AN ISO 9001 & 14001 COMPANY

TENDER DOCUMENT

TENDER No: ERO/MMD/RVNL-ORP/1144

Tender for “Insurance for Works (Contractors All Risk Policy) for.” Construction of PEB shed, structures, water supply arrangement, drainage, sewerage, road works, track works in connection with construction of main line EMU Car Shed (Phase-2) at Khurda Road, Odisha (India).

VOLUME – I

Notice Inviting Tender (NIT), Bidder’s Information, Proforma for Affidavit

ENGINEERING PROJECTS (INDIA) LIMITED
(A GOVT. OF INDIA ENTERPRISE)
9th floor, 50, Chowringhee Road,
Kolkata – 700 071
Sub: Tender enquiry for Insurance for Works (Contractors All Risk Policy) for Construction of PEB shed, structures, water supply arrangement, drainage, sewerage, road works, track works in connection with construction of main line EMU Car Shed (Phase-2) at Khurda Road, Odisha (India).

Sealed Tenders are invited in two bid system (Techno Commercial and Price bid) from the interested non-life insurers registered with the Insurance Regulatory & Development Authority of India (IRDAI) (only from Govt. / PSU / Private Sector Unit) for Project Insurance Policy (Contractors All Risk) for the following project:

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Name of the work</th>
<th>Estimated cost of the project</th>
<th>Policy duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Construction of Construction of PEB shed, structures, water supply arrangement, drainage, sewerage, road works, track works in connection with construction of main line EMU Car Shed (Phase-2) at Khurda Road, Odisha (India).</td>
<td>Rs. 53,23,18,875.00</td>
<td>18 Months + 06 Months (Defect Liability Period).</td>
</tr>
</tbody>
</table>

The details of scope of work are given in the tender documents are mentioned in Annexure- II. Time schedule of Tender activities:

(i) Last Date & Time for downloading of tender documents: upto 12.03.2020 (12 Noon)
(ii) Last Date & Time of submission of Tenders: on or before 12.03.2020 up to 03.00 PM.
(iii) Date & Time of opening of tender (Technical bid Cum Price bid ): 12.03.202020 upto 3.30 PM.

1. The Bidders who fulfill the following eligibility criteria / requirements are eligible to participate in this tender.
   a) Party should have registered with IRDA (copy of certificate to be enclosed).
   b) Should have valid Permanent Account Number of Income Tax (Copy of PAN to be enclosed).
   c) Should have GST Registration No. (Copy of GST Registration certificate to be enclosed).

2. Tender documents comprising of the following are available on the website of EPI: www.engineeringprojects.com & CPP Portal: www.eprocure.gov.in

The bidders may obtain further information regarding this tender from GM (Contracts) the address given at Clause No.19.0 below from 10:00 hours to 17:00 hours on all working days till the last date of online submission of Bidding Documents.

Bidders can download the bid document from the portal.

Bids must be submitted along with copies of relevant documents pertaining to Clause no. 1 (a) to 1 (c) under Single Stage Two Envelope Bidding Procedure on or before last date and time submission. Late bids will not be accepted. Under the above procedure, only the first envelope (Technical Part) shall be opened in the presence of the bidders’ representatives who choose to attend in person at the address given below on schedule date and time of bid opening. Second envelope i.e. The price part shall be opened for the bidders who got technically qualified.

The Terms & Conditions contained in this NIT and tender documents shall be applicable. In case of any unscheduled
holiday taken place on the last day of submission of tender, the next working day will be treated as scheduled day and time for submission of Tender.

3. The tender is to be submitted in two separate sealed covers marked as under:

**ENVELOPE-1:: Techno Commercial Bid**

Terms & conditions of work and unpriced copy of price bid in one sealed cover along with prequalification documents in respect of their credentials and price bid in the sealed envelope.

This Envelope shall also contain the following:

i) Complete Tender Documents comprising of NIT, Documents in support of fulfillment of PQ Criteria
   1. Volume I NIT, Bidder information, Proforma for affidavit, Annexure I, II, III.
   2. Vol II (Price bid)

This Envelope – 1 shall be super scribed as: “Techno Commercial Bid” for Insurance for Works …..

NIT No:……………………………

DUE ON: ………………………………

FROM : (Name of the Tenderer, Address and Contact no.)

**ENVELOPE-2: PRICE- BID**

This Envelope shall contain only the “PRICE- BID” as per the format given in Annexure.

