



**National Highways & Infrastructure Development Corporation Limited**

**(Ministry of Road Transport & Highways, Govt. of India)**

**PART DESIGN, CONSTRUCTION, OPERATION & MAINTENANCE (For  
a Period of 5 Years) OF FULLY AUTOMATIC MULTI-LEVEL CAR  
PARKING SYSTEM AT CENTRAL CIVIL SECRETARIAT, ITANAGAR,  
ARUNACHAL PRADESH**

Contract No: NHIDCL/AMLCP Const Work/AP/2020

**VOLUME 2**

GENERAL CONDITION OF CONTRACT

&

SPECIAL CONDITIONS OF CONTRACT

## TABLE OF CONTENTS

Description		Page No.
<b>A</b>	General Conditions of Contract & Clauses of Contract	2
	General Rules and Directions	2 - 3
	Conditions of Contract	4 - 6
	Clauses of Contract	7 – 50
<b>B</b>	Additional Conditions of Contract	51 – 58
<b>C</b>	Special Conditions of Contract	59 – 62

## **GENERAL CONDITIONS OF CONTRACT & CLAUSES OF CONTRACT**

### **GENERAL RULES AND DIRECTIONS**

- a) All work proposed for execution by contract will be notified in a form of invitation to tender posted by publication in Newspapers or posted on website as the case maybe.

This form will state the work to be carried out, as well as the date for submitting and opening tenders and the time allowed for carrying out the work, also the amount of earnest money/bid security to be deposited with the tender, and the amount of the security deposit and Performance guarantee to be deposited by the successful tenderer and the percentage, if any, to be deducted from bills. Copies of the specifications, designs and drawings and any other documents required in connection with the work signed for the purpose of identification by the officer inviting tender shall also be open for inspection by the contractor at the office of officer inviting tender during office hours.

- b) In the event of tender being submitted by a firm, it must be signed separately by each partner thereof or in the event of the absence of any partner, it must be signed on his behalf by a person holding a power of attorney authorizing him to do so, such power of attorney to be produced with the tender, and it must disclose that the firm is duly registered under the Indian Partnership Act 1952.

- c) Receipts for payment made on account of work, when executed by a firm, must also be signed by all the partners, except where contractors are described in their tender as a firm, in which case the receipts must be signed in the name of the firm by one of the partners, or by some other person having due authority to give effectual receipts for the firm.

- d) The rate(s) must be quoted in decimal coinage. Amounts must be quoted in full rupees by ignoring fifty paisa and considering more than fifty paisa as rupee one.

In case the lowest tendered amount (worked out on the basis of quoted rate of Individual items) of two or more contractors is same, then such lowest contractors may be asked to submit sealed revised offer quoting rate of each item of the schedule of quantity for all sub sections/sub heads as the case may be, but the revised quoted rate of each item of schedule of quantity for all sub sections/sub heads should not be higher than their respective original rate quoted already at the time of submission of tender. The lowest tender shall be decided on the basis of revised offer.

If the revised tendered amount (worked out on the basis of quoted rate of individual items) of two or more contractors received in revised offer is again found to be equal, then the lowest tender, among such contractors, shall be decided by draw of lots in the presence of Authorized officer in-charge of major & minor component(s), and the lowest contractors those have quoted equal amount of their tenders.

In case of any such lowest contractor in his revised offer quotes rate of any item more than their respective original rate quoted already at the time of submission of tender, then such revised offer shall be treated invalid. Such case of revised offer of the lowest contractor or case of refusal to submit revised offer by the lowest contractor shall be treated as withdrawal of his tender before acceptance and 50% of his earnest money shall be forfeited.

In case all the lowest contractors those have same tendered amount (as a result of their quoted rate of individual items), refuse to submit revised offers, then tenders are to be recalled after forfeiting 50% of EMD of each lowest contractors.

Contractor, whose earnest money is forfeited because of non-submission of revised offer, or quoting higher revised rate(s) of any item(s) than their respective original rate quoted already at the time of submission of his bid shall not be allowed to participate in the retendering process of the work.

In the case of Item Rate Tenders, only rates quoted shall be considered. Any tender containing percentage below/above the rates quoted is liable to be rejected. Rates quoted by the contractor in item rate tender in figures and words shall be accurately filled in so that there is no discrepancy in the rates written in figures and words. However, if a discrepancy is found, the rates which correspond with the amount worked out by the contractor shall unless otherwise proved be taken as correct. If the amount of an item is not worked out by the contractor or it does not correspond with the rates written either in figures or in words, then the rates quoted by the contractor in words shall be taken as correct. Where the rates quoted by the contractor in figures and in words tally, but the amount is not worked out correctly, the rates quoted by the contractor will unless otherwise proved be taken as correct and not the amount. In event no rate has been quoted for any item(s), leaving space both in figure(s), word(s), and amount blank, it will be presumed that the contractor has included the cost of this/these item(s) in other items and rate for such item(s) will be considered as zero and work will be required to be executed accordingly.

However, if a tenderer quotes nil rates against each item in item rate tender, the tender shall be treated as invalid and will not be considered as lowest tenderer and Earnest Money Deposited/Bid Security shall be forfeited.

## **CONDITIONS OF CONTRACT**

### **Definitions**

1. In the contract, the following expressions shall, unless the context otherwise requires, have the meanings, hereby respectively assigned to them :-
  - a) The term "NHIDCL Engineer" includes the Executive Director and General Managers.
  - b) Accepting Authority shall mean the authority mentioned in Schedule 'F'.
  - c) Consultant' means Consultant engaged by NHIDCL who shall carry out complete construction management services which include day to day supervision, management of overall and intermediate scheduled, weekly, monthly meetings, physical inspection, day to day approvals and certification of invoices.
- I. Consultant shall also make independent measurement and check all quantity measured and to make calculations required for payment purpose, certifying monthly bills of the contractors and giving recommendations to NHIDCL for payments as stipulated in the contract.
- II. Consultant shall also carry out day to day monitoring of materials procured for works by the contractors, check for their conformity to meet the contractual requirements including directing for testing the same at required intervals of time by the contractor and take actions as required in accordance with the contract regarding their acceptance on works.
  - d) Excepted Risk are risks due to riots (other than those on account of contractor's employees), war (whether declared or not) invasion, act of foreign enemies, hostilities, civil war, rebellion revolution, insurrection, military or usurped power, any acts of NHIDCL, damages from aircraft, acts of God, such as earthquake, lightening and unprecedented floods, and other causes over which the contractor has no control and accepted as such by the Accepting Authority or causes solely due to use or occupation by NHIDCL of the part of the works in respect of which a certificate of completion has been issued or a cause solely due to NHIDCL's faulty design of works.
  - e) Market Rate shall be the rate as decided by the Engineer-in-Charge on the basis of the cost of materials and labour at the site where the work is to be executed plus the percentage mentioned in Schedule 'F' to cover, all overheads and profits.
  - f) Schedule(s) referred to in these conditions shall mean the relevant schedule(s) annexed to the tender papers.
  - g) Department means NHIDCL or any department of MoRTH/NHAI/MoSHIPPING which invites tenders on behalf of NHIDCL as specified in Schedule 'F' of Form of Tender (Appendix 1)
  - h) Tendered value means the value of the entire work as stipulated in the letter of award.
  - i) Date of commencement of work: The date of commencement of work shall be the date of start as specified in Schedule 'F' of Form of Tender (Appendix 1) or the first date of handing over of the site, whichever is later, in accordance with the phasing if any, as indicated in the tender document.

### **Scope and Performance**

2. Where the context so requires, words imparting the singular only also include the plural and vice versa. Any reference to masculine gender shall whenever required include feminine gender and vice versa.
3. Headings and Marginal notes to these General Conditions of Contract shall not be deemed to form part thereof or be taken into consideration in the interpretation or construction thereof or of the contract.
4. The contractor shall be furnished, free of cost one certified copy of the contract documents except standard specifications, Schedule of Rates and such other printed and published documents, together with all drawings as may be forming part of the tender papers. None of these documents shall be used for any purpose other than that of this contract.

### **Works to be carried out**

5. The work to be carried out under the Contract shall, except as otherwise provided in these conditions, include all labour, materials, tools, plants, equipment and transport which may be required in preparation of and for and in the full and entire execution and completion of the works. The descriptions given in the Bill of Quantities (Volume- 6) shall, unless otherwise stated, be held to include wastage on materials, carriage and cartage, carrying and return of empties, hoisting, setting, fitting and fixing in position and all other labours necessary in and for the full and entire execution and completion of the work as aforesaid in accordance with good practice and recognized principles.

### **Sufficiency of Tender**

6. The Contractor shall be deemed to have satisfied himself before tendering as to the correctness and sufficiency of his tender for the works and of the rates and prices quoted in the Schedule of Quantities, which rates and prices shall, except as otherwise provided, cover all his obligations under the Contract and all matters and things necessary for the proper completion and maintenance of the works.

### **Discrepancies and Adjustment of Errors**

7. The several documents forming the Contract are to be taken as mutually explanatory of one another, detailed drawings being followed in preference to small scale drawing and figured dimensions in preference to scale and special conditions in preference to General Conditions.
- 7.1. In the case of discrepancy between the schedule of Quantities, the Specifications and/or the Drawings, the following order of preference shall be observed:-
  - (i) Description of Schedule of Quantities.
  - (ii) Particular Specification, Additional Conditions and Special Conditions.
  - (iii) General Conditions of Contract
  - (iv) Specifications defined in Schedule F.
  - (v) Indian Standard Specifications as per B.I.S relevant code.

