new paragraph before the paragraph stating ‘Unless the Engineer...’ “Each programme shall be:</p> <ul style="list-style-type: none"> • prepared using programming software that can be read by Microsoft Project eg Primavera; and • submitted in hard copy and electronic copy (in both Adobe pdf format and in the format in which it was prepared) .”
		<p>In Sub-Clause 8.3, after ‘The Contractor shall promptly give notice to the Engineer of specific probable future events or circumstances which may adversely affect the work., increase the Contract Price or delay the execution of the Works.’ Add: “ The Engineer shall add such probable future events or circumstances to the Early Warning Register.”</p>
8.4	Extension of Time for Completion	<p>In sub-paragraph (d) of Sub-Clause 8.4, delete the expression, ‘governmental actions’ and replace with “a change in Law”. AND Delete sub-paragraph (e) of sub-clause 8.4. Add the following at the end of the Clause: No idling charges shall be paid to the Contractor for any period of delay, irrespective of the reason, whether it is eligible for an extension of time under the Contract or not.</p>
8.9	Consequences of Suspension	<p>Add the following at the end of the Clause: No idling charges shall be paid to the Contractor for any period of delay, irrespective of the reason, whether it is eligible for an extension of time under the Contract or not.</p>
8.10	Payment for Plant and Materials in Event of Suspension	<p>In Sub-Clause 8.10, after sub-paragraph (b) add as a new paragraph: “Payment for Plant and/or Materials made pursuant to this Sub-Clause shall, if requested by the Contractor, be subject to the production by the Contractor of evidence satisfactory to the Engineer that the said Plant and/or Materials are fully</p>

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		owned and paid for by the Contractor and are not subject to any retention of title by the supplier.”
10.1	Taking over of the works in	Following is added to Sub-Clause 10.1 (a) Taking Over Certificates: The Engineer shall issue taking over certificate after successful completion and commissioning of the tunnel including completion of site works such removal of temporary works, road reinstatement etc. The date of this certificate shall form start date of defects liability period.
10.2	Taking Over of Parts of the Works	This Sub-Clause to be deleted.
10.3	Interference with Tests on Completion	This Sub-Clause to be deleted.
11.9	Performance Certificate	Add the following at the end of this Sub-Clause: The Performance Certificate will be issued at the end of the defects liability period subject to all defects having been rectified to the satisfaction of Engineer. Acceptance of the Works, by issue of the Performance Certificate, shall not relieve the Contractor of his liability to remedy any defects in the Works that may arise or reoccur in the 3 years following issue of the Performance Certificate.
11.10	Unfulfilled Obligations	This Sub-Clause to be deleted and replace with Notwithstanding the issue of the Defects Liability Certificate the Contractor and the Employer shall remain liable for the fulfillment of any obligation incurred under the provisions of the Contract prior to the issue of the Defects Liability Certificate is issued and, for the purposes of determining the nature and extent of any such obligation, the Contract shall be deemed to remain in force between the parties to the Contract
11.11	Clearance of site	Add at the end “ Contractor shall also removed any temporary sheds, offices, etc.
12.3	Retesting	Contractor shall bear Cost of retesting after rectification of defects.
13.3	Variation Procedure	Add the following at the end of this Sub-Clause: “For the purposes of determining adjustments to the Contract Price, the Contractor shall provide all Contract Price constitution information requested by the Engineer, which the Engineer determines, in his sole discretion, is necessary to make a determination in respect of a proposed

