



COAL INDIA LIMITED
CIVIL ENGINEERING DIVISION
(Regd. Office: Coal Bhawan, Premises No.04-1111, AF-III
Action Area 1A, New Town, Rajarhat, PIN-700 156.
(Corporate Id No.- L23109WB1973GOI028844)
E-mail: gmcivil.cil@coalindia.in

Ref. No. CIL/CIVIL/192/223-231

Date:07.04.2017

To,
General Manager(Civil)/ General Manager(CMC)
BCCL Dhanbad, CCL Ranchi, CMPDI Ranchi, ECL Sanctoria, MCL Sambalpur, NCL Singrauli, SECL
Bilaspur, WCL Nagpur, NEC Margherita

Sub: **Settlement of dispute/differences arising out of Works and Services Contracts through
Arbitration-procedure regarding**

Dear Sir,

As per the existing provision for dispute/differences settlement incorporated in clause 6.10 of MCEW, clause 13 of CC in chapter 6 of CMM, clause 12 of CC in chapter 3 of CMM and clause 42 of CC in chapter 2 of CMM, CIL and its subsidiary companies have in-house mechanism for settlement of dispute/differences with contractors. If the dispute/differences still persist, the redressal of disputes with contractor other than government agencies is possible only through the Court of Law. In other words, there is no provision of referring dispute/differences to arbitration at present in case of parties other than Govt. Agencies.

For future contracts/work orders:

2. It has been decided to incorporate a procedure for settlement of disputes/differences through arbitration for parties other than Govt. Agencies. When dispute/differences arises, both the employer (department) and contractor shall first try to resolve the same amicably in line with existing system of in-house mechanism for settlement of dispute/differences.

If the parties fail to resolve the dispute/differences, by such mutual consultation, then, depending on the position of the case, either the employer (department) or the contractor shall give notice to the other party to refer the matter to arbitration instead of directly approaching the Court.

The contractor shall however be entitled to invoke arbitration clause only after exhausting remedy available under clause 6.10 of MCEW, clause 13 of CC in chapter 6 of CMM, clause 12 of CC in chapter 3 of CMM and clause 42 of CC in chapter 2 of CMM.

In view of the above, for settlement of dispute/differences through arbitration the last line of clause 6.10 of MCEW, clause 13 of CC in chapter 6 of CMM, clause 12 of CC in chapter 3 of CMM and clause 42 of CC in chapter 2 of CMM, is being amended as under: -

"In case of parties other than Govt. Agencies, the redressal of the disputes may be sought through arbitration (THE ARBITRATION AND CONCILIATION ACT, 1996 as amended by AMENDMENT ACT of 2015)"

The rest of the content of the clauses shall remain unaltered.

3. A new clause is being inserted in MCEW and chapter 2, chapter 3 & chapter 6 of CMM regarding the settlement of disputes/differences through arbitration.

Settlement of Disputes through Arbitration:

- (i) Normally, there should not be any scope of dispute between the employer (department) and the contractor after entering into a mutually agreed valid contract. However, due to various unforeseen reasons, disputes may arise during the progress of the contract between the employer (department) and the contractor.

Therefore, the conditions governing the contract shall contain suitable provision for settlement of such disputes / differences binding on both the parties.

- (ii) Mode of settlement of such disputes/differences shall be through Arbitration. However, when a dispute/difference arises, then, depending on the position of the case, either the employer (department) or the contractor shall give notice to the other party of its intention to commence arbitration. The applicable arbitration procedure will be as per the Arbitration and Conciliation Act, 1996 as amended by Amendment Act of 2015.

- (iii) Venue of Arbitration: The venue of arbitration shall be the place from where the contract has been issued.

- (iv) Applicable Law: The contracts shall be interpreted in accordance with the laws of the Union of India.

- (v) Legal Advice:

While processing a case for arbitration, the employer organization is to take legal advice, at appropriate stages from competent authorities viz their Legal Department.

- (vi) Following clause shall be included in the General Conditions of the Contract (GCC):

Sole Arbitration Clause:

In the event of any question, dispute or difference arising under these terms & conditions or any condition contained in this contract or interpretation of the terms of, or in connection with this Contract (except as to any matter the decision of which is specially provided for by these conditions), the same shall be referred to the sole arbitration of a person, appointed to be the arbitrator by the Competent Authority of CIL/ CMD of Subsidiary Company (as the case may be). The award of the arbitrator shall be final and binding on the parties of this Contract.

- (a) In the event of the Arbitrator dying, neglecting or refusing to act or resigning or being unable to act for any reason, or his/her award being set aside by the court for any reason, it shall be lawful

for the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be) to appoint another arbitrator in place of the outgoing arbitrator in the manner aforesaid.

(b) It is further a term of this contract that no person other than the person appointed by the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be) as aforesaid should act as arbitrator and that, if for any reason that is not possible, the matter is not to be referred to Arbitration at all.

Subject as aforesaid, the Arbitration and Conciliation Act, 1996 as amended by Amendment Act of 2015 and the rules thereunder and any statutory modification thereof for the time being in force shall be deemed to apply to the Arbitration proceedings under this clause.

The venue of arbitration shall be the place from which the contract is issued or such other place as the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be) at his discretion may determine.

(vii) Contracts with Partnership firm/ Joint Venture/Consortium:

A partner is the implied authority to bind the firm in a contract coming in the purview of the usual business of the firm. The implied authority of a partner, however, does not extend to enter into arbitration agreement on behalf of the firm. Therefore, while entering into a contract with partnership firm /Joint Venture/Consortium care should be taken to obtain consent of all the partners to the arbitration agreement.

A suitable clause for obtaining consent of all the partners to the arbitration agreement shall be included in the General Conditions of the Contract (GCC).

The details of existing clause versus amended clauses of MCEW and CMM are attached in Annexure-I.

4. The aforesaid mechanism for settlement of dispute/differences arising between parties through arbitration are applicable only in respect of contracts/work order that will be placed in future for which parties agree in advance to arbitration clause.

Past/existing work order/contract:

5. With regards to dispute/differences cropping up in existing work order/contract, employer (department) shall adopt procedure for settlement of the same, through arbitration process. As you are aware that neither the CIL Manuals nor contract document at present contains any clause regarding arbitration, therefore dispute/differences cannot be referred to arbitration straight away. Hence, before referring the matter to arbitration, consent of the other party (contractor) is necessary for redressal of dispute/differences through arbitration. Once, the contractor agrees for settlement of dispute/differences arising out of contracts through arbitration, an agreement may be signed between employer and contractor for referring the dispute/differences to Sole Arbitration by a person appointed by Competent Authority of CIL/CMD of Subsidiaries (as the case may be). The rest of the procedure shall be as per THE ARBITRATION AND CONCILIATION ACT, 1996 as amended by AMENDMENT ACT of 2015 and also as per instruction incorporated in clause "Settlement of Disputes through Arbitration".

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Cases pending in arbitration:

6. National Institution for Transforming India (NITI Aayog) vide OM No. N-14070/14/2016-PPPAU dated 05.09.2016 (copy attached) has issued instruction for compliance and necessary action by all concerned relating to cases where process of arbitration was initiated under pre-amended arbitration act and cases of claim where PSU/department has challenged the Arbitral award in Court of Law. In absence of provision of settlement of dispute/differences through arbitration in existing manuals, CIL and its subsidiary companies may not be having any cases falling under the above category at present.