The price bid of those bidders whose bid has been found technically accepted on the basis of documents submitted shall be opened with prior intimation to them. However, it is made clear that the offer of the L-1 Bidder shall be accepted subject to the confirmation of authenticity of the PQ documents / BG from the concerned department / bank where applicable.

The tenderer should quote the rates for the items tendered by them in figures as well as in words and the amount in figures only. The amount for each item should be worked out and the requisite totals and the page totals given where applicable.

This Envelope shall be super scribed as: “PRICE- BID”

NIT No:……………………………

DUE ON: ………………………………

FROM : (Name of the Tenderer, Address and Contact no.)

3. Both the envelopes duly marked as l & 2 shall be separately sealed and kept in a third envelope which should be super scribed as: “Insurance for Works (Contractors All Risk Policy) for Construction of PEB shed, structures, water supply arrangement, drainage, sewerage, road works, track works in connection with construction of main line EMU Car Shed (Phase-2) at Khurda Road, Odisha (India).

NIT No:……………………………

DUE ON:……………………………

FROM: (Name of the tenderer, Address and Contact no.)

4. At the bottom of the left hand side of all the envelopes the name, address and contact No. of the individual tenderer should be super scribed.

5. The corrigendum or addendum, extension, cancellation of this NIT, if any, shall be hosted on the on the website of EPI: www.engineeringprojects.com & CPP Portal: www.eprocure.gov.in. The bidders are required to check the aforesaid website regularly for this purpose, to take into account before submission of tender. All Corrigendum and addendums if any are also to be submitted duly signed & stamped.

6. EPI reserves the right to accept any or reject any or all offers or extend the date of submission of the offer or cancel any or all the tender(s) or annul this process without assigning any reason whatsoever.
7. The tenderer is required to submit all the documents duly signed and stamped on each page as token of acceptance.

8. The Terms & Conditions contained in this NIT and tender documents shall be applicable. In case of any unscheduled holiday taken place on the last day of issue of tender/submission of tender, the next working day will be treated as scheduled day and time for issue/submission of Tender.

9. The corrigendum or addendum, extension, cancellation of this NIT, if any, shall be hosted on the EPI’s website/ CPP portal. The bidders are required to check these websites regularly for this purpose, to take into account before submission of tender. All Corrigendum and addendum are to be submitted duly signed & stamped with tender documents as bid Annexure.

10. All corrigendum and addendum shall be part of the tender document and are to be submitted duly signed and stamped by tenderer. Even if tenderer fails to submit corrigendum and addendum duly signed by him, it will be deemed that the tenderer have gone through such corrigendum /addendum, if any, and no claim shall be entertained by EPI on account of any omission /error on his part.

11. The price bid of those bidders whose bid has been technically accepted on the basis of documents submitted shall be opened with prior intimation to them. However, it is made clear that the offer of the L-1 bidder shall be accepted subject to the confirmation of authenticity of the PQ documents/BG from the concerned department/bank.

12. EPI reserves the right to accept any tender or ask clarifications or reject any or all tenders or annul this tendering process without assigning any reason and liability whatsoever and to re-invite the tender at its sole discretion at any stage.

13. In case of tie-tender, where two firms are bidding lowest, EPI reserves the right to split the work among these bidders and / or EPI will reserve the right to award the tender to any one of such bidder or annul the tendering process.

14. The Bidder shall bear all costs associated with the preparation and submission of its Bid, and EPI will in no case be responsible or liable for those costs regardless the conduct or outcome of the tender process.

15. It is the responsibility of the Bidder to ensure that their Bid document shall reach the designated office within the stipulated date and time. In case the Bid document is sent by post or by courier, the time and date of depositing the Bid document at the office shall have to be countersigned by a responsible officer of the office. Engineering Projects (India) Limited, Kolkata will not undertake any responsibility whatsoever for postal delay in process of submission of Bid.

16. The Bidder is expected to examine all instructions, forms, terms and specifications in the bidding documents. Failure to furnish all information required by the bidding documents or submission of a bid not substantially responsive to the bidding documents in every respect will be at the bidder’s risk and may result in the rejection of its bid. Bidder’s Confirmation.

Bidder confirms that they have read and understood and have copies of the ‘Tender Documents’ and have visited the site and their offer will be based on the ‘tender Documents’ and caters to all the works, requirements, etc. thereof.

All corrections / cuttings are to be signed by the bidder.

17. False Statement
In case any of the credentials are provided to false/ fabricated necessary action shall be initiated to debar the bidder for future participation in EPI tender.