- (vi) Drawings.
- (vii) Sound Engineering Practices.

- 7.2. If there are varying or conflicting provisions made in any one document forming part of the contract, the Accepting Authority shall be the deciding authority with regard to the intention of the document and his decision shall be final and binding on the contractor.
- 7.3. Any error in description, quantity or rate in Schedule of Quantities or any omission there from shall not vitiate the Contract or release the Contractor from the execution of the whole or any part of the works comprised therein according to drawings and specifications or from any of his obligations under the contract.

### **Signing of Contract**

8. The successful tenderer/contractor, on acceptance of his tender by the Accepting Authority, shall, , sign the contract consisting of:-
- i. The notice inviting tender, General Conditions of Contract, Additional Conditions of Contract & Special Conditions of Contract, corrigendum/addendum (if any) and all the documents including drawings, shall form an integral part the Contract as issued at the time of invitation of tender and acceptance thereof together with any correspondence leading thereto.

## **CLAUSES OF CONTRACT**

### **CLAUSE 1**

#### **Performance Guarantee**

- a) The contractor shall submit an irrevocable Performance Guarantee of 2.50% (two point five zero percent) of the tendered amount as Performance Security in addition to other deposits mentioned elsewhere in the contract for his proper performance of the contract agreement, (not withstanding and/or without prejudice to any other provisions in the contract) within period specified in Schedule 'F' from the date of issue of letter of acceptance. This period can be further extended by the Engineer-in-Charge up to a maximum period as specified in schedule 'F' on written request of the contractor stating the reason for delays in procuring the Performance Guarantee, to the satisfaction of the Engineer-in-Charge. The Performance Guarantee shall be valid until 60(sixty) days after the Defects Liability Period.
- (i) In the event the Selected Bidder fails to provide the Performance Guarantee, as prescribed herein, it may seek extension of time for a further period up to 30 days by paying the Damages upfront along with the request letter seeking the extension. The Damages shall be the sum calculated at the rate of 0.01% (zero point zero one per cent) of the Bid Price offered by the Selected Bidder for each day until the Performance Guarantee, is provided in full as prescribed herein.
- (ii) For avoidance of any doubt, in case of failure of submission of Performance Guarantee within the prescribed time' period, the award shall be deemed to be cancelled/ withdrawn and the Bid Security shall be encashed and the proceeds thereof appropriated by the Authority. Thereupon all rights, privileges, claims and entitlements of the Contractor under or arising out of the Award shall be deemed to have been waived by, and to have ceased with the concurrence of the Contractor, and the Award shall be deemed to have been withdrawn by the Authority

#### **2. Appropriation of Performance Guarantee**

- a) Upon occurrence of a Contractor's Default, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, are entitled to encash and appropriate the relevant amounts from the Performance Guarantee as Damages for such Contractor's Default.
- b) Upon such encashment and appropriation from the Performance Guarantee, the Contractor shall, within 30 (thirty) days thereof, replenish, in case of partial appropriation, to its original level the Performance Guarantee, and in case of appropriation of the entire Performance Guarantee provide afresh Performance Guarantee, as the case may be, and the Contractor shall, within the time so granted, replenish or furnish fresh Performance Guarantee as aforesaid failing which the Authority shall be entitled to terminate the Agreement. Upon replenishment or furnishing of a fresh Performance Guarantee, as the case may be, as aforesaid, the Contractor shall be entitled to an additional Cure Period of 30 (thirty) days for remedying the Contractor's Default, and in the event of the Contractor not curing its default

within such Cure Period, the Authority shall be entitled to encash and appropriate such Performance Guarantee as Damages, and to terminate this Agreement

### **3. Release of Performance Guarantee**

- a) The Authority shall return the Performance Guarantee to the Contractor within 60 (sixty) days of the expiry Defects Liability Period under this Agreement. Notwithstanding the aforesaid, the Parties agree that the Authority shall not be obliged to release the Performance Guarantee until all Defects identified during the Defects Liability Period have been rectified. The PBG for AMC Period shall be returned to the Bidder within 60 days after the expiry of AMC period of 04 years.
- b) The Authority shall return the Additional Performance Guarantee to the Contractor within 30 (thirty) days from the date of issue of Completion Certificate under clause 8 of this Agreement.

### **4. Security Deposit/ Retention Money**

- a) From every payment for Works due to the Contractor, the Authority shall deduct 2.5% (Two point five per cent) there of as guarantee money for performance of the obligations of the Contractor during the Construction Period (the "Retention Money") subject to the condition that the maximum amount of Retention Money shall not exceed 2.5% (Two point five per cent `) of the Contract Price.
- b) Upon occurrence of a Contractor's Default, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, are entitled to appropriate the relevant amounts from the Retention Money as Damages for such Contractor's Default.
- c) The Parties agree that in the event of Termination of this Agreement, the Retention Money shall be treated as if they are Performance Security and shall be reckoned as such for the purposes of Termination Payment.

## CLAUSE 2

### Compensation for Delay

If the contractor fails to maintain the required progress in terms of clause 5 or to complete the work and clear the site on or before the contract or justified extended date of completion as per clause 5 (excluding any extension under Clause 5.5) as well as any extension granted under Clauses 12 and 15, he shall, without prejudice to any other right or remedy available under the law to the Government on account of such breach, pay as compensation the amount calculated at the rates stipulated below as the authority specified in schedule 'F' may decide on the amount of accepted Tendered Value of the work for every completed day/month (as determined) that the progress remains below that specified in Clause 5 or that the work remains incomplete.

Compensation for delay of work	With maximum rate @ 1% (one percent) per month of delay to be computed on per day basis based on quantum of damage suffered due to stated delay on part of contractor
--------------------------------	---

Provided always that the total amount of compensation for delay to be paid under this condition shall not exceed 10 % (ten percent) of the accepted Tendered Value of work or of the accepted Tendered Value of the Sectional part of work as mentioned in Schedule 'F' for which a separate period of completion is originally given.

In case no compensation has been decided by the authority in Schedule 'F' during the progress of work, this shall be no waiver of right to levy compensation by the said authority if the work remains incomplete on final justified extended date of completion. If the Engineer in Charge decides to give further extension of time allowing performance of work beyond the justified extended date, the contractor shall be liable to pay compensation for such extended period. If any variation in amount of contract takes place during such extended period beyond justified extended date and the contractor becomes entitled to additional time under Clause 12, the net period for such variation shall be accounted for while deciding the period for levy of compensation. However, during such further extended period beyond the justified extended period, if any delay occurs by events under sub Clause 5.2, the contractor shall be liable to pay compensation for such delay.

Provided that compensation during the progress of work before the justified extended date of completion for delay under this clause shall be for non-achievement of sectional completion or part handing over of work on stipulated/justified extended date for such part work or if delay affects any other works/services. This is without prejudice to right of action by the Engineer in Charge under Clause 3 for delay in performance and claim of compensation under that clause.

In case action under Clause 2 has not been finalized and the work has been determined under Clause 3, the right of action under this clause shall remain post determination of contract but levy of compensation shall be for days the progress is behind the schedule on date of determination, as assessed by the authority in Schedule F, after due consideration of justified extension. The compensation for delay, if not decided before the determination of contract, shall be decided after of determination of contract.

The amount of compensation may be adjusted or set-off against any sum payable to the Contractor under this or any other contract with the Government. In case, the contractor does not achieve a particular milestone mentioned in Schedule F, or the re-scheduled milestone(s) in terms of Clause 5.4, the amount shown against that milestone shall be withheld, to be adjusted against the compensation levied as above. With-holding of this amount on failure to achieve a milestone, shall be automatic without any notice to the contractor. However, if the contractor catches up with

the progress of work on the subsequent milestone(s), the withheld amount shall be released. In case the contractor fails to make up for the delay in subsequent milestone(s), amount mentioned against each milestone missed subsequently also shall be withheld. However, no interest, whatsoever, shall be payable on such withheld amount.

## **CLAUSE 2A**

### **Incentive for early completion**

In case, the contractor completes the work ahead of stipulated date of completion or justified extended date of completion as determined under Clauses 5.3,12 & 15,a bonus @ 0.5 % (zero point five per cent) of the accepted tendered value per month computed on per day basis, shall be payable to the contractor, subject to a maximum limit of 2 %(two percent) of the accepted tendered value, provided that justified time for extra work shall be calculated on pro-rata basis as cost of extra work excluding amount payable/ paid under Clause 10 C, 10 CA & 10 CC stipulated period / accepted tendered value. The amount of bonus, if payable, shall be paid along with final bill after completion of work. Provided always that provision of the Clause 2A shall be applicable only when so provided in 'Schedule F' Stipulated period if provided in months be converted in days multiplying 30.4 days and similarly in calculating Bonus, the days may be converted into months by dividing 30.4 days.