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		<p>adjustment to the Contract Price.</p> <p>The Contractor shall not be entitled to seek payment and/or compensation for the carrying out of a Variation and/or for any delay or disruption arising from or in connection with a Variation unless the Contractor gives Notice to the Engineer:</p> <ul style="list-style-type: none"> (a) no later than 14 days after issuance by the Engineer of the instruction to carry out the Variation, of the Contractor’s intention to make a claim for an increase in the Contract Price accompanied by full details of the Contractor’s estimate of the costs which will be incurred arising from or in connection with carrying out of the Variation; and (b) no later than 30 days after the completion of the varied work, of the work undertaken by the Contractor and of the delay and disruption (if any) caused by the Variation and of the adjustment sought to the Contract Price. <p>If any Variation proposed by the Employer or the Engineer results in an omission in respect of the Works, or any part thereof, then the Contract Price shall be reduced by the amount agreed by the parties in accordance with the procedures set out in the first sub-paragraph of Sub-Clause 13.3 (a) to (c) inclusive or, in the case of a Variation ordered where agreement has not been reached as to the value of the omission, at the rates and prices in the Schedule of Payments, or, if no appropriate rate is agreed, at rates based on a fair evaluation. Any reduction in the Contract Price arising from the omission shall be certified by the Engineer and in such circumstances, the Contract Price shall be reduced accordingly.”</p>
13.5	Provisional Sums	This clause shall be read in conjunction with the specific provisions under clause no. 2.2 Terms of payments for provisional sum Pricing Schedule Volume IV.
13.6	Day work	This sub clause is deleted
13.8	Adjustment for changes in cost	<p>Delete the sub clause 13.8 and add the following</p> <p>For the works executed during the time for completion and during authorised extension of time(granted by Engineer under relevant clauses of conditions of contract) , the amount payable to the Contractor and valued at base rates and prices shall be adjusted in respect of the rise or fall in the cost of labour and materials by addition or subtraction of the amount determined by the formulae prescribed in following paragraph and in line with the following principles & procedures :</p> <ul style="list-style-type: none"> a) If the Contractor fails to complete the works within the

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		<p>time for completion prescribed in the tender, adjustment of prices thereafter until the date of completion of the works shall be made using either the indices or prices, prevalent on the date of completion or during the extended time, whichever is more favourable to the Employer, provided that if an extension of time is granted pursuant to clause 8.4, the above provision shall apply only to adjustments made after expiry of such extension of time.</p> <p>b) Price adjustment shall be calculated for the work done in each quarter from the formulae as detailed hereinafter and reimbursement will be made to (when the result is plus) and refund will claimed from (when the result is minus) the contractor's next bill. Indices applicable for the material, labour, etc will be as published in India.</p> <p>The Price adjustment shall be in accordance with the proportions as set out in the following paras:</p> <p>I] For Civil Works: The formula(e) for adjustment of prices are: R= Value of work done during the month under consideration</p> <p>(a) Adjustment for labour component: Price adjustment for increase or decrease in the cost due to labour shall be paid in accordance with the following formula: $VL = 0.85 \times PI / 100 \times R \times (Li - Lo) / Lo$ <p>VL = increase or decrease in the cost of work during the month under consideration due to changes in rates for local labour. Lo = the consumer price index for industrial workers for Mumbai on 28 days preceding the date of opening of Bids as published by Labour Bureau, Ministry of Labour, Government of India. Li = the consumer price index for industrial workers for Mumbai for the month under consideration as published by Labour Bureau, Ministry of Labour, Government of India. PI = Percentage of labour component of the work.</p> <p>(b) Adjustment of materials Component: Price adjustment for increase or decrease in the cost of materials procured by the Contractor shall be paid in accordance with the following formula: $Vm = 0.85 \times Pm/100 \times R \times (Mi - Mo)/ Mo$ <p>Vm = Increase or decrease in the cost of work during the month under consideration due to changes in rates for materials</p> </p></p>