It is, however, learnt that there are few very old cases pending in arbitration in subsidiary companies. To handle such type of cases, a set of guidelines for strict compliance by CIL and its subsidiary companies (enclosed as Annexure-A) has been prepared and circulated vide mail dated 27.02.2017 based on the instruction received from NITI Aayog vide OM dated 05.09.2016. The same is again reiterated for strict compliance.

7. NITI Aayog in sub para 2.2 and 2.3 of its OM dated 05.09.2016 has issued instruction that in cases of claim where PSU/Department challenges the Arbitral Award already announced, 75% of the award may be paid by PSU/Department to contractor/concessionaries against Bank Guarantee without prejudice to final order of the court in the matter under challenge. The methodology for releasing the payment to the contractor/concessionaries has been explained in the said order.


Apart from adopting this procedure as discussed in para 6 above, this will also be applicable to the cases falling in para 2 & 5 which may arise in future on the basis of outcome of Arbitration Award that are decided to be challenged by PSU/Department in Court of Law.

You are requested to kindly implement the above amendments/guidelines with immediate effect.

This issues with approval of Competent Authority.

Encl: as above

Yours faithfully,


27/4/2017
GM(Arch.)/HOD(Civil)
Srinivas 27/4/17

Annexure-I

Modifications in Contract Management Manual and Manual for Civil Engineering Works-
Settlement of Disputes through Arbitration

SI No	Clause No.	Existing Provision	Amended Provision
1	Clause 6.10 of MCEW, Part-I, Page 80	<p>6.10 Settlement of Disputes with the Contractor</p> <p>It is incumbent upon the contractor to avoid litigation and disputes during the course of execution. However, if such disputes take place between the contractor and the department, effort shall be made first to settle the disputes at the company level.</p> <p>The contractor should make request in writing to the Engineer-in-charge for settlement of such disputes/ claims within 30 (thirty) days of arising of the cause of dispute/ claim failing which no disputes/ claims of the contractor shall be entertained by the company.</p> <p>Effort shall be made to resolve the dispute in two stages: In first stage dispute shall be referred to Area GM/GM, HoD(C). If difference still persist the dispute shall be referred to a committee constituted by the owner. The committee shall have one member of the rank of Director of the company who shall be chairman of the committee.</p> <p>If differences still persist, the settlement of the dispute shall be resolved in the following manner: Disputes relating to the commercial contracts with Central Public Sector Enterprises / Govt. Departments (except Railways, Income Tax, Customs & excise duties)/ State Public Sector Enterprises shall be referred by either party for</p>	<p>6.10 Settlement of Disputes with the Contractor</p> <p>It is incumbent upon the contractor to avoid litigation and disputes during the course of execution. However, if such disputes take place between the contractor and the department, effort shall be made first to settle the disputes at the company level.</p> <p>The contractor should make request in writing to the Engineer-in-charge for settlement of such disputes/ claims within 30 (thirty) days of arising of the cause of dispute/ claim failing which no disputes/ claims of the contractor shall be entertained by the company.</p> <p>Effort shall be made to resolve the dispute in two stages: In first stage dispute shall be referred to Area GM/GM, HoD(C). If difference still persist the dispute shall be referred to a committee constituted by the owner. The committee shall have one member of the rank of Director of the company who shall be chairman of the committee.</p> <p>If differences still persist, the settlement of the dispute shall be resolved in the following manner: Disputes relating to the commercial contracts with Central Public Sector Enterprises / Govt. Departments (except Railways, Income Tax, Customs & excise duties)/ State Public Sector Enterprises shall be referred by either party for</p>




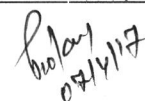
		<p>Arbitration to the PMA (Permanent Machinery of Arbitration) in the department of Public Enterprises.</p> <p>In case of parties other than Govt. Agencies, the redressal of the dispute may be sought <u>in the Court of Law</u>.</p>	<p>Arbitration to the PMA (Permanent Machinery of Arbitration) in the department of Public Enterprises.</p> <p>In case of parties other than Govt. Agencies, the redressal of the dispute may be sought <u>through Arbitration</u> (THE ARBITRATION AND CONCILIATION ACT, 1996 as amended by AMENDMENT ACT of 2015).</p>
2	<p>Clause 6.10A of MCEW, Part-I (New Clause), Page 80</p>	No provision	<p>6.10A Settlement of Disputes through Arbitration</p> <p>(i) Normally, there should not be any scope of dispute between the employer (department) and the contractor after entering into a mutually agreed valid contract. However, due to various unforeseen reasons, disputes may arise during the progress of the contract between the employer (department) and the contractor.</p> <p>Therefore, the conditions governing the contract shall contain suitable provision for settlement of such disputes / differences binding on both the parties.</p> <p>(ii) Mode of settlement of such disputes/differences shall be through Arbitration. However, when a dispute/difference arises, then, depending on the position of the case, either the employer (department) or the contractor shall give notice to the other party of its intention to commence arbitration. The applicable arbitration procedure will be as per the Arbitration and Conciliation Act, 1996 as amended by Amendment Act of 2015.</p> <p>(iii) <u>Venue of Arbitration</u>: The venue of arbitration shall be the place from where the contract has been issued.</p>

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		<p>(iv) <u>Applicable Law</u>: The contracts shall be interpreted in accordance with the laws of the Union of India.</p> <p>(v) <u>Legal Advice</u>:</p> <p>While processing a case for arbitration, the purchase organization is to take legal advice, at appropriate stages from competent authorities viz their Legal Department.</p> <p>(vi) Following clause shall be included in the General Conditions of the Contract (GCC):</p> <p><u>Sole Arbitration Clause</u>:</p> <p>In the event of any question, dispute or difference arising under these terms & conditions or any condition contained in this contract or interpretation of the terms of, or in connection with this Contract (except as to any matter the decision of which is specially provided for by these conditions), the same shall be referred to the sole arbitration of a person, appointed to be the arbitrator by the Competent Authority of CIL/ CMD of Subsidiary Company (as the case may be). The award of the arbitrator shall be final and binding on the parties of this Contract.</p> <p>(a) In the event of the Arbitrator dying, neglecting or refusing to act or resigning or being unable to act for any reason, or his/her award being set aside by the court for any reason, it shall be lawful for the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be) to appoint another arbitrator in place of the outgoing arbitrator in the manner aforesaid.</p> <p>(b) It is further a term of this contract that no person other than the person</p>
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			<p>appointed by the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be) as aforesaid should act as arbitrator and that, if for any reason that is not possible, the matter is not to be referred to Arbitration at all.</p> <p>Subject as aforesaid, Arbitration and Conciliation Act, 1996 as amended by Amendment Act of 2015, and the rules thereunder and any statutory modification thereof for the time being in force shall be deemed to apply to the Arbitration proceedings under this clause.</p> <p>The venue of arbitration shall be the place from which the contract is issued or such other place as the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be) at his discretion may determine.</p> <p>(vii) <u>Contracts with Partnership firm/ Joint Venture/Consortium:</u></p> <p>A partner is the implied authority to bind the firm in a contract coming in the purview of the usual business of the firm. The implied authority of a partner, however, does not extend to enter into arbitration agreement on behalf of the firm. Therefore, while entering into a contract with partnership firm /Joint Venture/Consortium care should be taken to obtain consent of all the partners to the arbitration agreement.</p> <p>A suitable clause for obtaining consent of all the partners to the arbitration agreement shall be included in the General Conditions of the Contract (GCC).</p>
3	Clause 16 of GTC, MCEW,	16. Settlement of Disputes. It is incumbent upon the contractor to avoid litigation and disputes during the	16. Settlement of Disputes. It is incumbent upon the contractor to avoid litigation and disputes during the