## **CLAUSE 3**

### **When Contract can be Determined**

Subject to other provisions contained in this clause, the Engineer-in-Charge may, without prejudice to any other rights or remedy against the contractor in respect of any delay, not following safety norms, inferior workmanship, any claims for damages and/or any other provisions of this contract or otherwise, and whether the date of completion has or has not elapsed, by notice in writing absolutely determine the contract in any of the following cases:

- (i) If the contractor having been given by the Engineer-in-Charge a notice in writing to rectify, reconstruct or replace any defective work or that the work is being performed in an inefficient or otherwise improper or un-workman like manner shall omit to comply with the requirement of such notice for a period of seven days thereafter.
- (ii) If the contractor has, without reasonable cause, suspended the progress of the work or has failed to proceed with the work with due diligence and continues to do so after a notice in writing of seven days from the Engineer-in-Charge.
- (iii) If the contractor fails to complete the work or section of work with individual date of completion on or before the stipulated or justified extended date, on or before such date of completion; and the Engineer in Charge without any prejudice to any other right or remedy under any other provision in the contract has given further reasonable time in a notice given in writing in that behalf as either mutually agreed or in absence of such mutual agreement by his own assessment making such time essence of contract and in the opinion of Engineer-in-Charge the contractor will be unable to complete the same or does not complete the same within the period specified.
- (iv) If the contractor persistently neglects to carry out his obligations under the contract and/ or commits default in complying with any of the terms and conditions of the contract and does

not remedy it or take effective steps to remedy it within 7 days after a notice in writing is given to him in that behalf by the Engineer-in-Charge.

- (v) If the contractor shall offer or give or agree to give to any person in Government service or to any other person on his behalf any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of this or any other contract for Government
- (vi) If the contractor shall enter into a contract with Government in connection with which commission has been paid or agreed to be paid by him or to his knowledge, unless the particulars of any such commission and the terms of payment thereof have been previously disclosed in writing to the Engineer-in-Charge.
- (vii) If the contractor had secured the contract with Government as a result of wrong tendering or other non-bonafide methods of competitive tendering or commits breach of Integrity Agreement.
- (viii) If the contractor being an individual, or if a firm, any partner thereof shall at any time be adjudged insolvent or have a receiving order or order for administration of his estate made against him or shall take any proceedings for liquidation or composition (other than a voluntary liquidation for the purpose of amalgamation or reconstruction) under any Insolvency Act for the time being in force or make any conveyance or assignment of his effects or composition or arrangement for the benefit of his creditors or purport so to do, or if any application be made under any Insolvency Act for the time being in force for the sequestration of his estate or if a trust deed be executed by him for benefit of his creditors.
- (ix) If the contractor being a company shall pass a resolution or the court shall make an order that the company shall be wound up or if a receiver or a manager on behalf of a creditor shall be appointed or if circumstances shall arise which entitle the court or the creditor to appoint a receiver or a manager or which entitle the court to make a winding up order.
- (x) If the contractor shall suffer an execution being levied on his goods and allow it to be continued for a period of 21 days.
- (xi) If the contractor assigns (excluding part(s) of work assigned to other agency(s) by the contractor as per terms of contract), transfers, sublets (engagement of labour on a piece-work basis or of labour with materials not to be incorporated in the work, shall not be deemed to be subletting) or otherwise parts with or attempts to assign, transfer, sublet or otherwise parts with the entire works or any portion thereof without the prior written approval of the Engineer -in-Charge. When the contractor has made himself liable for action under any of the cases aforesaid, the Engineer-in-Charge on behalf of the President of India shall have powers:
  - a) To determine the contract as aforesaid so far as performance of work by the Contractor is concerned (of which determination notice in writing to the contractor under the hand of the Engineer-in-Charge shall be conclusive evidence). Upon such determination, the Earnest Money Deposit/bid security, Security Deposit already recovered, Security deposit payable and Performance Guarantee under the contract shall be liable to be forfeited and shall be absolutely at the disposal of the Government.
  - b) After giving notice to the contractor to measure up the work of the contractor and to take such whole, or the balance or part thereof, as shall be un-executed out of his hands and to give it to another contractor to complete the work. The contractor, whose contract is determined as above, shall not be allowed to participate in the tendering process for the balance work including any new items needed to complete the work. In the event of above

courses being adopted by the Engineer-in-Charge, the contractor shall have no claim to compensation for any loss sustained by him by reasons of his having purchased or procured any materials or entered into any engagements or made any advances on account or with a view to the execution of the work or the performance of the contract. And in case action is taken under any of the provision aforesaid, the contractor shall not be entitled to recover or be paid any sum for any work thereof or actually performed under this contract unless and until the Engineer-in-Charge has certified in writing the performance of such work and the value payable in respect thereof and he shall only be entitled to be paid the value so certified.

### **CLAUSE 3A**

In case, the work cannot be started due to reasons not within the control of the contractor within 1/8th of the stipulated time for completion of work or one month whichever is higher, either party may close the contract by giving notice to the other party stating the reasons. In such eventuality, the Performance Guarantee of the contractor shall be refunded within following time limits:

- (i) If the Tendered value of work is up to Rs. 1Crore: 15 days.
- (ii) If the Tendered value of work is more than Rs.1 Crore & upto Rs.10 Crore: 21days.
- (iii) If the Tendered value of work exceeds Rs.10 Crore:30 days.

Neither party shall claim any compensation for such eventuality. This clause is not Applicable for any breach of the contract by either party.

### **CLAUSE 4**

#### **Contractor liable to pay Compensation even if action not taken under Clause 3**

In any case in which any of the powers conferred upon the Engineer-in-Charge by Clause-3 thereof, shall have become exercisable and the same are not exercised, the non-exercise thereof shall not constitute a waiver of any of the conditions hereof and such powers shall notwithstanding be exercisable in the event of any future case of default by the contractor and the liability of the contractor for compensation shall remain unaffected. In the event of the Engineer-in-Charge putting in force all or any of the powers vested in him under the preceding clause he may, if he so desires after giving notice in writing to the contractor, take possession of (or at the sole discretion of the Engineer-in-Charge which shall be final and binding on the contractor) use as on hire (the amount of the hire money being also in the final determination of the Engineer-in-Charge) all or any tools, plant, materials and stores, in or upon the works, or the site thereof belonging to the contractor, or procured by the contractor and intended to be used for the execution of the work/or any part thereof, paying or allowing for the same in account at the contract rates, or, in the case of these not being applicable, at current market rates to be certified by the Engineer-in-Charge, whose certificate thereof shall be final, and binding on the contractor, clerk of the works, foreman or other authorized agent to remove such tools, plant, materials, or stores from the premises (within a time to be specified in such notice) in the event of the contractor failing to comply with any such requisition, the Engineer-in-Charge may remove them at the contractor's expense or sell them by auction or private sale on account of the contractor and his risk in all respects and the certificate of the Engineer-in-Charge as to the expenses of any such removal and the amount of the proceeds and expenses of any such sale shall be final and conclusive against the contractor.

### **CLAUSE 5**

#### **Time and Extension for Delay**

The time allowed for execution of the Works as specified in the Schedule 'F' or the extended time in accordance with these conditions shall be the essence of the Contract. The execution of the work shall commence from such time period as mentioned in schedule 'F' or from the date of handing over of the site, notified by the Engineer-in-Charge, whichever is later. If the Contractor commits default in commencing the execution of the work as aforesaid, the performance guarantee shall be forfeited by the Engineer in Charge and shall be absolutely at the disposal of the Government without prejudice to any other right or remedy available in law.

- 5.1. As soon as possible but within 7 (seven) working days of award of work and in consideration of
- a) Schedule of handing over of site as specified in the Schedule 'F'
  - b) Schedule of issue of designs as specified in the Schedule 'F',

The Contractor shall submit a Time and Progress Chart for each mile stone. The Engineer-in-Charge may within 7 (seven) working days thereafter, if required modify, and communicate the program approved to the contractor failing which the program submitted by the contractor shall be deemed to be approved by the Engineer-in-Charge. The work programme shall include all details of balance drawings and decisions required to complete the contract with specific dates by which these details are required by contractor without causing any delay in execution of the work. The Chart shall be prepared in direct relation to the time stated in the Contract documents for completion of items of the works. It shall indicate the forecast of the dates of commencement and completion of various trades of sections of the work and may be amended as necessary by agreement between the Engineer-in-Charge and the Contractor within the limitations of time imposed in the Contract documents

- (i) In case of non-submission of construction programme by the contractor, the program approved by the Engineer-in-Charge shall be deemed to be final.
- (ii) The approval by the Engineer-in-Charge of such programme shall not relieve the contractor of any of the obligations under the contract.
- (iii) The contractor shall submit the Time and Progress Chart and progress report using the mutually agreed software or in other format decided by Engineer-in- Charge for the work done during previous month to the Engineer-in-charge on or before 5th day of each month failing which a recovery as per Schedule F to be decided by the NIT approving authority shall be made on per week or part basis in case of delay in submission of the monthly progress report.

5.2. If the work(s) be delayed by:-

- (i) force majeure, or
- (ii) abnormally bad weather, or
- (iii) serious loss or damage by fire, or
- (iv) civil commotion, local commotion of workmen, strike or lockout, affecting any of the trades employed on the work, or
- (v) delay on the part of other contractors or trades men engaged by Engineer-in-Charge in executing work not forming part of the Contract, or
- (vi) any other cause like above which, in the reasoned opinion of the Engineer-in- Charge is beyond the Contractor's control, then upon the happening of any such event causing delay, the Contractor shall immediately give notice thereof in writing to the Engineer-in-Charge but shall nevertheless use constantly his best endeavors to prevent or make good the delay and shall do all that may be reasonably required to the satisfaction of the Engineer-in-Charge to proceed with the works.