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		<p>Mo = The all India wholesale price index (all commodities) on 28 days preceding the date of opening of Bids as published by the Ministry of Industrial Development, Government of India, New Delhi or as published in RBI bulletin.</p> <p>Mi = The all India average wholesale price index (all commodities) for the month under consideration as published by the Ministry of Industrial Development, Government of India, New Delhi or as published in RBI bulletin.</p> <p>Pm = Percentage of material component of the work.</p> <ul style="list-style-type: none"> (i) Price variation will be calculated similarly and separately for extra items and / or excess quantities(if any) from the above formula. In such case Lo, Fo, Mo being the indices applicable to the date on which the rates are fixed. (ii) No price variation shall be admissible for FAIR items created during execution. (iii) The following percentages will govern the price adjustment for the entire Contract: <ul style="list-style-type: none"> 1. Labour - PL 30 % 2. Materials – Pm 70 % <p>Maximum price variation shall be limited to 18% of Accepted Contract price. For First 12 months no adjustment for the payment made to the contractor.</p>
14.2	Advance Payment	<p>Delete the clause and replaced by:</p> <p>After satisfactory compliance to the provisions of clauses of ITT , Advance Payment of 10% (5% against letter of Acceptance and 5% after mobilization) of the DB Contract amount will be paid to the Contractor on submission of 108% Bank Guarantee of Advance Amount, valid till recovery of the advanced amount. An interest of 8% per annum shall be payable by the Contractor to the Employer on the advance payment received.</p> <p>If provision of the Advance payment Guarantee requires the payment of any tax or stamp duty then such payment shall be at expenses of the contractor.</p> <p>The contractor shall ensure that the guarantee is valid and enforceable until the advance payment has been repaid but its amount may be progressively reduced by the amount repaid by the Contractor as indicated in the Interim Payment Certificates. If the terms of the guarantee specify its expiry date and the advance payment has not been repaid by the date 28 prior to the expiry date, the contractor shall extend the validity of the guarantee until the advance payment has</p>

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		<p>been repaid.</p> <p>The advance payment shall be repaid through percentage deductions in Interim payment Certificates. Unless other percentages are stated in Contract Data:</p> <ol style="list-style-type: none"> a. Deduction shall commence in Interim payment certificate in which the total of all certified interim payments (excluding advance payment and deductions and repayments of retention) exceeds 10% of the Accepted Contract Amount for the Design-Build; and b. Deduction shall be made at the rate of 7% (seven percent) of each interim payment certificate issued during the Design-Build period. <p>If the advance payment has not been repaid prior to the issue of the Commissioning Certificate or prior to the termination under clause 15 [Termination by Employer], Clause 16 [Suspension and termination by Contractor] or clause 18 [Exceptional Risk] (as the case may be), the whole of the balance then outstanding shall immediately become due to payable by Contractor to the Employer.”</p> <p>The Contractor will have an option to replace the original bank guarantee for the advance taken with another bank guarantee in the acceptable format as per the provisions of the Contract at the end of the two years. The replacement Bank Guarantee shall have the value equivalent to balance to be recovered plus 8% interest per annum.</p>
14.3	Application for Interim Payment Certificates	<p>Delete the first paragraph and replace with the following “The Contractor shall submit a Statement in three hard copies and one soft copy on a CD to the Engineer after the end of each month, in a form approved by the Engineer, showing in detail the amounts to which the Contractor considers himself to be entitled, together with supporting documents which shall include the report on the progress during this month in accordance with Sub-Clause 4.21 [Progress Reports]. All soft copies shall be digitally signed by the authorized signatory of the Contractor. The forms for payment shall be in a format suitable for incorporation in the procurement module of SAP implemented by BMC.”</p>
14.5	Plant and Materials intended for	<p>Add the following after (a) (ii):</p> <p>“(iii) in the case of royalties payable to the Government</p>

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	the Works	Authority on excavated material the payment shall be made by the Contractor.”
14.6	Issue of Interim Certificates	In line two of the first paragraph of Sub-Clause 14.6, after ‘Performance Security’, insert: “and the Contractor has submitted to the Employer evidence that the insurances required by the Contract have been effected”
14.7	Payment	Delete the wording of the Sub-Clause and replace with the following: “The Employer shall pay to the Contractor: (a) the advance payment within 21 days after receiving the documents in accordance with Sub-Clause 4.2 [Performance Security] and Sub-Clause 14.2 [Advance Payment] and the Payment Certificate for the advance payment issued in accordance with Sub-Clause 14.6 [Issue of Interim Payment Certificates]; (b) the amount certified in each Interim Payment Certificate, excluding amounts for adjustments and variations, within 56 days after the Engineer receives the corresponding Statement and supporting documents; (c) the amount certified for adjustments and variations in each Interim Payment Certificate, within 90 days after the Engineer receives the corresponding Statement and supporting documents including any amounts due in accordance with a decision by the DAB which have been included in the Interim Payment Certificate; and (d) the amounts certified in the Final Payment Certificate within 90 days after the Employer receives each such Final Payment Certificate, including any amounts due in accordance with a decision by the DAB which have been included in the Final Payment Certificate. Payment of the amount due shall be made into the bank account nominated by the Contractor specified in the Contract. Minimum Amount of Final Payment Certificate shall be as per BMC’s vigilance Department guidelines prevailing at that time”
14.8	Delayed Payment	Delete the entire clause:
14.9	Payment of Retention Money	Delete the wording of this sub clause and replace with following: Retention money shall be refunded to the contractor only on finalisation of final bill, settlement of accounts of work by the