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	Part-II, Page 60	<p>course of execution. However, if such disputes take place between the contractor and the department, effort shall be made first to settle the disputes at the company level.</p> <p>The contractor should make request in writing to the Engineer-in-charge for settlement of such disputes/ claims within 30 (thirty) days of arising of the cause of dispute/ claim failing which no disputes/ claims of the contractor shall be entertained by the company.</p> <p>Effort shall be made to resolve the dispute in two stages In first stage dispute shall be referred to Area GM or GM/HoD(C). If difference still persist the dispute shall be referred to a committee constituted by the owner. The committee shall have one member of the rank of Director of the company who shall be chairman of the committee.</p> <p>If differences still persist, the settlement of the dispute shall be resolved in the following manner: Disputes relating to the commercial contracts with Central Public Sector Enterprises / Govt. Departments (except Railways, Income Tax, Customs & excise duties)/ State Public Sector Enterprises shall be referred by either party for Arbitration to the PMA (Permanent Machinery of Arbitration) in the department of Public Enterprises.</p> <p>In case of parties other than Govt. Agencies, the redressal of the dispute may be sought in the Court of Law.</p>	<p>course of execution. However, if such disputes take place between the contractor and the department, effort shall be made first to settle the disputes at the company level.</p> <p>The contractor should make request in writing to the Engineer-in-charge for settlement of such disputes/ claims within 30 (thirty) days of arising of the cause of dispute/ claim failing which no disputes/ claims of the contractor shall be entertained by the company.</p> <p>Effort shall be made to resolve the dispute in two stages In first stage dispute shall be referred to Area GM or GM/HoD(C). If difference still persist the dispute shall be referred to a committee constituted by the owner. The committee shall have one member of the rank of Director of the company who shall be chairman of the committee.</p> <p>If differences still persist, the settlement of the dispute shall be resolved in the following manner: Disputes relating to the commercial contracts with Central Public Sector Enterprises / Govt. Departments (except Railways, Income Tax, Customs & excise duties)/ State Public Sector Enterprises shall be referred by either party for Arbitration to the PMA (Permanent Machinery of Arbitration) in the department of Public Enterprises.</p> <p>In case of parties other than Govt. Agencies, the redressal of the dispute may be sought <u>through Arbitration (THE ARBITRATION AND CONCILIATION ACT, 1996 as amended by AMENDMENT ACT of 2015).</u></p>
4	Clause 16A of GTC, MCEW, Part-II (New	No Provision	<p>16A. Settlement of Disputes through Arbitration</p> <p>If the parties fail to resolve the disputes/differences by in house</p>

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	Clause), Page 60	<p>mechanism, then, depending on the position of the case, either the employer/owner or the contractor shall give notice to other party to refer the matter to arbitration instead of directly approaching Court. The contractor shall, however, be entitled to invoke arbitration clause only after exhausting the remedy available under the clause 16.</p> <p>In case of parties other than Govt. agencies, the redressal of disputes/differences shall be sought through Sole Arbitration as under.</p> <p><u>Sole Arbitration:</u></p> <p>In the event of any question, dispute or difference arising under these terms & conditions or any condition contained in this contract or interpretation of the terms of, or in connection with this Contract (except as to any matter the decision of which is specially provided for by these conditions), the same shall be referred to the sole arbitration of a person, appointed to be the arbitrator by the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be). The award of the arbitrator shall be final and binding on the parties of this Contract.</p> <p>(a) In the event of the Arbitrator dying, neglecting or refusing to act or resigning or being unable to act for any reason, or his/her award being set aside by the court for any reason, it shall be lawful for the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be) to appoint another arbitrator in place of the outgoing arbitrator in the manner aforesaid.</p>
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			<p>(b) It is further a term of this contract that no person other than the person appointed by the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be) as aforesaid should act as arbitrator and that, if for any reason that is not possible, the matter is not to be referred to Arbitration at all.</p> <p>Subject as aforesaid, Arbitration and Conciliation Act, 1996 as amended by Amendment Act of 2015, and the rules thereunder and any statutory modification thereof for the time being in force shall be deemed to apply to the Arbitration proceedings under this clause.</p> <p>The venue of arbitration shall be the place from which the contract is issued.</p> <p><u>Applicable Law:</u> The contracts shall be interpreted in accordance with the laws of the Union of India.</p> <p><u>Contracts with Partnership firm/ Joint Venture/Consortium:</u></p> <p>The Partnership firm /Joint Venture/Consortium is required to submit written consent of all the partners to above arbitration clause at the time of submission of bid.</p>
5	General guidelines for Hiring Work/Contract, Chapter 6 of CMM, After 'Closure of Contract' Clause, Page 140	No Provision	<p>SETTLEMENT OF DISPUTES</p> <p>It is incumbent upon the contractor to avoid litigation and disputes during the course of execution. However, if such disputes take place between the contractor and the department, effort shall be made first to settle the disputes at the company level.</p> <p>The contractor should make request in writing to the Engineer-in-charge for settlement of such disputes/ claims within 30 (thirty) days of arising of the cause of dispute/ claim failing which no disputes/ claims of</p>

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			<p>the contractor shall be entertained by the company.</p> <p>Effort shall be made to resolve the dispute in two stages In first stage dispute shall be referred to Area CGM, GM. If difference still persist the dispute shall be referred to a committee constituted by the owner. The committee shall have one member of the rank of Director of the company who shall be chairman of the company.</p> <p>If differences still persist, the settlement of the dispute shall be resolve in the following manner:</p> <p>Disputes relating to the commercial contracts with Central Public Sector Enterprises / Govt. Departments (except Railways, Income Tax, Customs & excise duties)/ State Public Sector Enterprises shall be referred by either party for Arbitration to the PMA (Permanent Machinery of Arbitration) in the department of Public Enterprises.</p> <p>In case of parties other than Govt. Agencies, the redressal of the dispute may be sought <u>through Arbitration (THE ARBITRATION AND CONCILIATION ACT, 1996 as amended by AMENDMENT ACT of 2015).</u></p>
6	General guidelines for Hiring Work/Contract, Chapter 6 of CMM, after 'Settlement of Disputes' Clause, Page 140	No Provision	<p>Settlement of Disputes through Arbitration</p> <p>(i) Normally, there should not be any scope of dispute between the employer (department) and the contractor after entering into a mutually agreed valid contract. However, due to various unforeseen reasons, disputes may arise during the progress of the contract between the employer (department) and the contractor.</p>