In case, at a later stage, it is found that the Bidder has submitted incorrect, false details and credentials resulting in apprehensions on the capabilities of Bidder with regard to quality & timely completion of works, financial capabilities etc. EPI can terminate this agreement solely at their option. In this eventuality the Bidder shall be liable
for the losses suffered by EPI and Bidder shall have no claim on EPI, whatsoever.

Selection of the insurers shall be subject to thorough verification of their credential. The Bidder has to produce original documents for the verification as and when demanded. The tender/bid of any tenderer/bidder shall be rejected if in the detailed scrutiny documents submitted along with the tender/bid are found to be unsatisfactory / forged. The decision of EPI in this regard shall be final and binding on the tenderer/bidder.

No bidder will be allowed at anytime on any ground whatsoever, to claim revision of or modification in the rates quoted by him. The representation of the bidder that computation / typographical or clerical error etc. has been committed in the bid and request for reversion on such plea shall not be entertained after opening of the bid.

18. Validity of Tender

The Tender for the works shall remain open for acceptance for a period of Ninety (90) days from the date of opening of Price Bid of Tenders. The validity period may be extended on mutual consent.

In case of any discrepancy between the downloaded tender and the approved hard copy, the approved hard copy shall hold good for contractual as well as legal purposes. The tenderer shall furnish a Declaration to this effect that no addition/deletion/corrections have been made in the downloaded tender document being submitted by him and it is identical to the tender document appearing on the Website.

19. All correspondence with regard to the above shall be to the following address (By Post / In Person):

General Manager (Contracts)
Engineering Projects (India) Ltd.
9th Floor, 50 Chowringhee Road Kolkata-700 071
Phone:+91 33 2282 4427 / 29
Fax: +91 33 2282 4428
Email Id: ero@engineeringprojects.com

20. Contact details for site related Queries / Visit:

Shri B S Manna (Manager)
Engineering Projects (India) Ltd.
9th Floor, 50 Chowringhee Road Kolkata-700 071
Phone:+91 33 2282 4427 / 29
Mobile: 9433302669

For more information on EPI, visit our website at: http://www.engineeringprojects.com, / CPP Portal: www.eprocure.gov.in

GM (Contacts)
Date: 26.02.2020
### Bidder Information

<table>
<thead>
<tr>
<th><strong>Company Name</strong>*</th>
<th></th>
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<tbody>
<tr>
<td><strong>Make / Brand</strong>*</td>
<td></td>
</tr>
<tr>
<td><strong>Registration Number</strong>*</td>
<td></td>
</tr>
<tr>
<td><strong>Registered Address</strong>*</td>
<td></td>
</tr>
<tr>
<td><strong>Name of Partners/Directors</strong></td>
<td></td>
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<tr>
<td><strong>Bidder type</strong>*</td>
<td></td>
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<tr>
<td>Indian/Foreign</td>
<td></td>
</tr>
<tr>
<td><strong>City</strong>*</td>
<td></td>
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<tr>
<td><strong>State</strong>*</td>
<td></td>
</tr>
<tr>
<td><strong>Country</strong>*</td>
<td></td>
</tr>
<tr>
<td><strong>Postal code</strong>*</td>
<td></td>
</tr>
<tr>
<td><strong>PAN/TAN / Number</strong>*</td>
<td>(PAN/TAN number must have 10 characters, e.g. AESTG2458A). For bidders who do not have PAN/TAN number may enter TEMPZ9999 as the PAN/TAN number.</td>
</tr>
<tr>
<td><strong>GSTIN Registration Number</strong>*</td>
<td></td>
</tr>
<tr>
<td><strong>Company’s Establishment Year</strong>*</td>
<td></td>
</tr>
<tr>
<td><strong>Company’s Nature of Business</strong>*</td>
<td></td>
</tr>
<tr>
<td><strong>Company’s Legal status</strong>*</td>
<td></td>
</tr>
<tr>
<td>Limited company/ Undertaking /Joint venture / Partnership /others</td>
<td></td>
</tr>
<tr>
<td><strong>Company Category</strong>*</td>
<td></td>
</tr>
<tr>
<td>Micro unit as per MSME/ Small unit as per MSME/ Medium unit as per MSME/ Ancillary unit/Project of affected person of this company/SSI/others</td>
<td></td>
</tr>
<tr>
<td><strong>Contact Details</strong></td>
<td></td>
</tr>
<tr>
<td>Enter Company’s Contact Person Details</td>
<td></td>
</tr>
<tr>
<td>**Title ***</td>
<td></td>
</tr>
<tr>
<td>Mr/Mrs/Dr/Shree/Ms</td>
<td></td>
</tr>
<tr>
<td><strong>Contact Person Name</strong>*</td>
<td></td>
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<tr>
<td><strong>Date of Birth</strong>*</td>
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<td>-------------------</td>
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<tr>
<td>(DD/MM/YYYY)</td>
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<tr>
<td><strong>Correspondence Email</strong>*</td>
<td></td>
</tr>
<tr>
<td>(Correspondence Email ID can be same as your Login ID. All The mail correspondence will be sent only to the Correspondence Email ID)</td>
<td></td>
</tr>
<tr>
<td><strong>Designation</strong></td>
<td></td>
</tr>
<tr>
<td>**Phone ***</td>
<td></td>
</tr>
<tr>
<td><strong>Mobile</strong>*</td>
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</table>