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		contractor in all respect or after the completion of Defect Notification (liability) period, whichever is later.
15.6	Corrupt or Fraudulent Practices	<p>If the Employer determines, based on reasonable evidence, that the Contractor has engaged in corrupt, fraudulent, collusive or coercive practices, in competing for or in executing the Contract, then the Employer may, after giving 14 days' notice to the Contractor, terminate the Contract and expel him from the Site, and the provisions of Clause 15 shall apply as if such termination had been made under Sub-Clause 15.2 [Termination by Employer].</p> <p>Should any employee of the Contractor be determined, based on reasonable evidence, to have engaged in corrupt, fraudulent or coercive practice during the execution of the work then that employee shall be removed in accordance with Sub-Clause 6.9 [Contractor's Personnel].</p> <p>For the purposes of this Sub-Clause:</p> <p>(i) "corrupt practice" is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;</p> <p>(ii) "fraudulent practice" is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;</p> <p>(iii) "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;</p> <p>(iv) "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;</p>
16.2	Termination by Contractor	Delete bullet points (b) and (c) in this sub-clause.
16.4	Payment on Termination	Delete sub-paragraph (c) of this Sub-Clause.
17.7 NEW	Patent Rights and Royalties	<p>Add NewSub-Clause: 17.7 Patent Rights and Royalties</p> <p>The Contractor shall save harmless and indemnify the Employer from and against all claims and proceedings for or on account of infringement of any Patent rights, design trademark or name of other protected rights in respect of any Plant or Materials and</p>

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		<p>from and against all claims, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto.</p> <p>Except where otherwise specified, the contractor shall pay all tonnage and other royalties, rent and other payments or compensation, if any, for getting stone, sand, gravel clay or other materials required for the works or any of them.</p>
17.8 (NEW)	Royalties payable on excavated material	<p>Add NewSub-Clause: Contractor shall pay necessary royalties and submit documentary evidences of such payments to the Engineer for his information and record. If and when royalties become payable to the Government authorities on excavated material as per Statutory requirements, payment shall be made by the contractor.</p>
18.1	General Requirements for Insurance	<p>Add as a separate paragraph after the 5th paragraph: “Unless stated otherwise in this Contract, the maximum deductible for any policy shall be 5% of the sum insured.”</p> <p>Add the following at the end of this Sub-Clause: “All insurances for the Works shall be taken from the Directorate of Insurance Maharashtra State/agencies approved by IRDAI. However, insurance policies can be taken from any private insurer registered with IRDA with NOC from the Directorate of Insurance of Maharashtra”.</p> <p>All insurances shall be maintained until the issue of the Performance Certificate.”</p>
18.5 - NEW	Professional Indemnity Insurance	<p>Add New Sub-Clause 18.5 Professional Indemnity Insurance “The Contractor shall ensure that the design consultant shall effect professional indemnity insurance, which shall cover the risk of professional negligence in the design of the Works. This insurance shall be for a limit of not less than the amount specified in the Particular Conditions Part A – Contract Data.</p> <p>The Contractor shall ensure that the design consultant shall use his reasonable endeavours to maintain the professional indemnity insurance in full force and effect until the issue of the Performance Certificate. The Contractor undertakes to notify the Employer promptly of any difficulty in extending, renewing or reinstating this insurance.”</p>
18.6 NEW	Insurance of Employer’s site staff	<p>Add New Sub- Clause: 18.6 Insurance of Employer’s site staff</p>