The contractor shall have no claim of damages for extension of time granted or rescheduling of milestone/s if any for events listed in sub clause 5.2.

5.3. In case the work is hindered by the Department or for any reason / event, for which the Department is responsible, the authority as indicated in Schedule 'F' shall, if justified, give a fair and reasonable extension of time and reschedule the milestones for completion of work. Such extension of time or rescheduling of milestone/s shall be without prejudice to any other right or remedy of the parties in contract or in law; provided further that for concurrent delays under this sub clause and sub clause 5.2 to the extent the delay is covered under sub clause 5.2 the contractor shall be entitled to only extension of time and no damages.

5.4. Request for rescheduling of Mile stones or extension of time, to be eligible for consideration, shall be made by the Contractor in writing within fourteen days of the happening of the event causing delay on the prescribed forms i.e. Form of application by the contractor for seeking rescheduling of milestones or Form of application by the contractor for seeking extension of time (Appendix –XVII) respectively to the authority as indicated in Schedule 'F'. The Contractor shall indicate in such a request the period by which rescheduling of milestone/s or extension of time is desired.

With every request for rescheduling of milestones, or if at any time the actual progress of work falls behind the approved programme by more than 10% of the stipulated period of completion of contract, the contractor shall produce a revised programme which shall include all details of pending drawings and decisions required to complete the contract and also the target dates by which these details should be available without causing any delay in execution of the work. A recovery as specified in Schedule 'F' shall be made on per day basis in case of delay in submission of the revised programme.

5.4.1. In any such case the authority as indicated in Schedule 'F' may give a fair and reasonable extension of time for completion of work or reschedule the mile stones. Engineer -in-Charge shall finalize/ reschedule a particular mile stone before taking an action against subsequent mile stone. Such extension or rescheduling of the milestones shall be communicated to the Contractor by the authority as indicated in Schedule 'F' in writing, within 21 days of the date of receipt of such request from the Contractor in prescribed form. In event of non-application by the contractor for extension of time E-in-C after affording opportunity to the contractor may give, supported with a programme (as specified under 5.4 above), a fair and reasonable extension within a reasonable period of occurrence of the event.

5.5. In case the work is delayed by any reasons, in the opinion of the Engineer-in- Charge, by the contractor for reasons beyond the events mentioned in Clause 5.2 or Clause 5.3 or Clause 5.4 and beyond the justified extended date; without prejudice to right to take action under Clause 3, the Engineer-in-Charge may grant extension of time required for completion of work without rescheduling of milestones. The contractor shall be liable for levy of compensation for delay for such extension of time.

## CLAUSE 6

### Computerized Measurement Book

Engineer-in-Charge shall, except as otherwise provided, ascertain and determine by measurement the value of work done in accordance with the contract.

All measurements of all items having financial value shall be entered by the contractor and compiled in the shape of the Computerized Measurement Book having pages of A-4 size as per the format of the department so that a complete record is obtained of all the items of works performed under the contract.

All such measurements and levels recorded by the contractor or his authorized representative from time to time, during the progress of the work, shall be got checked by the contractor from the Engineer-in-Charge or his authorized representative as per interval or program fixed in

consultation with Engineer-in- Charge or his authorized representative. After the necessary corrections made by the Engineer-in-Charge, the measurement sheets shall be returned to the contractor for incorporating the corrections and for resubmission to the Engineer-in- Charge for the dated signatures by the Engineer-in- Charge and the contractor or their representatives in token of their acceptance.

Whenever bill is due for payment, the contractor would initially submit draft computerized measurement sheets and these measurements would be got checked/test checked from the Engineer-in-Charge and/or his authorized representative. The contractor will, thereafter, incorporate such changes as may be done during these checks/test checks in his draft computerized measurements, and submit to the department a computerized measurement book, duly bound, and with its pages machine numbered. The Engineer-in- Charge and/or his authorized representative would thereafter check this MB, and record the necessary certificates for their checks/test checks.

The final, fair, computerized measurement book given by the contractor, duly bound, with its pages machine numbered, should be 100% correct, and no cutting or over- writing in the measurements would thereafter be allowed. If at all any error is noticed, the contractor shall have to submit a fresh computerized MB with its pages duly machine numbered and bound, after getting the earlier MB cancelled by the department. Thereafter, the MB shall be taken in the Divisional Office records, and allotted a number as per the Register of Computerized MBs. This should be done before the corresponding bill is submitted to the Division Office for payment. The contractor shall submit two spare copies of such computerized MB's for the purpose of reference and record by the various officers of the department.

The contractor shall also submit to the department separately his computerized Abstract of Cost and the bill based on these measurements, duly bound, and its pages machine numbered along with two spare copies of the "bill. Thereafter, this bill will be processed by the Division Office and allotted a number as per the computerized record in the same way as done for the measurement book meant for measurements.

The contractor shall, without extra charge, provide all assistance with every appliance, labour and other things necessary for checking of measurements/levels by the Engineer-in- Charge or his representative.

Except where any general or detailed description of the work expressly shows to the contrary, measurements shall be taken in accordance with the procedure set forth in the specifications notwithstanding any provision in the relevant Standard Method of measurement or any general or local custom. In the case of items which are not covered by specifications, measurements shall be taken in accordance with the relevant standard method of measurement issued by the Bureau of Indian Standards and if for any item no such standard is available then a mutually agreed method shall be followed.

The contractor shall give not less than seven days' notice to the Engineer-in-Charge or his authorized representative in charge of the work before covering up or otherwise placing beyond the reach of checking and/or test checking the measurement of any work in order that the same may be checked and/or test checked and correct dimensions thereof be taken before the same is covered up or placed beyond the reach of checking and/or test checking measurement and shall not cover up and place beyond reach of measurement any work without consent in writing of the Engineer-in-Charge or his authorized representative in charge of the work who shall within the aforesaid period of seven days inspect the work, and if any work shall be covered up or placed beyond the reach of checking and/or test checking measurements without such notice having been given or the Engineer-in- Charge's consent being obtained in writing the same shall be uncovered at the Contractor's expense, or in default thereof no payment or allowance shall be made for such work or the materials with which the same was executed.

Engineer-in-Charge or his authorized representative may cause either themselves or through another officer of the department to check the measurements recorded by contractor and all

provisions stipulated herein above shall be applicable to such checking of measurements or levels.

It is also a term of this contract that checking and/or test checking the measurements of any item of work in the measurement book and/or its payment in the interim, on account of final bill shall not be considered as conclusive evidence as to the sufficiency of any work or material to which it relates nor shall it relieve the contractor from liabilities from any over measurement or defects noticed till completion of the defects liability period

## **CLAUSE 7**

### **Payment on Intermediate Certificate to be regarded as Advances**

No payment shall be made for work, estimated to cost Rs.5 (Five) lac or less till after the whole of the work shall have been completed and certificate of completion given. For works estimated to cost over Rs. 5 (Five)Lac the interim or running account bills shall be submitted by the contractor for the work executed on the basis of such recorded measurements on the format of the Department in triplicate on or before the date of every month fixed for the same by the Engineer-in-Charge. The contractor shall not be entitled to be paid any such interim payment if the gross work done together with net payment/ adjustment of advances for material collected, if any, since the last such payment is less than the amount specified in Schedule 'F', in which case the interim bill shall be prepared on the appointed date of the month after the requisite progress is achieved. Engineer-in-Charge shall arrange to have the bill verified by taking or causing to be taken, where necessary, the requisite measurements of the work. In the event of the failure of the contractor to submit the bills, no claims whatsoever due to delays on payment including that of interest shall be payable to the contractor. Payment on account of amount admissible shall be made by the Engineer-in-Charge certifying the sum to which the contractor is considered entitled by way of interim payment at such rates as decided by the Engineer-in-Charge. The amount admissible shall be paid by 10th working day after the day of presentation of the bill by the Contractor to the Engineer-in-Charge or his Authorized Engineer together with the account of the material issued by the department, or dismantled materials, if any. In the case of works outside the headquarters of the Engineer- in- Charge, the period of ten working days will be extended to fifteen working days. In case of delay in payment of intermediate bills after 45 days of submission of bill by the contractor provided the bill submitted by the contractor found to be in order, a simple interest @ 5% (five percent) per annum shall be paid to the contractor from the date of expiry of prescribed time limit which will be compounded on yearly basis.

All such interim payments shall be regarded as payment by way of advances against final payment only and shall not preclude the requiring of bad, unsound and imperfect or unskilled work to be rejected, removed, taken away and reconstructed or re-erected. Any certificate given by the Engineer-in-Charge relating to the work done or materials delivered forming part of such payment, maybe modified or corrected by any subsequent such certificate(s) or by the final certificate and shall not by itself be conclusive evidence that any work or materials to which it relates is/are in accordance with the contract and specifications. Any such interim payment, or any part thereof shall not in any respect conclude, determine or affect in any way powers of the Engineer-in-Charge under the contract or any of such payments be treated as final settlement and adjustment of accounts or in any way vary or affect the contract.

Pending consideration of extension of date of completion, interim payments shall continue to be made as herein provided without prejudice to the right of the department to take action under the terms of this contract for delay in the completion of work, if the extension of date of completion is not granted by the competent authority.