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		<p>Therefore, the conditions governing the contract shall contain suitable provision for settlement of such disputes / differences binding on both the parties.</p> <p>(ii) Mode of settlement of such disputes/differences shall be through Arbitration. However, when a dispute/difference arises, then, depending on the position of the case, either the employer (department) or the contractor shall give notice to the other party of its intention to commence arbitration. The applicable arbitration procedure will be as per the Arbitration and Conciliation Act, 1996 as amended by Amendment Act of 2015.</p> <p>(iii) Venue of Arbitration: The venue of arbitration shall be the place from where the contract has been issued.</p> <p>(iv) <u>Applicable Law</u>: The contracts shall be interpreted in accordance with the laws of the Union of India.</p> <p>(v) <u>Legal Advice</u>:</p> <p>While processing a case for arbitration, the purchase organization is to take legal advice, at appropriate stages from competent authorities viz their Legal Department.</p> <p>(vi) Following clause shall be included in the General Conditions of the Contract (GCC):</p> <p><u>Sole Arbitration Clause</u>:</p> <p>In the event of any question, dispute or difference arising under these terms & conditions or any condition contained in this contract or interpretation of the terms of, or in connection with this Contract (except as to any matter the decision of which is specially provided</p>
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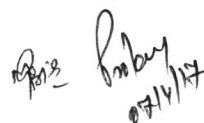
			<p>for by these conditions), the same shall be referred to the sole arbitration of a person, appointed to be the arbitrator by the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be). The award of the arbitrator shall be final and binding on the parties of this Contract.</p> <p>(a) In the event of the Arbitrator dying, neglecting or refusing to act or resigning or being unable to act for any reason, or his/her award being set aside by the court for any reason, it shall be lawful for the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be) to appoint another arbitrator in place of the outgoing arbitrator in the manner aforesaid.</p> <p>(b) It is further a term of this contract that no person other than the person appointed by the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be) as aforesaid should act as arbitrator and that, if for any reason that is not possible, the matter is not to be referred to Arbitration at all.</p> <p>Subject as aforesaid, Arbitration and Conciliation Act, 1996 as amended by Amendment Act of 2015, and the rules thereunder and any statutory modification thereof for the time being in force shall be deemed to apply to the Arbitration proceedings under this clause.</p> <p>The venue of arbitration shall be the place from which the contract is issued or such other place as the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be) at his discretion may determine.</p>
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			<p>(vii) <u>Contracts with Partnership firm/ Joint Venture/Consortium:</u></p> <p>A partner is the implied authority to bind the firm in a contract coming in the purview of the usual business of the firm. The implied authority of a partner, however, does not extend to enter into arbitration agreement on behalf of the firm. Therefore, While entering into a contract with partnership firm /Joint Venture/Consortium care should be taken to obtain consent of all the partners to the arbitration agreement.</p> <p>A suitable clause for obtaining consent of all the partners to the arbitration agreement shall be included in the General Conditions of the Contract (GCC).</p>
7	Clause 13 of Conditions of Contract, Chapter 6, CMM, Page 67	<p>13. SETTLEMENT OF DISPUTES</p> <p>It is incumbent upon the contractor to avoid litigation and disputes during the course of execution. However, if such disputes take place between the contractor and the department, effort shall be made first to settle the disputes at the company level.</p> <p>The contractor should make request in writing to the Engineer-in-charge for settlement of such disputes/ claims within 30 (thirty) days of arising of the cause of dispute/ claim failing which no disputes/ claims of the contractor shall be entertained by the company.</p> <p>Effort shall be made to resolve the dispute in two stages</p> <p>In first stage dispute shall be referred to Area CGM,GM. If difference still persist the dispute shall be referred to a committee constituted by the owner. The committee shall have one member of the rank of Director of the company who shall be chairman of the company.</p>	<p>13. SETTLEMENT OF DISPUTES</p> <p>It is incumbent upon the contractor to avoid litigation and disputes during the course of execution. However, if such disputes take place between the contractor and the department, effort shall be made first to settle the disputes at the company level.</p> <p>The contractor should make request in writing to the Engineer-in-charge for settlement of such disputes/ claims within 30 (thirty) days of arising of the cause of dispute/ claim failing which no disputes/ claims of the contractor shall be entertained by the company.</p> <p>Effort shall be made to resolve the dispute in two stages</p> <p>In first stage dispute shall be referred to Area CGM, GM. If difference still persist the dispute shall be referred to a committee constituted by the owner. The committee shall have one member of the rank of Director of the company who shall be chairman of the company.</p>

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		<p>If differences still persist, the settlement of the dispute shall be resolve in the following manner:</p> <p>Disputes relating to the commercial contracts with Central Public Sector Enterprises / Govt. Departments (except Railways, Income Tax, Customs & excise duties)/ State Public Sector Enterprises shall be referred by either party for Arbitration to the PMA (Permanent Machinery of Arbitration) in the department of Public Enterprises.</p> <p>In case of parties other than Govt. Agencies, the redressal of the dispute may be sought in the Court of Law.</p>	<p>If differences still persist, the settlement of the dispute shall be resolve in the following manner:</p> <p>Disputes relating to the commercial contracts with Central Public Sector Enterprises / Govt. Departments (except Railways, Income Tax, Customs & excise duties)/ State Public Sector Enterprises shall be referred by either party for Arbitration to the PMA (Permanent Machinery of Arbitration) in the department of Public Enterprises.</p> <p>In case of parties other than Govt. Agencies, the redressal of the dispute may be sought <u>through Arbitration (THE ARBITRATION AND CONCILIATION ACT, 1996 as amended by AMENDMENT ACT of 2015).</u></p>
8	Clause 13A of Conditions of Contract, Chapter 6, CMM (New Clause), Page 69	No Provision	<p>13A. Settlement of Disputes through Arbitration</p> <p>If the parties fail to resolve the disputes/differences by in house mechanism, then, depending on the position of the case, either the employer/owner or the contractor shall give notice to other party to refer the matter to arbitration instead of directly approaching Court. The contractor shall, however, be entitled to invoke arbitration clause only after exhausting the remedy available under the clause 13.</p> <p>In case of parties other than Govt. agencies, the redressal of disputes/differences shall be sought through Sole Arbitration as under.</p> <p><u>Sole Arbitration:</u></p> <p>In the event of any question, dispute or difference arising under these terms &</p>