*Mandatory information (must be filled by the bidders)*
PROFORMA FOR AFFIDAVIT

(To be submitted by bidder on non-judicial stamp paper of Rs. 100/- (Rupees Hundred Only) duly attested by Notary Public)

(To be submitted in Envelop-1 i.e. Technical Bid)

Affidavit of Mr. ___________________________ S/o ___________________ R/o ___________________________

I, the deponent above named do hereby solemnly affirm and declare as under:

1. That I am the Proprietor / Authorized signatory of M/s._________ Having its Head Office / Regd. Office at ________________________

2. That the information / documents / Experience certificates submitted by M/s._________________ along with the tender for ________(Name of work)__________ To EPI are genuine, true and nothing has been concealed.

3. I shall have no objection in case EPI verifies them from issuing authority (ies). I shall also have no objection in providing the original copy of the document(s), in case EPI demand so for verification.

4. I hereby confirm that in case, any document, information & / or certificate submitted by me found to be incorrect / false / fabricated, EPI at its discretion may disqualify / reject / terminate the bid / contract and also forfeit the EMD / All dues.

5. I shall have no objection in case EPI verifies any or all Bank Guarantee (s) under any of the clause(s) of Contract including those issued towards EMD and Performance Guarantee from the Zonal Branch / office issuing Bank and I / We shall have no right or claim on my submitted EMD before EPI receives said verification.

6. That the Bank Guarantee issued against the EMD issued by (name and address of the Bank) is genuine and if found at any stage to be incorrect / false / fabricated, EPI shall reject my bid, cancel pre-qualification and debar me from participating in any future tender for three years.

I__________________, the Proprietor / Authorized signatory of M/s._________ do hereby confirms that the contents of the above affidavit are true to my knowledge and nothing has been concealed there from __________________________ and that no part of it is false.

Verified at ________________ this ___________________ day of ________________________

DEPONENT

ATTESTED BY (NOTARY PUBLIC)
## Proposal for Contractors All Risk (CAR) Insurance Policy:

<p>| | | |</p>
<table>
<thead>
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</thead>
<tbody>
<tr>
<td><strong>1</strong></td>
<td>Name &amp; address of principal trade or business</td>
<td>RAIL VIKASH NIGAM LTD.</td>
</tr>
<tr>
<td></td>
<td>Name and address of the contractor Trade or business</td>
<td>Engineering Projects (India) Ltd. 50, Chowringhee Road, Kolkata-700071</td>
</tr>
<tr>
<td><strong>2</strong></td>
<td>The insured interests whose interests are to be insured?</td>
<td>employer (RVNL), Contractor (EPI), and sub contractors and sub contractor appointed by subcontractor</td>
</tr>
<tr>
<td><strong>3</strong></td>
<td>The Contract works</td>
<td>Construction of PEB shed, structures, water supply arrangement, drainage, sewerage, road works, track works in connection with construction of main line EMU Car Shed (Phase-2) at Khurda Road, Odisha (India).</td>
</tr>
<tr>
<td></td>
<td>a) Full description of the contract</td>
<td>Construction of PEB shed, structures, water supply arrangement, drainage, sewerage, road works, track works</td>
</tr>
<tr>
<td></td>
<td>b) Details:</td>
<td>PEB shed, structures, water supply arrangement, drainage, sewerage, road works, track works</td>
</tr>
<tr>
<td></td>
<td>ii) Blasting operation</td>
<td>ii) No</td>
</tr>
<tr>
<td></td>
<td>iii) Excavation &amp; Piling</td>
<td>iii) Yes</td>
</tr>
<tr>
<td><strong>4</strong></td>
<td>a) Value of the project</td>
<td>Rs. 53,23,18,875/-</td>
</tr>
<tr>
<td></td>
<td>b) Completion period including Maintenance period (Defect Liability Period)</td>
<td>18 months with effect from payment of the premium plus 6 months (DLP) thereafter.</td>
</tr>
<tr>
<td></td>
<td>Deductible excess</td>
<td>To be clearly specified and included in the offer</td>
</tr>
</tbody>
</table>
1. Scope of work providing Insurance for Works (Contractors All Risk Policy) for the project “Construction of PEB shed, structures, water supply arrangement, drainage, sewerage, road works, track works in connection with construction of main line EMU Car Shed (Phase-2) at Khurda Road, Odisha (India). Scope of Work: Insurance for Works (Contractors All Risk Policy). Value of work: Rs. 53,23,18,875/-