The Engineer-in-Charge in his sole discretion on the basis of a certificate from the Manager/ DGM/ GM to the effect that the work has been completed up to the level in question make interim advance payments without detailed measurements for work done (other than foundations, items to be covered under finishing items) up to lintel level (including sunshade etc.) and slab level, for each floor working out at 75% of the assessed value. The advance payments so allowed shall be adjusted in the subsequent interim bill(s) to be submitted by the contractor within 10 days of the interim payment. In case of delay in submission of bill by the contractor, no interest shall be payable to the Contractor.

### **Payments in composite Contracts**

In case of composite tenders, running payment for the major component shall be made by Engineer-in-Charge to the main contractor. Running payment for minor component shall be made by the Engineer-in-Charge of the discipline of minor component directly to the main contractor.

### **CLAUSE 7A**

No Running Account Bill shall be paid for the work till the applicable labour licenses, registration with EPFO, ESIC and BOCW Welfare Board, whatever applicable are submitted by the contractor to the Engineer-in-Charge.

### **CLAUSE 8**

#### **Completion Certificate and Completion Plans**

Within ten days of the completion of the work, the contractor shall give notice of such completion to the Engineer-in-Charge and within thirty days of the receipt of such notice, the Engineer-in-Charge shall inspect the work and if there is no defect in the work, shall furnish the contractor with a final certificate of completion, otherwise a provisional certificate of physical completion indicating defects (a) to be rectified by the contractor and/or (b) for which payment will be made at reduced rates, shall be issued. But no final certificate of completion shall be issued, nor shall the work be considered to be complete until the contractor shall have removed from the premises on which the work shall be executed all scaffolding, surplus materials, rubbish and all huts and sanitary arrangements required for his/their work people on the site in connection with the execution of the works as shall have been erected or constructed by the contractor(s) and cleaned off the dirt from all wood work, doors, windows, walls, floor or other parts of the building, in, upon, or about which the work is to be executed or of which he may have had possession for the purpose of the execution; thereof, and not until the work shall have been measured by the Engineer-in-Charge.

If the contractor shall fail to comply with the requirements of this Clause as to removal of scaffolding, surplus materials and rubbish and all huts and sanitary arrangements as aforesaid and cleaning off dirt on or before the date fixed for the completion of work, the Engineer-in-Charge may at the expense of the contractor remove such scaffolding, surplus materials and rubbish etc., and dispose of the same as he thinks fit and clean off such dirt as aforesaid, and the contractor shall have no claim in respect of scaffolding or surplus materials as aforesaid except for any sum actually realized by the sale thereof.

### **CLAUSE 8A**

#### **Completion Plans to be submitted by the Contractor**

The contractor shall submit completion plans for Internal and External Civil, Electrical and Mechanical Services within thirty days of the completion of the work, provided that the service plans having been issued for execution by the Engineer-in- Charge, unless the contractor, by virtue of any other provision in the contract, is required to prepare such plans

In case, the contractor fails to submit the completion plan as aforesaid, he shall be liable to pay a sum of 0.1 % (zero point one percent) of accepted Tendered Value or limit prescribed in Schedule F whichever is more as may be fixed by the authority as mentioned in Schedule F and in this respect the decision of the that authority shall be final and binding on the contractor.

## **CLAUSE 9**

### **Payment of Final Bill**

The final bill shall be submitted by the contractor in the same manner as specified in interim bills within three months of physical completion of the work or within one month of the date of the final certificate of completion furnished by the Engineer-in- Charge whichever is earlier. No further claims shall be made by the contractor after submission of the final bill and these shall be deemed to have been waived and extinguished. Payments of those items of the bill in respect of which there is no dispute and of items in dispute, for quantities and rates as approved by Engineer-in-Charge, will, as far as possible be made within the period specified here in under, the period being reckoned from the date of receipt of the bill by the Engineer-in- Charge or his authorized representative, complete with account of materials issued by the Department and dismantled materials.

- a) If the Tendered value of work is up to 1 Crore : 2months
- b) If the Tendered value of work is more than Rs 1 Crore & upto Rs.10 Crore :3 months
- c) If the Tendered value of work exceeds Rs.10 Crore:6 months

If the final bill is submitted by the contractor within the period specified above and payment of final bills is made by the department. After prescribed time limit, a simple interest @ 5 % per annum shall be paid to the contractor from the date of expiry of prescribed time limit which will be compounded on yearly basis, provided the final bill submitted by the contractor is found to be in order.

## **CLAUSE 9A**

### **Payment of Contractor's Bills to Banks**

Payments due to the contractor may, if so desired by him, be made to his bank, registered financial, co-operative or thrift societies or recognized financial institutions instead of direct to him provided that the contractor furnishes to the Engineer-in- Charge (1) an authorization in the form of a legally valid document such as a power of attorney conferring authority on the bank; registered financial, co-operative or thrift societies or recognized financial institutions to receive payments and (2) his own acceptance of the correctness of the amount made out as being due to him by Government or his signature on the bill or other claim preferred against Government before settlement by the Engineer-in-Charge of the account or claim by payment to the bank, registered financial, co-operative or thrift societies or recognized financial institutions. While the receipt given

by such banks; registered financial, co-operative or thrift societies or recognized financial institutions shall constitute a full and sufficient discharge for the payment, the contractor shall whenever possible present his bills duly receipted and discharged through his bank, registered financial, cooperative or thrift societies or recognized financial institutions.

Nothing herein contained shall operate to create in favour of the bank; registered financial, co-operative or thrift societies or recognized financial institutions any rights or equities vis-a- vis the President of India.

## CLAUSE10A

### **Materials to be provided by the Contractor:**

**The contractor shall, at his own expense, arrange and provide all materials, required for doing the works to the satisfaction of NHIDCL.**

The contractor shall, at his own expense, provide all materials, required for the works other than those which are stipulated to be supplied by the Government.

The contractor shall, at his own expense and without delay; supply to the Engineer- in-Charge samples of materials to be used on the work and shall get these approved in advance. All such materials to be provided by the Contractor shall be in conformity with the specifications laid down or referred to in the contract. The contractor shall, if requested by the Engineer-in- Charge furnish proof, to the satisfaction of the Engineer-in-Charge that the materials so comply. The Engineer-in-Charge shall within thirty days of supply of samples or within such further period as he may require intimate to the Contractor in writing whether samples are approved by him or not. If samples are not approved, the Contractor shall forthwith arrange to supply to the Engineer-in-Charge for his approval, fresh samples complying with the specifications laid down in the contract. When materials are required to be tested in accordance with specifications, approval of the Engineer-in-Charge shall be issued after the test results are received.

The Contractor shall at his risk and cost submit the samples of materials to be tested or analyzed and shall not make use of or incorporate in the work any materials represented by the samples until the required tests or analysis have been made and materials finally accepted by the Engineer-in-Charge. The Contractor shall not be eligible for any claim or compensation either arising out of any delay in the work or due to any corrective measures required to be taken on account of and as a result of testing of materials.

The contractor shall, at his risk and cost, make all arrangements and shall provide all facilities as the Engineer-in-Charge may require for collecting, and preparing the required number of samples for such tests at such time and to such place or places as may be directed by the Engineer-in-Charge and bear all charges and cost of testing unless specifically provided for otherwise elsewhere in the contract or specifications.

The Engineer-in- Charge or his authorized representative shall at all times have access to the works and to all workshops and places where work is being prepared or from where materials, manufactured articles or machinery are being obtained for the works and the contractor shall afford every facility and every assistance in obtaining the right to such access.

The Engineer-in-Charge shall have full powers to require the removal from the premises of all

materials which in his opinion are not in accordance with the specifications and in case of default, the Engineer-in-Charge shall be at liberty to employ at the expense of the contractor, other persons to remove the same without being answerable or accountable for any loss or damage that may happen or arise to such materials. The Engineer-in-Charge shall also have full powers to require other proper materials to be substituted thereof and in case of default, the Engineer-in-Charge may cause the same to be supplied and all costs which may attend such removal and substitution shall be borne by the Contractor.

The contractor shall at his own expense, provide a material testing lab at the site for conducting routine field tests. The lab shall be equipped at least with the testing equipment as specified in schedule F.

## **CLAUSE 10B**

### **Secured Advance on Materials:**

(i) The contractor, on signing an indenture in the form to be specified by the Engineer-in-Charge, shall be entitled to be paid during the progress of the execution of the work up to 75% of the assessed value of any materials or an amount not exceeding 75% of the material element cost in the tendered rate of the finished item of the work, whichever is lower, which are in the opinion of the Engineer-in-Charge non-perishable, non-fragile and non-combustible and are in accordance with the contract and which have been brought on the site in connection therewith and are adequately stored and/or protected against damage by weather or other causes but which have not at the time of advance been incorporated in the works. When materials on account of which an advance has been made under this sub-clause are incorporated in the work, the amount of such advance shall be recovered/deducted from the next payment made under any of the clause or clauses of this contract.

Such secured advance shall also be payable on other items of perishable nature, fragile and combustible with the approval of the Engineer-in-Charge provided the contractor provides a comprehensive insurance cover for the full cost of such materials. The decision of the Engineer-in-Charge shall be final and binding on the contractor in this matter. No secured advance, shall however, be paid on high-risk materials such as ordinary glass, sand, petrol, diesel etc.