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		<p>“The Contractor shall also, without limiting his or the Employer’s obligations, insure in the joint names of the Contractor and Employer, 10 of the Employer’s staff engaged on the works at the site against liabilities for death or injury, for an amount of cover to be not less than the amount stated in the Contract Data under 18.1. The insurance shall continue until 12 months after issue of the Taking Over Certificate.”</p>
<p>18.7 NEW</p>	<p>Insurance Against Accident to Workmen</p>	<p>Add New Sub-Clause: 18.7 Insurance Against Accident to Workmen The Contractor shall also take out a Personal Accident Insurance Policy in favour of each workman employed by him on any job pertaining to the Contract. The Contractor shall ensure that a similar Personal Accident Insurance Policy is taken out in respect of each workman employed by his Sub-contractors, if any. All such policies in favour of the workmen of the Contractor as well as its Sub-contractors shall be registered by the Contractor in the office of the Employer, before the commencement of the Works. If the Contractor fails to take out the Personal Accident Insurance Policy as set out in this Sub-Clause and any accident occurs, an equivalent amount equal to the compensation payable under the Personal Accident Insurance Policy, according to the nature of accident, will be deducted from the bills payable to the Contractor for the work done or from any other dues payable to the Contractor, and kept in a deposit account to be paid ultimately to the injured person or to the heirs in case of death. Insurance under a Personal Accident Insurance Policy will be additional to any other Insurance required under the Conditions of Contract.</p>
<p>20.4</p>	<p>Obtaining Dispute Adjudication Board’s Decision</p>	<p>At the end of the first paragraph, add: “However, no Party shall be entitled to refer a dispute to the DAB unless it is referred by the Party to the DAB within four weeks of the date when the Party became aware, or should have become aware, of the issue that is the subject of the dispute.” Insert the following as a new penultimate paragraph: “If the decision of the DAB requires a payment by one Party to the other Party, the DAB may require the payee to provide an appropriate security in respect of such payment”</p>
<p>20.6</p>	<p>Arbitration</p>	<p>wording of the Sub-Clause and replace with the following:</p>

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		<p>“Any dispute in respect of which the decision(s), if any, of the DAB has not become final and binding pursuant to Sub-clause 20.4 shall be finally settled by arbitration as set forth below. The arbitral tribunal shall have full power to open-up, review and revise any decision, opinion, instruction, determination, certificate or valuation of the Engineer and any decision(s) of the DAB related to the dispute:</p> <p>(a) A dispute with Indian or foreign contractors shall be finally settled by arbitration in accordance with the Indian Arbitration & Conciliation Act 1996 or any statutory amendment thereof. The arbitral tribunal shall consist of 3 arbitrators, one each to be appointed by the Employer and the Contractor. The third arbitrator shall be chosen by the two arbitrators so appointed by the parties and shall act as presiding arbitrator. In case of failure of the two arbitrators, appointed by the parties to reach upon a consensus within a period of 30 days from the appointment of the arbitrator appointed subsequently, the presiding arbitrator shall be appointed by the International Centre for Alternate Dispute Resolution in India. For the purposes of this Sub-Clause, the term “Indian Contractor” means a contractor who is registered in India and is a juridic person created under Indian law as well as a joint venture between such a contractor and a foreign contractor.</p> <p>(c) Neither party shall be limited in the proceedings before such tribunal to the evidence or arguments already put before the Engineer or the DAB, as the case may be, for the purpose of obtaining its/his said decisions. No such decision shall disqualify the Engineer or any of the members of the DAB, as the case may be, from being called as a witness and giving evidence before the arbitrators on any matter whatsoever relevant to the dispute.</p> <p>(d) Arbitration may be commenced prior to or after completion of the Works, provided always that the obligations of the Employer, the Engineer, the Contractor and the DAB shall not be altered by reason of the arbitration being conducted during the progress of the Works.</p> <p>(e) If one of the parties fail to appoint its arbitrator in pursuance of Sub-Clause (a) above, within 30 days after receipt of the notice of the appointment of its arbitrator by the other party, then the International Centre for Alternate Dispute Resolution in India, both in cases of foreign contractors as well as Indian Contractors, shall appoint an arbitrator. A certified copy of the order of the International Centre for Alternate Dispute Resolution in India making such an appointment shall be furnished to each of the parties.</p> <p>(f) Arbitration proceedings shall be held at Mumbai, India,</p>