2. Insurance Coverage: Insurance for the project (Contractors All Risk Policy).

3. This insurance policy shall protect against all loss or damage to the works, structures during handling, transportation, storage, construction, erection, testing, putting into satisfactory operation and all activities to be performed till completion of Defect Liability Period.

4. The perils required to be covered under the contractor all risk insurance shall include, but shall not be limited to fire and allied risks, miscellaneous accidents (construction & erection risk), theft, pilferage, riot and strike and malicious damages, terrorism, civil commotion, weather conditions, accidents of all kinds, earthquake etc.

5. The sum insured under such insurance policy must be on hundred and ten percent of the full replacement value of the materials, equipment and structures installed and constructed.

6. Coverage against theft, fire damage, burglary, Earthquake, floods etc. till completion of defect liability period i.e. (18+06) 24 months with effect from payment of the premium.

6. Payment Term:

Total Payment will be made as per schedule of payment as specified in LOI/Work Order. Payment will be made to the Insurance Company against invoices in GST compliant format. The Insurance Company also must upload /update the GST data periodically so as to avail ITC credit by EPI failing which it shall be recovered / adjusted by EPI without any prior notice from the next invoices or available dues with EPI.

7. The insurance policy shall insure the Works, Plant, Materials, including those issued by the Employer (RVNL) and Contractor’s (EPI) Documents for not less than the full reinstatement cost including the costs of demolition, removal of debris and professional fees and profit, subject to a maximum value indicated in Contract Data.

8. The insurance policy shall also indemnify the Contractor’s Equipment for not less than the full replacement value, including delivery to Site. For each item of Contractor’s Equipment, the insurance shall be effective while it is being transported to the Site and until it is no longer required as Contractor’s Equipment.

9. The insuring Party shall insure against each Party’s liability for any loss, damage, death or bodily injury which may occur to any physical or to any person which may arise out of the Contractor’s performance of the Contract and occurring before the issue of the Performance Certificate.

10. This insurance shall be for a limit per occurrence of not less than the amount stated in the Contract Data, with no limit on the number of occurrences. Unless otherwise stated in the Special Conditions of Contract, the insurances also specified in this Sub-Clause:
   (a) shall be effected and maintained by the Contractor as insuring Party,
   (b) shall be in the joint names of the Parties,
   (c) shall be extended to cover liability for all loss and damage to the Employer’s property including Railways Property

11. The policy shall effect and maintain insurance against liability for claims, damages, losses and expenses (including legal fees and expenses) arising from injury, sickness, disease or death of any person employed by the Contractor or any other of the Contractor’s Personnel.

12. The Employer and the Engineer shall also be indemnified under the policy of insurance, except that this insurance may exclude losses and claims to the extent that they arise from any act or neglect of the Employer or of the Employer’s Personnel.
13. The policy shall also indemnify the followings (under Employer’s Risks clause)

(a) Riot, commotion or disorder within the Country by persons other than the Contractor’s Personnel,
(b) Design of any part of the Works by the Employer’s Personnel or by others for whom the Employer is responsible, and
(c) Any operation of the forces of nature which is Unforeseeable or against which an experienced contractor could not reasonably have been expected to have taken adequate preventative precautions.

14. The complete project shall be indemnified under insurance cover all the EPI’s assets and its subcontractor assets shall be insured under this contract.