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		<p>conditions or any condition contained in this contract or interpretation of the terms of, or in connection with this Contract (except as to any matter the decision of which is specially provided for by these conditions), the same shall be referred to the sole arbitration of a person, appointed to be the arbitrator by the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be). The award of the arbitrator shall be final and binding on the parties of this Contract.</p> <p>(a) In the event of the Arbitrator dying, neglecting or refusing to act or resigning or being unable to act for any reason, or his/her award being set aside by the court for any reason, it shall be lawful for the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be) to appoint another arbitrator in place of the outgoing arbitrator in the manner aforesaid.</p> <p>(b) It is further a term of this contract that no person other than the person appointed by the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be) as aforesaid should act as arbitrator and that, if for any reason that is not possible, the matter is not to be referred to Arbitration at all.</p> <p>Subject as aforesaid, Arbitration and Conciliation Act, 1996 as amended by Amendment Act of 2015 and the rules thereunder and any statutory modification thereof for the time being in force shall be deemed to apply to the Arbitration proceedings under this clause.</p> <p>The venue of arbitration shall be the place from which the contract is issued.</p>
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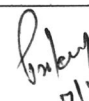
			<p><u>Applicable Law:</u> The contracts shall be interpreted in accordance with the laws of the Union of India.</p> <p><u>Contracts with Partnership firm/ Joint Venture/Consortium:</u></p> <p>The Partnership firm /Joint Venture/Consortium is required to submit written consent of all the partners to above arbitration clause at the time of submission of bid.</p>
9	<p>'General Guidelines for Transportation Work/Contract' is introduced at end of Chapter 3 of CMM, Page 78</p>	No Provision	<p>SETTLEMENT OF DISPUTES</p> <p>It is incumbent upon the contractor to avoid litigation and disputes during the course of execution. However, if such disputes take place between the contractor and the department, effort shall be made first to settle the disputes at the company level.</p> <p>The contractor should make request in writing to the Engineer-in-charge for settlement of such disputes/ claims within 30 (thirty) days of arising of the cause of dispute/ claim failing which no disputes/ claims of the contractor shall be entertained by the company.</p> <p>Effort shall be made to resolve the dispute in two stages</p> <p>In first stage dispute shall be referred to Area CGM, GM. If difference still persist the dispute shall be referred to a committee constituted by the owner. The committee shall have one member of the rank of Director of the company who shall be chairman of the company.</p> <p>If differences still persist, the settlement of the dispute shall be resolve in the following manner:</p> <p>Disputes relating to the commercial contracts with Central Public Sector Enterprises / Govt. Departments (except Railways, Income Tax, Customs & excise duties)/ State</p>

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			<p>Public Sector Enterprises shall be referred by either party for Arbitration to the PMA (Permanent Machinery of Arbitration) in the department of Public Enterprises.</p> <p>In case of parties other than Govt. Agencies, the redressal of the dispute may be sought <u>through Arbitration (THE ARBITRATION AND CONCILIATION ACT, 1996 as amended by AMENDMENT ACT of 2015).</u></p>
10	<p>"Settlement of Disputes through Arbitration' is introduced in 'General Guidelines for Transportation Work/Contract' after 'Settlement of Disputes' Clause in Chapter 3 of CMM, Page 78</p>	No Provision	<p>Settlement of Disputes through Arbitration</p> <p>(i) Normally, there should not be any scope of dispute between the employer (department) and the contractor after entering into a mutually agreed valid contract. However, due to various unforeseen reasons, disputes may arise during the progress of the contract between the employer (department) and the contractor.</p> <p>Therefore, the conditions governing the contract shall contain suitable provision for settlement of such disputes / differences binding on both the parties.</p> <p>(ii) Mode of settlement of such disputes/differences shall be through Arbitration. However, when a dispute/difference arises, then, depending on the position of the case, either the employer (department) or the contractor shall give notice to the other party of its intention to commence arbitration. The applicable arbitration procedure will be as per the Arbitration and Conciliation Act, 1996 as amended by Amendment Act of 2015.</p>



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		<p>(iii) <u>Venue of Arbitration</u>: The venue of arbitration shall be the place from where the contract has been issued.</p> <p>(iv) <u>Applicable Law</u>: The contracts shall be interpreted in accordance with the laws of the Union of India.</p> <p>(v) <u>Legal Advice</u>:</p> <p>While processing a case for arbitration, the purchase organization is to take legal advice, at appropriate stages from competent authorities viz their Legal Department.</p> <p>(vi) Following clause shall be included in the General Conditions of the Contract (GCC):</p> <p><u>Sole Arbitration Clause</u>:</p> <p>In the event of any question, dispute or difference arising under these terms & conditions or any condition contained in this contract or interpretation of the terms of, or in connection with this Contract (except as to any matter the decision of which is specially provided for by these conditions), the same shall be referred to the sole arbitration of a person, appointed to be the arbitrator by the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be). The award of the arbitrator shall be final and binding on the parties of this Contract.</p> <p>(a) In the event of the Arbitrator dying, neglecting or refusing to act or resigning or being unable to act for any reason, or his/her award being set aside by the court for any reason, it shall be lawful for the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be) to appoint another arbitrator in</p>
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			<p>place of the outgoing arbitrator in the manner aforesaid.</p> <p>(b) It is further a term of this contract that no person other than the person appointed by the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be) as aforesaid should act as arbitrator and that, if for any reason that is not possible, the matter is not to be referred to Arbitration at all.</p> <p>Subject as aforesaid, Arbitration and Conciliation Act, 1996 as amended by Amendment Act of 2015, and the rules thereunder and any statutory modification thereof for the time being in force shall be deemed to apply to the Arbitration proceedings under this clause.</p> <p>The venue of arbitration shall be the place from which the contract is issued or such other place as the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be) at his discretion may determine.</p> <p>(vii) <u>Contracts with Partnership firm/ Joint Venture/Consortium:</u></p> <p>A partner is the implied authority to bind the firm in a contract coming in the purview of the usual business of the firm. The implied authority of a partner, however, does not extend to enter into arbitration agreement on behalf of the firm. Therefore, While entering into a contract with partnership firm /Joint Venture/Consortium care should be taken to obtain consent of all the partners to the arbitration agreement.</p> <p>A suitable clause for obtaining consent of all the partners to the arbitration agreement shall be included in the</p>
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			General Conditions of the Contract (GCC).
11	Clause 12 of Condition of Contract in Modification in Chapter 3 of CMM, Page 64	<p>12. SETTLEMENT OF DISPUTES</p> <p>It is incumbent upon the contractor to avoid litigation and disputes during the course of execution. However, if such disputes take place between the contractor and the department, effort shall be made first to settle the disputes at the company level.</p> <p>The contractor should make request in writing to the Engineer-in-charge for settlement of such disputes/ claims within 30 (thirty) days of arising of the cause of dispute/ claim failing which no disputes/ claims of the contractor shall be entertained by the company.</p> <p>Effort shall be made to resolve the dispute in two stages In first stage dispute shall be referred to Area CGM, GM. If difference still persist the dispute shall be referred to a committee constituted by the owner. The committee shall have one member of the rank of Director of the company who shall be chairman of the company.</p> <p>If differences still persist, the settlement of the dispute shall be resolve in the following manner: Disputes relating to the commercial contracts with Central Public Sector Enterprises / Govt. Departments (except Railways, Income Tax, Customs & excise duties)/ State Public Sector Enterprises shall be referred by either party for Arbitration to the PMA (Permanent Machinery of Arbitration) in the department of Public Enterprises.</p> <p>In case of parties other than Govt. Agencies, the redressal of the dispute may be sought in the Court of Law.</p>	<p>12. SETTLEMENT OF DISPUTES</p> <p>It is incumbent upon the contractor to avoid litigation and disputes during the course of execution. However, if such disputes take place between the contractor and the department, effort shall be made first to settle the disputes at the company level.</p> <p>The contractor should make request in writing to the Engineer-in-charge for settlement of such disputes/ claims within 30 (thirty) days of arising of the cause of dispute/ claim failing which no disputes/ claims of the contractor shall be entertained by the company.</p> <p>Effort shall be made to resolve the dispute in two stages In first stage dispute shall be referred to Area CGM, GM. If difference still persist the dispute shall be referred to a committee constituted by the owner. The committee shall have one member of the rank of Director of the company who shall be chairman of the company.</p> <p>If differences still persist, the settlement of the dispute shall be resolve in the following manner: Disputes relating to the commercial contracts with Central Public Sector Enterprises / Govt. Departments (except Railways, Income Tax, Customs & excise duties)/ State Public Sector Enterprises shall be referred by either party for Arbitration to the PMA (Permanent Machinery of Arbitration) in the department of Public Enterprises.</p> <p>In case of parties other than Govt. Agencies, the redressal of the dispute</p>