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		<p>and the language of the arbitration proceedings and that of all documents and communications between the parties shall be English. The Employer and Contractor hereby irrevocably attorn to the exclusive jurisdiction of the courts of Mumbai and all courts competent to hear appeals therefrom.</p> <p>(g) The decision of the majority of arbitrators shall be final and binding upon both parties. The cost and expenses of arbitration proceedings will be paid as determined by the arbitral tribunal. However, the expenses incurred by each party in connection with the preparation, presentation, etc., of its case and also the fees and expenses paid to the arbitrator appointed by such party or on its behalf shall be borne by each party itself.”</p>
20.7	Failure to Comply with Dispute Adjudication Board’s Decision	<p>Replace Sub-Clause 20.7 in its entirety with:</p> <p>“In the event that a Party fails to comply with any decision of the DAB, whether binding or final and binding, then the other Party may, without prejudice to any other rights it may have, refer the failure itself to arbitration under Sub-Clause 20.6 [Arbitration] for summary or other expedited relief, as may be appropriate.</p> <p>Sub-Clause 20.4 [Obtaining Dispute Adjudication Board’s Decision] and Sub-Clause 20.5 [Amicable Settlement] shall not apply to this reference.”</p>
General	Special TBM advance or P&M Advance	<p>A special lump sum advance loan up to 20 crores for the TBM or as actual cost whichever is less, will be made available by the Corporation to the Contractor towards advance payments for procurement of TBM including special attachments. The tenderer shall indicate in his tender, his requirement for the special lump sum advance loan. Payment of the loan will be on separate certification by the Engineer after the following conditions are met, and shall carry a simple interest rate of 8 percent per annum.</p> <ol style="list-style-type: none"> i. Proof of having placed an order for procurement in the form of a proforma invoice from the manufacturer indicating the model, cost and delivery period and accompanied by full technical particulars of the model being submitted and the Engineer is satisfied with the same. ii. In case the TBM’s proposed by the Contractor are to be imported, the Contractor shall procure an import license for importation of the machines from the appropriate authorities of the Government of India. The Contractor may request and obtain necessary essentiality certificate from the

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		<p>Corporation.</p> <p>iii. Provision by the Contractor of a Bank Guarantee by a Bank acceptable to the Corporation in an amount equal to the special advance loan plus 8% percent extra for interest charged. Such Bank Guarantee shall be enforceable within the jurisdiction of the Mumbai High Court and shall remain valid and effective until the advance loan has been completely repaid by the contractor out of current earnings under the Contract and certified accordingly by the Engineer.</p> <p>The machine shall not be removed from the site without the prior approval of the Engineer and shall be maintained in good working condition during the Contract Period.</p> <p>The Corporation shall not be liable for any loss or damage to the machine or part or spare part thereof and the Engineer shall have full authority to order removal/ repair of any defective part or rejection of the entire machines if in his opinion the same cannot be rendered serviceable in a reasonable period.</p> <p>The clearance through Customs and payment of all duties, insurances charges of whatever kind in connection with the importation shall be borne by the Contractor and shall not come from the proceeds of the advance loan.</p> <p>Recovery of Special advance loan against TBM's shall commence from one month after commencement of the tunnel boring activity @8% simple interest. The advance of 20 crores shall be distributed on total length of tunnelling in the contract, shall be recovered directly on running metre basis during the month of R.A bills as approved by the Engineer. Contractor shall submit Unconditional B.G in this respect. If the amount payable under any monthly statement is not sufficient to cover all other sums deductible there from, the balance outstanding shall be deducted from subsequent statements as may be necessary.</p>
General	GST and other state levies/cess	<p>GST and other state levies/cess which are not subsumed under GST will be applicable. The tenderer shall quote inclusive of all taxes applicable at the time of bid submission. It is clearly understood that BMC will not bear any additional liability towards payment of any Taxes & Duties.</p> <p>Wherever the services to be provided by the Tenderers, falls under Reverse charge Mechanism, the Price quoted shall be exclusive of GST, but inclusive of Taxes/Duties/Cess/other than GST, if any.</p>