15. The policy shall cover following addons:

with add-on covers:-
1. STFI
2. EQ
3. Terrorism
4. Owners surrounding Property-10% of project value but with FLEXA risk
5. Debris Removal limit 10% of project value risk
6. Third Party Liability cover with cross liability 10% of Project Value risk
7. DE-3 (Design defect cover)
8. Extended maintenance Cover for 06 Months
9. Escalation @10% of the project value risk
10. Contractors plant and machinery
11. Loss minimization expenses
12. Professional Fees
13. Cover for ‘offsite storage cover’
14. Cover for valuable documents
15. Claim preparation cost
16. 50/50 clause
17. 72 Hrs. clause
18. Waiver subrogation clause
19. Amendment in fire fighting endorsement wording.
20. Put to use
21. Shall cover all loss and damage from any cause not listed in Sub-Clause of Employer’s Risks
22. shall also cover loss or damage to a part of the Works which is attributable to the use or occupation by the Employer (RVNL) of another part of the Works, and loss or damage from the risks listed in sub-paragraphs 13 (a), (b) and (c) of Sub-Clause in Employer’s Risks, excluding (in each case) risks which are not insurable at commercially reasonable terms, with deductibles per occurrence of not more than the amount stated in the Contract
23. The contract clauses of client are attached as annexure A
24. Contractor’s plant, machineries, materials and services shall also be mean plants, machineries, materials and services of sub-contractor or vendors.
Annexure III

(Employer's terms & Condition clause 17.3 to 18.3)

17.3 Employer's Risks
The risks referred to in Sub-Clause 17.4 below, insofar as they directly affect the execution of the works in the Country, are:
(a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
(b) rebellion, terrorism, sabotage by persons other than the Contractor's Personnel, revolution, insurrection, military or usurped power, or civil war, within the Country,
(c) riot, commotion or disorder within the Country by persons other than the Contractor's Personnel,
(d) munitions of war, explosive materials, ionising radiation or contamination by radio-activity, within the Country, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity,
(e) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds,
(f) use or occupation by the Employer of any part of the Permanent Works, except as may be specified in the Contract,
(g) design of any part of the Works by the Employer's Personnel or by others for whom the Employer is responsible, and
(h) any operation of the forces of nature which is Unforeseeable or against which an experienced contractor could not reasonably have been expected to have taken adequate preventative precautions.

17.4 Consequences of Employer's Risks
If and to the extent that any of the risks listed in Sub-Clause 17.3 above results in loss or damage to the Works, Goods or Contractor's Documents, the Contractor shall promptly give notice to the Engineer and shall rectify this loss or damage to the extent required by the Engineer. If the Contractor suffers delay and/or incurs Cost from rectifying this loss or damage, the Contractor shall give a further notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:
(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], and
(b) payment of any such Cost, which shall be included in the Contract Price. In the case of sub-paragraphs (f) and (g) of Sub-Clause 17.3 [Employer's Risks], Cost shall be payable.

After receiving this further notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

17.5 Intellectual and Industrial Property Rights
In this Sub-Clause, “infringement” means an infringement (or alleged infringement) of any patent, registered design, copyright, trade mark, trade name, trade secret or other intellectual or industrial property right relating to the Works; and “claim” means a claim (or proceedings pursuing a claim) alleging an infringement. Whenever a Party does not give notice to the other Party of any claim within 28 days of receiving the claim, the first Party shall be deemed to have waived any right to indemnity under this Sub-Clause. The Employer shall indemnify and hold the Contractor harmless against and from any claim alleging an infringement which is or was:
(a) an unavoidable result of the Contractor's compliance with the Contract, or
(b) a result of any Works being used by the Employer:

(i) for a purpose other than that indicated by, or reasonably to be inferred from, the Contract, or

(ii) in conjunction with any thing not supplied by the Contractor, unless such use was disclosed to the Contractor prior to the Base Date or is stated in the Contract.

The Contractor shall indemnify and hold the Employer harmless against and from any other claim which arises out of or in relation to (i) the manufacture, use, sale or import of any Goods, or (ii) any design for which the Contractor is responsible.

If a Party is entitled to be indemnified under this Sub-Clause, the indemnifying Party may (at its cost) conduct negotiations for the settlement of the claim, and any litigation or arbitration which may arise from it. The other Party shall, at the request and cost of the indemnifying Party, assist in contesting the claim. This other Party (and its Personnel) shall not make any admission which might be prejudicial to the indemnifying Party, unless the indemnifying Party failed to take over the conduct of any negotiations, litigation or arbitration upon being requested to do so by such other Party.

17.6 Limitation of Liability
Neither Party shall be liable to the other Party for loss of use of any Works, loss of profit, loss of any contract or for any indirect or consequential loss or damage which may be suffered by the other Party in connection with the Contract, provided that this exclusion shall not apply to any obligation of the Contractor to pay Delay Damages to the Employer under Sub-Clause 8.7 [Delay Damages].