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			may be sought through Arbitration (THE ARBITRATION AND CONCILIATION ACT, 1996 as amended by AMENDMENT ACT of 2015).
12	Clause 12A (New Clause) of Condition of Contract in Modification in Chapter 3 of CMM, Page 66	No Provision	<p>12A. Settlement of Disputes through Arbitration</p> <p>If the parties fail to resolve the disputes/differences by in house mechanism, then, depending on the position of the case, either the employer/owner or the contractor shall give notice to other party to refer the matter to arbitration instead of directly approaching Court. The contractor shall, however, be entitled to invoke arbitration clause only after exhausting the remedy available under the clause 12.</p> <p>In case of parties other than Govt. agencies, the redressal of disputes/differences shall be sought through Sole Arbitration as under.</p> <p><u>Sole Arbitration:</u></p> <p>In the event of any question, dispute or difference arising under these terms & conditions or any condition contained in this contract or interpretation of the terms of, or in connection with this Contract (except as to any matter the decision of which is specially provided for by these conditions), the same shall be referred to the sole arbitration of a person, appointed to be the arbitrator by the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be). The award of the arbitrator shall be final and binding on the parties of this Contract.</p> <p>(a) In the event of the Arbitrator dying, neglecting or refusing to act or resigning or being unable to act for any reason, or</p>




			<p>his/her award being set aside by the court for any reason, it shall be lawful for the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be) to appoint another arbitrator in place of the outgoing arbitrator in the manner aforesaid.</p> <p>(b) It is further a term of this contract that no person other than the person appointed by the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be) as aforesaid should act as arbitrator and that, if for any reason that is not possible, the matter is not to be referred to Arbitration at all.</p> <p>Subject as aforesaid, Arbitration and Conciliation Act, 1996 as amended by Amendment Act of 2015, and the rules thereunder and any statutory modification thereof for the time being in force shall be deemed to apply to the Arbitration proceedings under this clause.</p> <p>The venue of arbitration shall be the place from which the contract is issued.</p> <p><u>Applicable Law:</u> The contracts shall be interpreted in accordance with the laws of the Union of India.</p> <p><u>Contracts with Partnership firm/ Joint Venture/Consortium:</u></p> <p>The Partnership firm /Joint Venture/Consortium is required to submit written consent of all the partners to above arbitration clause at the time of submission of bid.</p>
13	'General Guidelines for Turnkey Work/Contract' is	No Provision	<p>SETTLEMENT OF DISPUTES</p> <p>It is incumbent upon the contractor to avoid litigation and disputes during the course of execution. However, if such disputes take place between the</p>

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	introduced at end of Chapter 2 of CMM, Page 119		<p>contractor and the department, effort shall be made first to settle the disputes at the company level.</p> <p>The contractor should make request in writing to the Engineer-in-charge for settlement of such disputes/ claims within 30 (thirty) days of arising of the cause of dispute/ claim failing which no disputes/ claims of the contractor shall be entertained by the company.</p> <p>Effort shall be made to resolve the dispute in two stages</p> <p>In first stage dispute shall be referred to Area CGM, GM. If difference still persist the dispute shall be referred to a committee constituted by the owner. The committee shall have one member of the rank of Director of the company who shall be chairman of the company.</p> <p>If differences still persist, the settlement of the dispute shall be resolve in the following manner:</p> <p>Disputes relating to the commercial contracts with Central Public Sector Enterprises / Govt. Departments (except Railways, Income Tax, Customs & excise duties)/ State Public Sector Enterprises shall be referred by either party for Arbitration to the PMA (Permanent Machinery of Arbitration) in the department of Public Enterprises.</p> <p>In case of parties other than Govt. Agencies, the redressal of the dispute may be sought <u>through Arbitration (THE ARBITRATION AND CONCILIATION ACT, 1996 as amended by AMENDMENT ACT of 2015).</u></p>
14	"Settlement of Disputes through Arbitration' is introduced in	No Provision	<p>Settlement of Disputes through Arbitration</p> <p>(i) Normally, there should not be any scope of dispute between the employer</p>



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	<p>'General Guidelines for Turnkey Work/Contract' after 'Settlement of Disputes' Clause in Chapter 2 of CMM, Page 119</p>	<p>(department) and the contractor after entering into a mutually agreed valid contract. However, due to various unforeseen reasons, disputes may arise during the progress of the contract between the employer (department) and the contractor.</p> <p>Therefore, the conditions governing the contract shall contain suitable provision for settlement of such disputes/differences binding on both the parties.</p> <p>(ii) Mode of settlement of such disputes/differences shall be through Arbitration. However, when a dispute/difference arises, then, depending on the position of the case, either the employer (department) or the contractor shall give notice to the other party of its intention to commence arbitration. The applicable arbitration procedure will be as per the Arbitration and Conciliation Act, 1996 as amended by Amendment Act of 2015.</p> <p>(iii) <u>Venue of Arbitration</u>: The venue of arbitration shall be the place from where the contract has been issued.</p> <p>(iv) <u>Applicable Law</u>: The contracts shall be interpreted in accordance with the laws of the Union of India.</p> <p>(v) <u>Legal Advice</u>:</p> <p>While processing a case for arbitration, the purchase organization is to take legal advice, at appropriate stages from competent authorities viz their Legal Department.</p> <p>(vi) Following clause shall be included in the General Conditions of the Contract (GCC):</p> <p><u>Sole Arbitration Clause</u></p>
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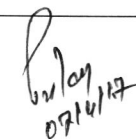
		<p>In the event of any question, dispute or difference arising under these terms & conditions or any condition contained in this contract or interpretation of the terms of, or in connection with this Contract (except as to any matter the decision of which is specially provided for by these conditions), the same shall be referred to the sole arbitration of a person, appointed to be the arbitrator by the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be). The award of the arbitrator shall be final and binding on the parties of this Contract.</p> <p>(a) In the event of the Arbitrator dying, neglecting or refusing to act or resigning or being unable to act for any reason, or his/her award being set aside by the court for any reason, it shall be lawful for the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be) to appoint another arbitrator in place of the outgoing arbitrator in the manner aforesaid.</p> <p>(b) It is further a term of this contract that no person other than the person appointed by the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be) as aforesaid should act as arbitrator and that, if for any reason that is not possible, the matter is not to be referred to Arbitration at all.</p> <p>Subject as aforesaid, Arbitration and Conciliation Act, 1996 as amended by Amendment Act of 2015, and the rules thereunder and any statutory modification thereof for the time being in force shall be deemed to apply to the Arbitration proceedings under this clause.</p>
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			<p>The venue of arbitration shall be the place from which the contract is issued or such other place as the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be) at his discretion may determine.</p> <p>(vii) <u>Contracts with Partnership firm/ Joint Venture/Consortium:</u></p> <p>A partner is the implied authority to bind the firm in a contract coming in the purview of the usual business of the firm. The implied authority of a partner, however, does not extend to enter into arbitration agreement on behalf of the firm. Therefore, while entering into a contract with partnership firm /Joint Venture/Consortium care should be taken to obtain consent of all the partners to the arbitration agreement.</p> <p>A suitable clause for obtaining consent of all the partners to the arbitration agreement shall be included in the General Conditions of the Contract (GCC).</p>
15	Clause 42 of Conditions of Contract in Modification in Chapter 2, CMM, Page 56	<p>42.0 SETTLEMENT OF DISPUTES</p> <p>It is incumbent upon the contractor to avoid litigation and disputes during the course of execution. However, if such disputes take place between the contractor and the department, effort shall be made first to settle the disputes at the company level.</p> <p>The contractor should make request in writing to the Engineer-in-charge for settlement of such disputes/ claims within 30 (thirty) days of arising of the cause of dispute/ claim failing which no disputes/ claims of the contractor shall be entertained by the company.</p> <p>Effort shall be made to resolve the dispute in two stages</p>	<p>42.0 SETTLEMENT OF DISPUTES</p> <p>It is incumbent upon the contractor to avoid litigation and disputes during the course of execution. However, if such disputes take place between the contractor and the department, effort shall be made first to settle the disputes at the company level.</p> <p>The contractor should make request in writing to the Engineer-in-charge for settlement of such disputes/ claims within 30 (thirty) days of arising of the cause of dispute/ claim failing which no disputes/ claims of the contractor shall be entertained by the company.</p> <p>Effort shall be made to resolve the dispute in two stages</p>