### **Mobilization Advance:**

(ii) Mobilization advance not exceeding 10% of the tendered value may be given, if requested by the contractor in writing within one month of the order to commence the work. Such advance shall be in two or more installments to be determined by the Engineer-in-Charge at his sole discretion. The first installment of such advance shall be released by the Engineer-in-charge to the contractor on a request made by the contractor to the Engineer-in-Charge in this behalf. The second and subsequent installments shall be released by the Engineer-in-Charge only after the contractor furnishes a proof of the satisfactory utilization of the earlier installment to the entire satisfaction of the Engineer-in-Charge.

Before any installment of advance is released, the contractor shall execute a Bank Guarantee / Bonds not more than 6 in number from Scheduled Bank for the amount equal to 110% of the amount of advance and valid for the period till recovery of advance. This (Bank Guarantee from Scheduled Bank for the amount equal to 110% of the balance amount of advance) shall be kept renewed from time to time to cover the balance amount and likely period of complete recovery.

### **Interest & Recovery**

(iii) The mobilization advance in (ii) above bear applicable Bank interest rate [Bank Rate + 3%] compounded annually and shall be calculated from the date of payment to the date of recovery, both days inclusive, on the outstanding amount of advance. Recovery of such sums advanced shall be made by the deduction from the contractors bills commencing after first ten percent of the gross value of the work is executed and paid, on pro-rata percentage basis to the gross value of the work billed beyond 10% in such a way that the entire advance is recovered by the time eighty percent of the gross value of the contract is executed and paid, together with interest due on the entire outstanding amount up to the date of recovery of the installment.

(iv) If the circumstances are considered reasonable by the Engineer-in-Charge, the period mentioned in (ii) and (iii) for request by the contractor in writing for grant of mobilization advance may be extended at the discretion of the Engineer-in-Charge.

### **CLAUSE 10 C: Not Applicable**

### **CLAUSE 10 CA: Not Applicable**

### **CLAUSE 10 CC: Payment due to Increase/ Decrease in Prices of materials/wages after Receipt of Tender for Works**

If the prices of materials (not being materials supplied or services rendered at fixed prices by the department in accordance with Clause 10 & 34 thereof) and/or wages of labour required for execution of the work increase, the contractor shall be compensated for such increase as per provisions detailed below and the amount of the contract shall accordingly be varied, subject to the condition that such compensation for escalation in prices and wages shall be available only for the work done during the stipulated period of the contract including the justified period extended under the provisions of Clause 5 of the contract without any action under Clause 2. No such compensation shall be payable for a work for which the stipulated period of completion is equal to or less than the time as specified in Schedule F. Such compensation for escalation in the prices of materials and labour, when due, shall be worked out based on the following provisions:-

(i) The base date for working out such escalation shall be the last stipulated date of receipt of tenders including extension, if any.

(ii) The cost of work on which escalation will be payable shall be reckoned as below:

(a) Gross value of work done up to this quarter: (A)

(b) Gross value of work done up to the last quarter: (B)

(c) Gross value of work done since previous quarter: (A-B) (C)

(d) Full assessed value of Secured Advance fresh paid in this quarter: (D)

(e) Full assessed value of Secured Advance recovered in this quarter: (E)

(f) Full assessed value of Secured Advance for which escalation Payable in this quarter (D-E): (F)

(g) Advance payment made during this quarter: (G)

(h) Advance payment recovered during this quarter: (H)

(i) Advance payment for which escalation is payable in this Quarter (GH): (I)

(j) Extra items/deviated quantities of items paid as per Clause 12 Based on prevailing market rates during this quarter: (J)

Then,  $M = C+F+I-J$

$N = 0.85 M$

Cost of work for which escalation is applicable:

$W = N$

Components for materials, labour, etc. shall be pre-determined for every work and incorporated in the conditions of contract attached to the tender papers included in Schedule 'F'. The decision of the Engineer-in-Charge in working out such percentage shall be binding on the contractors.

(iii) The compensation for escalation for other materials shall be worked as per the formula given below:-

Adjustment for civil component / electrical component/ other work components of construction 'Materials'

$V_m = W \times X_m \times \frac{M_I - M_{I0}}{100 M_{I0}}$

100 M<sub>I0</sub>

$V_m$  = Variation in material cost i.e. increase or decrease in the amount in rupees to be paid or recovered.

$W$  = Cost of Work done worked out as indicated in sub-para (ii) of Clause 10CC.  $X_m$  = Component of 'materials' expressed as percent of the total value of work.

$M_I$  = All India Wholesale Price Index for civil component/electrical component/ other work components\* of construction material as worked out on the basis of All India Wholesale Price Index for Individual Commodities/ Group Items for the period under consideration as published by Economic Advisor to Govt. of India, Ministry of Industry & Commerce and applying weightages to the Individual Commodities/Group Items. (In respect of the justified period extended under the provisions of Clause 5 of the contract without any action under Clause 2, the index prevailing at the time of updated stipulated date of completion considering the effect of extra work (extra time to be calculated on pro-rata basis only as cost of extra work x stipulated period/tendered cost, shall be considered.) If updated stipulated date of completion as calculated on pro- rata basis does not cover full calendar month then indices will be considered or restricted to previous month.

$M_{I0}$  = All India Wholesale Price Index for civil component/electrical component\* of construction material as worked out on the basis of All India Wholesale Price Index for Individual Commodities/Group Items valid on the last stipulated date of receipt of tender including extension, if any, as published by the Economic Advisor to Govt. of India, Ministry of Industry & Commerce and applying weightages to the Individual Commodities/Group items.

\*Note: relevant component only will be applicable.

(iv) The following principles shall be followed while working out the indices mentioned in para (iv) above.

(a) The compensation for escalation shall be worked out at quarterly intervals and shall be with respect to the cost of work done as per bills paid during the three calendar months of the said quarter. The dates of preparation of bills as finally entered in the Measurement Book by the Assistant Engineer/ date of submission of bill finally by the contractor to the department in case of computerized measurement books shall be the guiding factor to decide the bills relevant to the quarterly interval. The first such payment shall be made at the end of three months after the

month (excluding the month in which tender was accepted) and thereafter at three months' interval. At the time of completion of the work, the last period for payment might become less than 3 months, depending on the actual date of completion.

(b) The index (MI/FI etc.) relevant to any quarter/period for which such compensation is paid shall be the arithmetical average of the indices relevant to the three calendar months. If the period up to date of completion after the quarter covered by the last such installment of payment, is less than three months, the index MI and FI shall be the average of the indices for the months falling within that period.

(v) The compensation for escalation for labour shall be worked out as per the formula given below:-

$$VL = W \times \frac{Y}{100} \times \frac{LI - LI0}{LI0}$$

VL : Variation in labour cost i.e. amount of increase or decrease in rupees to be paid or recovered.

W : Value of work done, worked out as indicated in sub-para (ii) above.

Y : Component of labour expressed as a percentage of the total value of the work. LI : Minimum wage in rupees of an unskilled adult male mazdoor, fixed under any law, statutory rule or order as applicable on the last date of the quarter previous to the one under consideration. (In respect of the justified period extended under the provisions of Clause 5 of the contract without any action under Clause 2, the minimum wage prevailing on the last date of quarter previous to the quarter pertaining to updated stipulated date of Completion considering the effect of extra work (extra time to be calculated on pro-rata basis only as cost of extra work x stipulated period/tendered cost, shall be considered.) If updated stipulated date of completion as calculated on pro- rata basis does not cover full calendar month then indices will be considered or restricted to previous month.

LI0 : Minimum daily wage in rupees of an unskilled adult male mazdoor, fixed under any law, statutory rule or order as on the last stipulated date of receipt of tender including extension, if any.

(vi) The following principles will be followed while working out the compensation as per sub para (vi) above.

(a) The minimum wage of an unskilled Mazdoor mentioned in sub para (vi) above shall be the higher of the wage notified by Government of India, Ministry of Labour and that notified by the local administration both relevant to the place of work and the period of reckoning.

(b) The escalation for labour also shall be paid at the same quarterly intervals when escalation due to increase in cost of materials is paid under this clause. If such revision of minimum wages takes place during any such quarterly intervals, the escalation compensation shall be payable at revised rates only for work done in subsequent quarters;

(c) Irrespective of variations in minimum wages of any category of labour, for the purpose of this clause, the variation in the rate for an unskilled Mazdoor alone shall form the basis for working out the escalation compensation payable on the labour component.

(vii) In the event the price of materials and/or wages of labour required for execution of the work decrease/s, there shall be a downward adjustment of the cost of work so that such price of materials and/or wages of labour shall be deductible from the cost of work under this contract and in this regard the formula herein before stated under this Clause 10CC shall mutatis mutandis apply, provided that:

(a) no such adjustment for the decrease in the price of materials and/or wages of labour

forementioned would be made in case of contracts in which the stipulated period of completion of the work is equal to or less than the time as specified in Schedule 'F'.

(b) The Engineer-in-Charge shall otherwise be entitled to lay down the procedure by which the provision of this sub-clause shall be implemented from time to time and the decision of the Engineer-in-Charge in this behalf shall be final and binding on the contractor.

(viii) Provided always that:-

(a) Where provisions of clause 10CC are applicable, provisions of clause 10C and 10 CA will not be applicable.

(b) Where provisions of clause 10CC are not applicable, provisions of clause 10C and 10CA will become applicable.

Note: Updated stipulated date of completion (period of completion plus extra time for extra work for compensation under clause 10CC

The factor of 1.25 taken into account for calculating the extra time under clause 12.1 for extra time shall not be considered while calculating the updated stipulated date of completion for this purpose in **CLAUSE 10CC**.