The total liability of the Contractor to the Employer, under or in connection with the Contract other than under Sub-Clause 4.19 [Electricity, Water and Gas], Sub-Clause 4.20 [Employer's Equipment and Free-Issue Material], Sub-Clause 17.1 [Indemnities] and Sub-Clause 17.5 [Intellectual and Industrial Property Rights], shall not exceed the sum as specified in the Contract Data or if nothing is specified in the Contract Data, the accepted Contract Amount.

This Sub-Clause shall not limit liability in any case of fraud, deliberate default or reckless misconduct by the defaulting Party.

17.7 Use of Employer's Accommodation / Facilities
The Contractor shall take full responsibility for the care of the Employer provided accommodation and facilities, if any, as detailed in the Specification, from the respective dates of hand-over to the Contractor until cessation of occupation(where hand-over or cessation of occupation may take place after the date stated in the Taking-Over Certificate for the Works).

If any loss or damage happens to any of the above items while the Contractor is responsible for their care arising from any cause whatsoever other than those for which the Employer is liable, the Contractor shall, at his own cost, rectify the loss or damage to the satisfaction of the Engineer.

18. Insurance
18.1 General Requirements for Insurances
In this Clause, “insuring Party” means, for each type of insurance, the Party responsible for effecting and maintaining the insurance specified in the relevant Sub-Clause.

Wherever the Contractor is the insuring Party, each insurance shall be effected with insurers and in terms approved by the Employer. These terms shall be consistent with any terms agreed by both Parties before the date of the Letter of Acceptance. This agreement of terms shall take precedence over the provisions of this Clause.

Wherever the Employer is the insuring Party, each insurance shall be effected with insurers and in
terms consistent with the details annexed to the Special Conditions of Contract.

If a policy is required to indemnify joint insured, the cover shall apply separately to each insured as though a separate policy had been issued for each of the joint insured. If a policy indemnifies additional joint insured, namely in addition to the insured specified in this Clause, (i) the Contractor shall act under the policy on behalf of these additional joint insured except that the Employer shall act for Employer’s Personnel, (ii) additional joint insured shall not be entitled to receive payments directly from the insurer or to have any other direct dealings with the insurer, and (iii) the insuring Party shall require all additional joint insured to comply with the conditions stipulated in the policy.

Each policy insuring against loss or damage shall provide for payments to be made in the currencies required to rectify the loss or damage. Payments received from insurers shall be used for the rectification of the loss or damage.

The relevant insuring Party shall, within the respective periods stated in the Contract Data (calculated from the Commencement Date), submit to the other Party:
(a) evidence that the insurances described in this Clause have been effected, and
(b) copies of the policies for the insurances described in Sub-Clause 18.2 [Insurance for Works and Contractor’s Equipment] and Sub-Clause 18.3 [Insurance against Injury to Persons and Damage to Property].

When each premium is paid, the insuring Party shall submit evidence of payment to the other Party. Whenever evidence or policies are submitted, the insuring Party shall also give notice to the Engineer.

Each Party shall comply with the conditions stipulated in each of the insurance policies. The insuring Party shall keep the insurers informed of any relevant changes to the execution of the Works and ensure that insurance is maintained in accordance with this Clause.

Neither Party shall make any material alteration to the terms of any insurance without the prior approval of the other Party. If an insurer makes (or attempts to make) any alteration, the Party first notified by the insurer shall promptly give notice to the other Party.

If the insuring Party fails to effect and keep in force any of the insurances it is required to effect and maintain under the Contract, or fails to provide satisfactory evidence and copies of policies in accordance with this Sub-Clause, the other Party may (at its option and without prejudice to any other right or remedy) effect insurance for the relevant coverage and pay the premiums due. The insuring Party shall pay the amount of these premiums to the other Party, and the Contract Price shall be adjusted accordingly.

Nothing in this Clause limits the obligations, liabilities or responsibilities of the Contractor or the Employer, under the other terms of the Contract or otherwise. Any amounts not insured or not recovered from the insurers shall be borne by the Contractor and/or the Employer in accordance with these obligations, liabilities or responsibilities. However, if the insuring Party fails to effect and keep in force an insurance which is available and which it is required to effect and maintain under the Contract, and the other Party neither approves the omission nor effects insurance for the coverage relevant to this default, any moneys which should have been recoverable under this insurance shall be paid by the insuring Party.

Payments by one Party to the other Party shall be subject to Sub-Clause 2.5 [Employer’s Claims] or Sub-Clause 20.1 [Contractor’s Claims], as applicable.

The Contractor shall be entitled to place all insurance relating to the Contract (including, but not limited to the insurance referred to Clause 18) with insurers from any eligible source country.