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		<p>In first stage dispute shall be referred to Area CGM,GM. If difference still persist the dispute shall be referred to a committee constituted by the owner. The committee shall have one member of the rank of Director of the company who shall be chairman of the company.</p> <p>If differences still persist, the settlement of the dispute shall be resolve in the following manner: Disputes relating to the commercial contracts with Central Public Sector Enterprises / Govt. Departments (except Railways, Income Tax, Customs & excise duties)/ State Public Sector Enterprises shall be referred by either party for Arbitration to the PMA (Permanent Machinery of Arbitration) in the department of Public Enterprises.</p> <p>In case of parties other than Govt. Agencies, the redressal of the dispute may be sought in the Court of Law.</p>	<p>In first stage dispute shall be referred to Area CGM,GM. If difference still persist the dispute shall be referred to a committee constituted by the owner. The committee shall have one member of the rank of Director of the company who shall be chairman of the company.</p> <p>If differences still persist, the settlement of the dispute shall be resolve in the following manner: Disputes relating to the commercial contracts with Central Public Sector Enterprises / Govt. Departments (except Railways, Income Tax, Customs & excise duties)/ State Public Sector Enterprises shall be referred by either party for Arbitration to the PMA (Permanent Machinery of Arbitration) in the department of Public Enterprises.</p> <p>In case of parties other than Govt. Agencies, the redressal of the dispute may be sought <u>through Arbitration (THE ARBITRATION AND CONCILIATION ACT, 1996 as amended by AMENDMENT ACT of 2015).</u></p>
16	Clause 42A (New Clause) of Conditions of Contract in Modification in Chapter 2, CMM, Page 57	No Provision	<p>42A. Settlement of Disputes through Arbitration</p> <p>If the parties fail to resolve the disputes/differences by in house mechanism, then, depending on the position of the case, either the employer/owner or the contractor shall give notice to other party to refer the matter to arbitration instead of directly approaching Court. The contractor shall, however, be entitled to invoke arbitration clause only after exhausting the remedy available under the clause 42.</p> <p>In case of parties other than Govt. agencies, the redressal of</p>

		<p>disputes/differences shall be sought through Sole Arbitration as under.</p> <p><u>Sole Arbitration:</u></p> <p>In the event of any question, dispute or difference arising under these terms & conditions or any condition contained in this contract or interpretation of the terms of, or in connection with this Contract (except as to any matter the decision of which is specially provided for by these conditions), the same shall be referred to the sole arbitration of a person, appointed to be the arbitrator by the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be). The award of the arbitrator shall be final and binding on the parties of this Contract.</p> <p>(a) In the event of the Arbitrator dying, neglecting or refusing to act or resigning or being unable to act for any reason, or his/her award being set aside by the court for any reason, it shall be lawful for the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be) to appoint another arbitrator in place of the outgoing arbitrator in the manner aforesaid.</p> <p>(b) It is further a term of this contract that no person other than the person appointed by the Competent Authority of CIL / CMD of Subsidiary Company (as the case may be) as aforesaid should act as arbitrator and that, if for any reason that is not possible, the matter is not to be referred to Arbitration at all.</p> <p>Subject as aforesaid, Arbitration and Conciliation Act, 1996 as amended by Amendment Act of 2015 and the rules thereunder and any statutory modification thereof for the time being</p>
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			<p>in force shall be deemed to apply to the Arbitration proceedings under this clause.</p> <p>The venue of arbitration shall be the place from which the contract is issued.</p> <p><u>Applicable Law:</u> The contracts shall be interpreted in accordance with the laws of the Union of India.</p> <p><u>Contracts with Partnership firm/ Joint Venture/Consortium:</u></p> <p>The Partnership firm /Joint Venture/Consortium is required to submit written consent of all the partners to above arbitration clause at the time of submission of bid.</p>
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(Annexure - A)

Sub : Measures to revive the construction Sector.

Ministry of Coal, Govt. of India, vide letter No. 55020/6/2013-CVAM-Misc. dtd.15.09.2016 has forwarded a copy of Office Memorandum No.N-14070/14/2016 – PPPAU dtd.05.09.2016 issued by National Institution for Transforming India (NITI Aayog) on the above cited subject for information and taking necessary action. The said Office Memorandum is self-explanatory. To implement the instructions mentioned in the OM, the following guidelines are hereby prescribed to be followed by CIL and its Subsidiary Companies in respect of cases under litigation.

Cases pending in Arbitration

2. In accordance with instructions incorporated in para 2.1 of O.M. dtd.05.09.2016 for contracts / concessions where the process of arbitration was initiated under pre-amended Arbitration Act (The Arbitration and Conciliation Act, 1996 and The Arbitration Act 1940), CIL and its Subsidiary Companies may seek the consent of the contractors / concessionaires to transfer the pending cases under the amended Arbitration Act (The Arbitration and Conciliation (Amendment) Act 2015) wherever possible. Before obtaining consent of contractors / concessionaires for transfer, the concerned officer will undertake an exercise in consultation with Legal Dept. and lawyer who is defending the case before arbitrator to determine whether the case is fit for transfer for processing under amended Arbitration Act. This is to avoid reference of cases which may be in the final stage of arbitration coming to an end. If the view arrived at is to transfer the dispute under amended Arbitration Act, administrative approval of the competent authority will be obtained. After approval is obtained, the concerned official will seek consent of the contractors / concessionaires for transfer of the pending case under amended Arbitration Act. Thereafter, a fresh agreement to refer the case to arbitration under amended Arbitration Act or to amend the existing agreement, as deemed fit may be signed with the opposite party.
3. Immediately, after obtaining consent of the opposite party, as above, the concerned official will take necessary steps to issue amendment to the appointment letter of the arbitrator with the request to process the arbitration under amended Arbitration Act. The concerned officer handling the arbitration case shall take necessary steps to amend the claim statement / counter claim statement and other documents filed earlier before the arbitrator in consultation with Legal Dept. and lawyer who is defending the case so as to align the proceedings in line with the amended Arbitration Act. It may also be ensured that all the defences taken and claims / counter claims etc. of the proceedings are defended under the provisions of amended Arbitration Act.
4. The Arbitrator has to make an award within a period of twelve months from the date he enters upon reference. The parties can by consent extend the period specified above for making award for a further period not exceeding six months. If the award is not made within this specified twelve months period or extended period of six months, the mandate of Arbitrator shall terminate unless the court has either prior to or after expiry of period so specified, extended the period. (Section 29A Time limit for arbitral award refers).
5. An application for setting aside award may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or if a request had been made under Section 33, from the date on which that request had been disposed of by the Arbitrator.
6. In case of any doubt regarding the implementation of amended Arbitration Act, the concerned official should consult Legal Dept. and the lawyer who is defending the case.