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		<p>Rates accepted by BMC shall hold good till completion of work and no additional individual claim shall be admissible on account of fluctuations in market rates; increase in taxes/any other levies/tolls etc. except that payment/recovery for overall market situation shall be made as per Price variation and if there is any subsequent change (after submission of bid) in rate of GST applicable on the work / services to be executed as per tender, i.e. any increase will be reimbursed by BMC whereas any reduction in the rate of GST shall be passed on to BMC as per the provision of the GST Act.</p>
General	Overpayment and underpayment	<p>Whenever any claim for the payment of a sum to the Municipal Corporation rises out of or under this contract against the Contractor the same may be deducted by the Municipal Corporation from any sum then due or which at any time thereafter may become due to the Contractor under this contract and failing that under any contract with the Municipal Corporation or from any other sum due to the Contractor from the Municipal Corporation (which may be available with the Municipal Corporation) or from his security deposit/retention money, or he shall pay the claim on demand.</p> <p>The Municipal Corporation reserves the right to carry out post payment audit and technical examination of the final bill including all supporting voucher, abstracts etc. The Municipal Corporation further reserves the right to enforce recovery of any over payment when detected.</p> <p>If as a result of such audit and technical examination any overpayment is discovered in respect of any work done by the Contractor or alleged to have been done by him under the Contract, it shall be recovered by the Municipal Corporation from the Contractor by any or all of the methods prescribed above or if underpayment is discovered the amount shall be duly paid to the Contractor by the Municipal Corporation.</p> <p>Provided that the aforesaid right of the Municipal Corporation to adjust overpayment against amount due to the Contractor under any other contract with Municipal Corporation 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 of the amount payable by the Contractor under the "Minus" bill is communicated to the Contractor.</p> <p>Any amount due to the Contractor under this contract for underpayment may be adjusted against amount then due or which may at any time thereafter become due before payment is to the Contractor, from him to Municipal</p>

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		Corporation on any other contract or account whatsoever.				
General	Regulation Employment Welfare	The Contractor, which expression shall include sub-contractor or any such person or group of persons representing the contractor who are and, required to handle iron and steel materials shall register themselves as employer with the Mumbai Iron and Steel Labour Board and shall completely fulfill all the obligatory provisions of the Maharashtra Mathadi, Hamal and other Manual Workers (Regulation of Employment Welfare Act, 1969) and the Mumbai Iron and Steel Unprotected Workers (Regulation of Employment and Welfare Scheme, 1970). The consequences of failure of compliance of any of these provisions will entirely be the liability and responsibility of the Contractor.				
General	Employment of local personnel.	The contractor is encouraged to the extent practicable and reasonable to employ staff and labour with appropriate qualifications from locally available man power				
Penalty						
	Rate of recovery from contractor's bill in case of non compliance of required number of personnel at site as specified in ITT	Sr. No	Qualification	Total Experience (Years)	Specific experience (Years)	Rate of penalty
		1	Project/Site Engineer	5	3	Rs.1000/- per day.
		2	Quality Graduate Engineer	8	4	Rs.1000/- per day.
	Failure to set up field laboratory at site within 30 days from date of receipt of order from Engineer	A penalty of Rs 1000/- per day shall be imposed and shall be deducted from Contractor's bill				
	Barricading not provided to open trenches, shafts, work area	A penalty of Rs.2000/- per Meter per day will be imposed. Penalty on account of lapses in providing barricades will be cumulatively imposed to the tune of 5% of the contract cost."				
	Penalty for non compliance to	A penalty of Rs 1000 per head will be imposed for each lapse of the safety requirement.				