18.2 Insurance for Works and Contractor’s Equipment
The Contractor shall insure the Works, Plant, Materials, including those issued by the Employer and
Contractor’s Documents for not less than the full reinstatement cost including the costs of demolition, removal of debris and professional fees and profit, subject to a maximum value indicated in Contract Data. This insurance shall be effective from the date by which the evidence is to be submitted under sub-paragraph (a) of Sub-Clause 18.1 [General Requirements for Insurances], until the date of issue of the Taking-Over Certificate for the Works.

The insuring Party shall maintain this insurance to provide cover until the date of issue of the Performance Certificate, for loss or damage for which the Contractor is liable arising from a cause occurring prior to the issue of the Taking-Over Certificate, and for loss or damage caused by the Contractor in the course of any other operations (including those under Clause 11 [Defects Liability]).

The insuring Party shall insure the Contractor’s Equipment for not less than the full replacement value, including delivery to Site. For each item of Contractor’s Equipment, the insurance shall be effective while it is being transported to the Site and until it is no longer required as Contractor’s Equipment.

Unless otherwise stated in the Special Conditions of Contract, insurances under this Sub-Clause:

(a) shall be effected and maintained by the Contractor as insuring Party,
(b) shall be in the joint names of the Parties, who shall be jointly entitled to receive payments from the insurers, payments being held or allocated between the Parties for the sole purpose of rectifying the loss or damage,
(c) shall cover all loss and damage from any cause not listed in Sub-Clause 17.3 [Employer’s Risks],
(d) shall also cover loss or damage to a part of the Works which is attributable to the use or occupation by the Employer of another part of the Works, and loss or damage from the risks listed in sub-paragraphs (c), (g) and (h) of Sub-Clause 17.3 [Employer’s Risks], excluding (in each case) risks which are not insurable at commercially reasonable terms, with deductibles per occurrence of not more than the amount stated in the Contract Data (if an amount is not so stated, this sub-paragraph (d) shall not apply), and
(e) may however exclude loss of, damage to, and reinstatement of:

i) part of the Works which is in a defective condition due to a defect in its design, materials or workmanship (but cover shall include any other parts which are lost or damaged as a direct result of this defective condition and not as described in subparagraph (ii) below),

ii) a part of the Works which is lost or damaged in order to reinstate any other part of the Works if this other part is in a defective condition due to a defect in its design, materials or workmanship,

iii) a part of the Works which has been taken over by the Employer, except to the extent that the Contractor is liable for the loss or damage, and

iv) Goods while they are not in the Country, subject to Sub-Clause 14.5 [Plant and Materials intended for the Works].

If, more than one year after the Base Date, the cover described in subparagraph (d) above ceases to be available at commercially reasonable terms, the Contractor shall (as insuring Party) give notice to the Employer, with supporting particulars. The Employer shall then (i) be entitled subject to Sub-Clause 2.5 [Employer’s Claims] to payment of an amount equivalent to such commercially reasonable terms as the Contractor should have expected to have paid for such cover, and (ii) be deemed, unless he obtains the cover at commercially reasonable terms, to have approved the omission under Sub-Clause 18.1 [General Requirements for Insurances].
18.3 Insurance against Injury to Persons and Damage to Property
The insuring Party shall insure against each Party’s liability for any loss, damage, death or bodily injury which may occur to any physical property (except things insured under Sub-Clause 18.2 [Insurance for Works and Contractor’s Equipment]) or to any person (except persons insured under Sub-Clause 18.4 [Insurance for Contractor’s Personnel]), which may arise out of the Contractor’s performance of the Contract and occurring before the issue of the Performance Certificate.

This insurance shall be for a limit per occurrence of not less than the amount stated in the Contract Data, with no limit on the number of occurrences. If an amount is not stated in the Contract Data, this Sub-Clause shall not apply.

Unless otherwise stated in the Special Conditions of Contract, the insurances specified in this Sub-Clause:
(a) shall be effected and maintained by the Contractor as insuring Party,
(b) shall be in the joint names of the Parties,
(c) shall be extended to cover liability for all loss and damage to the Employer’s property including Railways Property (except things insured under Sub-Clause 18.2) arising out of the Contractor’s performance of the Contract, and

(d) may however exclude liability to the extent that it arises from:
(i) the Employer’s right to have the Permanent Works executed on, over, under, in or through any land, and to occupy this land for the Permanent Works,
(ii) damage which is an unavoidable result of the Contractor’s obligations to execute the Works and remedy any defects, and
(iii) a cause listed in Sub-Clause 17.3 [Employer’s Risks], except to the extent that cover is available at commercially reasonable terms.

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