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Cases, arbitral award challenged in court of law by CIL / its Subsidiary Companies

Annexure-A
Continuation

7. In accordance with the para 2.2 of Office Memorandum dtd.05.09.2016 for the cases falling in the above category where CIL / its Subsidiary Companies have challenged the award in the court of law, they can release 75% of the award amount to the contractor / concessionaires against bank guarantee without prejudice to the final order of the court in the matter under challenge. The methodology for releasing the payment to contractors / concessionaires has been explained in detail in para 2.2 of the above order and the same may be followed. It may please be ensured that there should not be any slip on the part of concerned officer in deviating from the said procedure incorporated in clause 2.2.

Amr

Amr

No.55020/6/2013-CPAM-Misc.
Government of India
Ministry of Coal

New Delhi, the 15th September, 2016

To

01	Chairman, Coal India Limited, Coal Bhavan, Premise No.04 MAR, Plot No.AF-III, Action Area-1A, New town, Rajarhat, Kolkatta-700150 (W.B) Phone No. 033-23246622 FAX : 033-23244023 / E-mail chairman@coalindia.in
02	Chairman-cum-Managing Director, NLC India Limited, Cuddlore Distt. Neyveli- 607801 [Tamil Nadu] Phone 04142-252280/FAX:044-28364619/e-mail:cmd@nlcindia.com.
03	Chairman-cum-Managing Director, Singareni Collieries Company Limited, Kothagudem Collieries, Khammam Distt.-507101 [Telangana]. Phone No. 08744-245601/FAX:08744-242305/E-mail:cmd@scclmines.com, rosccl@rediffmail.com

Subject	Mesures to revive the Construction Sector – reg.
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Sir,


I am directed to enclose herewith a copy of O.M. No. N-14070-14-2016-PPPAU dated 5th September, 2016 received from National Institution for Transforming India (NITI Aayog) on the above cited subject for information and taking necessary action.

Yours faithfully

Encl: As above (e-mailed)


15/9/16
(A.K. Mandal)

Under Secretary to the Govt. of India


09/10/17

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सं. नं.	39402
दिनांक	7/9/16

No. N-14070/14/2016-PPPAU

Government of India

National Institution for Transforming India (NITI Aayog)

NITI Bhawan, New Delhi
September 05, 2016

JS (P.E.)

Office Memorandum

Subject: Measures to revive the Construction Sector - reg.

The construction sector has been facing a number of problems, mainly arising from the liquidity constraints caused on account of their payments not being released by the Government Departments/ Public Sector Undertakings (PSUs) pursuant to the arbitral awards. To discuss the problems of the construction sector, detailed deliberations/ consultations were held with the representatives of the construction industry, banks, major government PSUs and concerned Ministries/ Departments. Based on the above deliberations/ consultations, the NITI Aayog placed a proposal before the Cabinet Committee on Economic Affairs (CCEA) for its consideration suggesting various short- term and long-term measures required for addressing the issues ailing the construction sector. The CCEA, chaired by the Hon'ble Prime Minister, has considered the proposals of NITI Aayog in its meeting held on 31st August 2016 and approved the same for the revival of construction sector.

2. Accordingly, following instructions are hereby issued for compliance and necessary action by all concerned i.e. the Government Departments/ Ministries/ Public Sector Undertakings awarding the public contracts/ implementing various projects involving construction activities:

2.1 In case of contracts/ concessions where the process of arbitration was initiated under the pre-amended Arbitration Act, the PSUs/ Departments may seek the consent of the contractors/ concessionaires to transfer the pending cases under the amended Arbitration Act, wherever possible. The shift to amended Arbitration Act is expected to make the arbitration process more cost effective and help in settlement of the disputes in a timely manner;

2.2 In case of claims where the PSU/ Department has challenged the Arbitral Award already announced, 75% of the award may be paid by the PSU/ Department to the contractor/ concessionaire against Bank Guarantee without prejudice to the final order of the Court in the matter under challenge. The payment may be made into a designated Escrow Account with the stipulation that the amount so released will be used, first, for payment of lenders' dues, second, for completion of the project and then for completion of other projects of the same PSU/ Department, as mutually agreed/ decided. Any balance remaining in the escrow account subsequent to settlement of lenders' dues and completion of projects of the PSU/ Department may be allowed to be used by the contractor/ concessionaire with the prior approval of

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the lead banker and the Department/PSU.

- 2.3 In case the subsequent court order requires refund of the money paid by a PSU/ Department against a Bank Guarantee, the amount shall be refunded by the contractor/ concessionaire along with appropriate interest. The rate of interest on such refund amount may be decided by the PSU/ Department keeping in view the cost of capital to the PSU/ Department or the rate of interest provided for in the Contract Agreement or the rate of interest awarded under the Arbitral Award under challenge.

Notes:

- (i) For Departments, cost of capital shall be taken as Weighted Average Coupon rate of outstanding stock of Central Government securities for the period ending in the preceding quarter, or Weighted Average Coupon rate of Central Government securities issued during the preceding quarter (whichever is higher);
 - (ii) PSUs shall either calculate their own cost of capital or take State Bank of India's One Year Marginal Cost of fund-based Lending Rate plus 2%;
 - (iii) The appropriate interest rate on such refund shall be decided at the time of releasing funds to the Escrow Account;
 - (iv) If otherwise eligible and subject to contractual provisions, retention money and other amounts withheld may also be released against bank guarantee as per the laid down criteria.
3. All the concerned Ministries/ Departments shall also issue instructions to their respective PSUs for taking necessary action accordingly.

A. Muthuvezhappan
(A. Muthuvezhappan)
Director (PPPAU)

To

1. Secretaries of all the Ministries/Departments of Government of India.
2. Chairpersons/ CMDs/ MDs of all the Central Government PSUs.
3. Chairpersons/ CMDs/MDs/CEOs of all the Scheduled Commercial Banks.
4. Chief Executive, Indian Banks Association, Mumbai.
5. Shri Alok Tandon, Additional Secretary, Cabinet Secretariat, Rashtrapati Bhavan, New Delhi - 110001.
6. Dr. T. V. Somanathan, Joint Secretary, PMO, South Block, New Delhi - 110001.

Copy for information to:

1. PS to Vice Chairman/ PS to MoS/ PS to all Members
2. Sr. PPS to CEO/ PPS to Special Secretary