## **CLAUSE 10D**

### **Dismantled Material: NHIDCL Property**

The contractor shall treat all materials obtained during excavation of the site for a work, etc. as NHIDCL's property and such materials shall be disposed off to the best advantage of NHIDCL according to the instructions in writing issued by the Engineer-in-Charge.

## **CLAUSE 11**

### **Work to be executed in Accordance with Specifications, Drawings, Orders etc.**

The contractor shall execute the whole and every part of the work in the most substantial and workmanlike manner both as regards materials and otherwise in every respect in strict accordance with the specifications. The contractor shall also conform exactly, fully and faithfully to the design, drawings and instructions in writing in respect of the work signed by the Engineer-in-Charge and the contractor shall be furnished free of charge one copy of the contract documents together with specifications, designs, drawings and instructions as are not included in the standard specifications of Central Public Works Department specified in Schedule 'F' or in any Bureau of Indian Standard or any other, published standard or code or, Schedule of Rates or any other printed publication referred to elsewhere in the contract.

The contractor shall comply with the provisions of the contract and with the care and diligence execute and maintain the works and provide all labour and materials, tools and plants including for measurements and supervision of all works, structural plans and other things of temporary or permanent nature required for such execution and maintenance in so far as the necessity for providing these, is specified or is reasonably inferred from the contract. The Contractor shall take full responsibility for adequacy, suitability and safety of all the works and methods of construction.

## **CLAUSE 12**

### **Deviations/ Variations Extent and Pricing**

The Engineer-in-Charge shall have power (i) to make alteration in, omissions from, additions to, or substitutions for the original specifications, drawings, designs and instructions that may appear to him to be necessary or advisable during the progress of the work, and (ii) to omit a part of the works in case of non-availability of a portion of the site or for any other reasons and the contractor shall be bound to carry out the works in accordance with any instructions given to him in writing signed by the Engineer-in-Charge and such alterations, omissions, additions or substitutions shall form part of the contract as if originally provided therein and any altered, additional or substituted work which the contractor may be directed to do in the manner specified above as part of the works, shall be carried out by the contractor on the same conditions in all respects including price on which he agreed to do the main work except as here after provided.

12.1. The time for completion of the works shall, in the event of any deviations resulting in additional cost over the tendered value sum being ordered is extended, if requested by the contractor, as follows:

- (i) In the proportion which the additional cost of the altered, additional or substituted work, bears to the original tendered value plus
- (ii) 25% of the time calculated in (i) above or such further additional time as may be considered reasonable by the Engineer-in-Charge

#### **12.2. Deviation, Extra Items and Pricing**

In the case of extra item(s) (items that are completely new, and are in addition to the items contained in the contract), the contractor may within fifteen days of receipt of order or occurrence of the item(s) submit market rate claim rates, supported by proper analysis which shall include invoices, vouchers etc. and Manufacturer's specification for the work failing which the rate approved later by the Engineer- in- charge shall be binding and the Engineer-in-Charge shall within prescribed time limit of the receipt of the claims supported by analysis , after giving consideration to the analysis of the rates submitted by the contractor, determine the rates on the basis of the market rates and the contractor shall be paid in accordance with the rates so determined, failing which it will be deemed to have been approved Deviation, Substituted Items.

In the case of substituted items (items that are taken up with partial substitution or in lieu of items of work in the contract), the rate for the agreement item (to be substituted) and substituted item shall also be determined in the manner as mentioned in the following para.

- (a) If the market rate for the substituted item so determined is more than the market rate of the agreement item (to be substituted), the rate payable to the contractor for the substituted item shall be the rate for the agreement item (to be substituted) so increased to the extent of the difference between the market rates of substituted item and the agreement item (to be substituted).
- (b) If the market rate for the substituted item so determined is less than the market rate of the agreement item (to be substituted), the rate payable to the contractor for the substituted item shall be the rate for the agreement item (to be substituted) so decreased to the extent of the difference between the market rates of substituted item and the agreement item (to be substituted).

#### **Deviation, deviated Quantities, Pricing**

In the case of contract items, substituted items, contract cum substituted items, which exceed the limits laid down in Schedule F, the contractor may within fifteen days of receipt of order or occurrence of the excess, claim revision of the rates, supported by proper analysis for the work in excess of the above mentioned limits, provided that if the rates so claimed are in excess of the rates specified in the schedule of quantities, the Engineer-in-Charge shall within prescribed time limit of receipt of the claims supported by analysis, after giving consideration to the analysis of the rates submitted by the contractor, determine the rates on the basis of the market rates (as per invoice, vouchers from the manufacturers or suppliers submitted by the agency and duly verified by Engineer in Charge or his representative) and the contractor shall be paid in accordance with the rates so determined.

The prescribed time limit for finalizing rates for Extra Item(s), Substitute Item(s) and Deviated Quantities of contract items is within 45 days after submission of proposal by the contractor without observation of the Engineer-in-Charge.

12.3. The provisions of the preceding paragraph shall also apply to the decrease in the rates of items for the work in excess of the limits laid down in Schedule F, and the Engineer-in-Charge shall after giving notice to the contractor within one month of occurrence of the excess and after taking into consideration any reply received from him within fifteen days of the receipt of the notice, revise the rates for the work in question within one month of the expiry of the said period of fifteen days having regard to the market rates.

12.4. For the purpose of operation of Schedule "F", the following works shall be treated as works relating to foundation unless & otherwise defined in the contract:

- (i) For Buildings: All works up to 1.2 metres above ground level or up to floor 1 level whichever is lower.
- (ii) For abutments, piers and well staining: All works up to 1.2 m above the bed level.
- (iii) For retaining walls, wing walls, compound walls, chimneys, overhead reservoirs/ tanks and other elevated structures: All works up to 1.2 meters above the ground level.
- (iv) For reservoirs/tanks (other than overhead reservoirs/tanks): All works upto 1.2 meters above the ground level.
- (v) For basement: All works up to 1.2 m above ground level or upto floor 1 level whichever is lower.
- (vi) For Roads, all items of excavation and filling including treatment of sub base.

12.5. Any operation incidental to or necessarily has to be in contemplation of tenderer while quoting tender, or necessary for proper execution of the item included in the Schedule of quantities or in the schedule of rates mentioned above, whether or not, specifically indicated in the description of the item and the relevant specifications, shall be deemed to be included in the rates quoted by the tenderer or the rate given in the said schedule of rates, as the case may be. Nothing extra shall be admissible for such operations.

### **CLAUSE 13**

#### **Foreclosure of contract due to Abandonment or Reduction in Scope of Work**

If at any time after acceptance of the tender or during the progress of work, the purpose or object for which the work is being done changes due to any supervening cause and as a result of which the work has to be abandoned or reduced in scope the Engineer-in-Charge shall give notice in writing to that effect to the contractor stating the decision as well as the cause for such decision and the contractor shall act accordingly in the matter. The contractor shall have no claim to any

payment of compensation or otherwise whatsoever, on account of any profit or advantage which he might have derived from the execution of the works in full but which he did not derive in consequence of the foreclosure of the whole or part of the works.

The contractor shall be paid at contract rates, full amount for works executed at site and, in addition, a reasonable amount ascertained by the Engineer-in-Charge for the items hereunder mentioned which could not be utilized on the work to the full extent in view of the foreclosure;

- (i) Any expenditure incurred on preliminary site work, e.g. temporary access roads, temporary labour huts, staff quarters and site office; storage accommodation and water storage tanks.
- (ii) Government shall have the option to take over contractor's materials or any part thereof either brought to site or of which the contractor is legally bound to accept delivery from suppliers (for incorporation in or incidental to the work) provided, however Government shall be bound to take over the materials or such portions thereof as the contractor does not desire to retain. For materials taken over or to be taken over by Government, cost of such materials as detailed by Engineer-in-Charge shall be paid. The cost shall, however, take into account purchase price, cost of transportation and deterioration or damage which may have been caused to materials whilst in the custody of the contractor.
- (iii) Reasonable compensation for transfer of T & P from site to contractor's permanent stores or to his other works, whichever is less. If T & P are not transported to either of the said places, no cost of transportation shall be payable.
- (iv) Reasonable compensation for repatriation of contractor's site staff and imported labour to the extent necessary.

The contractor shall, if required by the Engineer-in-Charge, furnish to him, books of account, wage books, time sheets and other relevant documents and evidence as may be necessary to enable him to certify the reasonable amount payable under this condition.

The reasonable amount of items on (i), (iv) and (v) above shall not be in excess of 2% of the cost of the work remaining incomplete on the date of closure, i.e. total stipulated cost of the work as per accepted tender less the cost of work actually executed under the contract and less the cost of contractor's materials at site taken over by the Government as per item (ii) above. Provided always that against any payments due to the contractor on this account or otherwise, the Engineer-in-Charge shall be entitled to recover or be credited with any outstanding balances due from the contractor for advance paid in respect of any tool, plants and materials and any other sums which at the date of termination were recoverable by the Government from the contractor under the terms of the contract.

In the event of action being taken under Clause 13 to reduce the scope of work, the contractor may furnish fresh Performance Guarantee on the same conditions, in the same manner and at the same rate for the balance tendered amount and initially valid up to the extended date of completion or stipulated date of completion if no extension has been granted plus minimum 60 days beyond that. Wherever such a fresh Performance Guarantee is furnished by the contractor the Engineer-in-Charge may return the previous Performance Guarantee.