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	safety requirements (As per Technical specification)	
	Failure in flow value/Bulk density/Void ratio in a asphaltic mix beyond permissible limit as mentioned in the test report.	Penalty of Rs 5000/- for each failure
	Gradation Failure as per result of GSB,WMM	Penalty of Rs 5000/- for each failure
	Non-compliance of any provision of the rules or comply with conditions of contract (Excluding the penalties mentioned above in this document)	For the first default of any type a warning will be issued. For each subsequent default the minimum penalty will be fine of Rs. 2,500/- per laps
	Contractor's Documents – Penalty for additional revisions per occurrence per document / drawing	INR 10,000.00
NEW	TBM	Contractor shall use newly procured TBM or refurbished TBM.
NEW	Signing of Contract Agreement	The Contract Amount to be entered into Contract Agreement shall be = “Accepted Contract price + 4% Physical Contingency + 18% Cost Contingency”

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	Failure to comply	<p>Related to TBM The Contractor, along with his tender, shall submit a general programme for completion of the Works in the form of a bar chart. This programme shall abide by the limit dates specified in the Contract and shall constitute the basis to prepare detailed programme. The programme shall provide clear description for the Temporary Works, locations and type of permanent installations and other infrastructural features and job facilities. The programme shall indicate a committed period for activities related to procurement of Tunnel Boring Machine (TBM) so that the Contractor shall start tunnel boring activity not later than end of 10 months from the date of receipt of order of commencement of Works. The programme shall further show detailed sub activities such as “Selection of TBM model”, “Import License”, “Opening of Letter of Credit”, “TBM shipment”, “Custom Clearance”, etc. As appropriate. This period, once agreed, shall be strictly adhered to by the Contractor in his Post Award Programme and during the execution of the Works. b) The Contractor shall, within 30 days after the Letter of Acceptance, submit to the Engineer a detailed activity linked bar chart showing critical activities. This programme should be more detailed with a fixed project start and finish dates. The programme shall follow the activities and the milestones shown on Specification Drawing. The Contractor shall update the Bar Chart half yearly or earlier as and when situation demands and submit it to the Engineer, failing which penalty of Rs 5,000/- (Rupees five thousand) shall be imposed. Program shall be furnished in hard copies as well as in a file in M.S Project software along with updated “S” curve etc including action plan to recover the delay if any. The interim payment under the Clause 14.6 of conditions of contract shall only be paid after the program is finally approved by the Engineer. The Contractor will be required to submit the monthly progress reports as per approved Monthly Report Format by the 5th day of the following month to the Engineer in duplicate. Failure on the part of the Contractor to submit monthly report in time will attract action as stated below. The format of Progress Report is enclosed in Contract Forms Volume IV.</p>
NEW	Work site order book	<p>The Engineer shall communicate or confirm his instructions to the Contractor in respect of the execution of the Works in a "Works Site Order Book" maintained in the office of the engineer 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). If the Contractor fails to comply with the instruction(s) of the Engineer, the Engineer may impose penalty for each of such defaults. The maximum penalty for each of such defaults shall not exceed 10000/- (Rupees ten thousand) and this penalty will not prejudice the right of the Commissioner or the engineer to claim compensation under any other condition of Contract.</p>

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NEW	Engineer's Representative	<p>The Engineer's representative shall be appointed by and be responsible to the Engineer and shall carry out such duties and exercise such authority as may be delegated to him by the Engineer as follows:</p> <p>The Engineer may from time to time delegate to the Engineer's Representative any duties and authorities vested in the Engineer and he may at any time revoke such delegation. Any such delegation or revocation shall be in writing and shall not take effect until a copy thereof has been delivered to the Employer and the Contractor. Any communication given by Engineer's representative to the Contractor in accordance with such delegation shall have the same effect as though it had been given by the Engineer. Provided that :</p> <p>a) Any failure of the Engineer's representative to disapprove any work, materials or plant shall not prejudice the authority of the Engineer to disapprove such work, materials or plant and to give instruction for rejection thereof: and</p> <p>b) If the contractor questions any communication of the Engineer's representative he may refer the matter to the Engineer who shall confirm, reverse or vary the contents of such communication.</p>