## **CLAUSE 14**

### **Carrying out part work at risk & cost of contractor**

If contractor:

- (i) At any time makes default during currency of work or does not execute any part of the work with due diligence and continues to do so even after a notice in writing of 7 working days in this respect from the Engineer-in-Charge; or
- (ii) Commits default in complying with any of the terms and conditions of the contract and does not remedy it or takes effective steps to remedy it within 7 working days even after a notice in writing is given in that behalf by the Engineer-in-Charge; or Fails to complete the work(s) or items of work with individual dates of completion, on or before the date(s) so determined, and does not complete them within the period specified in the notice given in writing in that behalf by the Engineer-in-Charge.
- (iii) The Engineer- in-Charge without invoking action under Clause 3 may, without prejudice to any other right or remedy against the contractor which have either accrued or accrue thereafter to Government, by a notice in writing to take the part work / part incomplete work of any item(s) out of his hands and shall have powers to:
  - (a) Take possession of the site and any materials, constructional plant, implements, stores, etc., there on; and/or
  - (b) Carry out the part work / part incomplete work of any item(s) by any means at the risk and cost of the contractor.

The Engineer-in-Charge shall determine the amount, if any, is recoverable from the contractor for completion of the part work/ part incomplete work of any item(s) taken out of his hands and execute at the risk and cost of the contractor, the liability of contractor on account of loss or damage suffered by Government because of action under this clause shall not exceed 10% of the contract value of the work.

In determining the amount, credit shall be given to the contractor with the value of work done in all respect in the same manner and at the same rate as if it had been carried out by the original contractor under the terms of his contract, the value of contractor's materials taken over and incorporated in the work and use of plant and machinery belonging to the contractor.

The certificate of the Engineer-in-Charge as to the value of work done shall be final and conclusive against the contractor provided always that action under this clause shall only be taken after giving notice in writing to the contractor. Provided also that if the expenses incurred by the department are less than the amount payable to the contractor at his agreement rates, the difference shall not be payable to the contractor.

Any excess expenditure incurred or to be incurred by Government in completing the part work/ part incomplete work of any item(s) or the excess loss of damages suffered or may be suffered by Government as aforesaid after allowing such credit shall without prejudice to any other right or remedy available to Government in law or per as agreement be recovered from any money due to the contractor on any account, and if such money is insufficient, the contractor shall be called upon in writing and shall be liable to pay the same within 30days.

If the contractor fails to pay the required sum within the aforesaid period of 30 days, the Engineer-in-Charge shall have the right to sell any or all of the contractors' unused materials, constructional plant, implements, temporary building at site etc. and adjust the proceeds of sale thereof towards the dues recoverable from the contractor under the contract and if thereafter there remains any balance outstanding, it shall be recovered in accordance with the provisions of the contract.

In the event of above course being adopted by the Engineer-in-Charge, the contractor shall have no claim to compensation for any loss sustained by him by reason of his having purchased or procured any materials or entered into any engagements or made any advance on any account or with a view to the execution of the work or the performance of the contract.

## CLAUSE 15

### Suspension of Work

(i) The contractor shall, on receipt of the order in writing of the Engineer-in- Charge, (whose decision shall be final and binding on the contractor) suspend the progress of the works or any part thereof for such time and in such manner as the Engineer-in-Charge may consider necessary so as not to cause any damage or injury to the work already done or endanger the safety thereof for any of the following reasons:

- (a) on account of any default on the part of the contractor or;
- (b) for proper execution of the works or part thereof for reasons other than the default of the contractor; or
- (c) for safety of the works or part thereof.

The contractor shall, during such suspension, properly protect and secure the works to the extent necessary and carry out the instructions given in that behalf by the Engineer in- Charge.

(ii) If the suspension is ordered for reasons (b) and (c) in sub-para (i) above:

(a) the contractor shall be entitled to an extension of time equal to the period of every such suspension PLUS 25%, for completion of the item or group of items of work for which a separate period of completion is specified in the contract and of which the suspended work forms a part, and;

(b) If the total period of all such suspensions in respect of an item or group of items or work for which a separate period of completion is specified in the contract exceeds thirty days, the contractor shall, in addition, be entitled to such compensation as the Engineer-in- Charge may consider reasonable in respect of salaries and/or wages paid by the contractor to his employees and labour at site, remaining idle during the period of suspension, adding thereto 2% to cover indirect expenses of the contractor provided the contractor submits his claim supported by details to the Engineer-in- Charge within fifteen days of the expiry of the period of 30 days.

(iii) If the works or part thereof is suspended on the orders of the Engineer-in- Charge for more than three months at a time, except when suspension is ordered for reason (a) in sub para (i) above, the contractor may after receipt of such order serve a written notice on the Engineer-in-Charge requiring permission within fifteen days from receipt by the Engineer in- Charge of the said notice, to proceed with the work or part thereof in regard to which progress has been suspended and if such permission is not granted within that time, the contractor, if he intends to treat the suspension, where it affects only a part of the works as an omission of such part by Government or where it affects whole of the works, as an abandonment of the works by Government, shall within ten days of expiry of such period of 15 days give notice in writing of his intention to the Engineer-in-Charge. In the event of the contractor treating the suspension as an abandonment of the contract by Government, he shall have no claim to payment of any compensation on account of any profit or advantage which he might have derived from the execution of the work in full but which he could not derive in consequence of the abandonment. He shall, however, be entitled to such compensation, as the Engineer-in-Charge may consider reasonable, in respect of salaries and/or wages paid by him to his employees and labour at site, remaining idle in consequence adding to the total thereof 2% to cover indirect expenses of the contractor provided the contractor submits his claim supported by details to the Engineer-in-Charge within 30 days of the expiry of the period of 3 months.

## CLAUSE 16

### Action in case Work not done as per Specifications

All works under or in course of execution or executed in pursuance of the contract, shall at all times be open and accessible to the inspection and supervision of the Engineer-in - charge, his authorized subordinates in charge of the work and all the superior officers, officer of the Quality Assurance Unit of the Department or any organization engaged by the Department for Quality Assurance and of the Chief Technical Examiner's Office, and the contractor shall, at all times, during the usual working hours and at all other times at which reasonable notice of the visit of such officers has been given to the contractor, either himself be present to receive orders and instructions or have a responsible agent duly accredited in writing, present for that purpose. Orders given to the Contractor's agent shall be considered to have the same force as if they had been given to the contractor himself.

If it shall appear to the Engineer-in-charge or his authorized subordinates in charge of the work or to the Officer/Engineer in charge of Quality Assurance or his subordinate officers or the officers of the organization engaged by the Department for Quality Assurance or to the Chief Technical Examiner or his subordinate officers, that any work has been executed with unsound, imperfect, or un-skillful workmanship, or with materials or articles provided by him for the execution of the work which are unsound or of a quality inferior to that contracted or otherwise not in accordance with the contract, the contractor shall, on demand in writing which shall be made within twelve months (six months in the case of work costing Rs. 10 Lac and below except road work) of the completion of the work from the Engineer-in-Charge specifying the work, materials or articles complained of notwithstanding that the same may have been passed, certified and paid for forthwith rectify, or remove and reconstruct the work so specified in whole or in part, as the case may require or as the case may be, remove the materials or articles so specified and provide other proper and suitable materials or articles at his own charge and cost. In the event of the failing to do so within a period specified by the Engineer-in- Charge in his demand aforesaid, then the contractor shall be liable to pay compensation at the same rate as under Clause 2 of the contract (for non-completion of the work in time) for this default.

In such case, the Engineer-in-Charge may not accept the item of work at the rates applicable under the contract but may accept such items at reduced rates as the authority specified in schedule 'F' may consider reasonable during the preparation of on account bills or final bill if the item is so acceptable without detriment to the safety and utility of the item and the structure or he may reject the work outright without any payment and/or get it and other connected and incidental items rectified, or removed and re-executed at the risk and cost of the contractor. Decision of the Engineer-in-Charge to be conveyed in writing in respect of the same will be final and binding on the contractor.

## **CLAUSE 17**

### **Contractor Liable for Damages, defects during defect liability period**

If the contractor or his working people or servants shall break, deface, injure or destroy any part of building in which they may be working, or any building, road, road kerb, fence, enclosure, water pipe, cables, drains, electric or telephone post or wires, trees, grass or grassland, or cultivated ground contiguous to the premises on which the work or any part is being executed, or if any damage shall happen to the work while in progress, from any cause whatever or if any defect, shrinkage or other faults appear in the work within twelve months after a certificate final or otherwise of its completion shall have been given by the Engineer in- Charge as aforesaid arising out of defect or improper materials or workmanship the contractor shall upon receipt of a notice in writing on that behalf make the same good at his own expense or in default the Engineer-in-Charge cause the same to be made good by other workmen and deduct the expense from any sums that may be due or at anytime thereafter may become due to the contractor, or from his security deposit/performance security or the proceeds of sale thereof or of a sufficient portion thereof. The security deposit/performance security of the contractor shall not be refunded before

60 days after the expiry of twelve months of defect liability period after the issue of the certificate final or otherwise, of completion of work, or till the final bill has been prepared and passed whichever is later.

#### **CLAUSE 18**

##### **Contractor to Supply Tools & Plants etc.**

The contractor shall provide at his own cost all materials (except such special materials, if any, as may in accordance with the contract be supplied from the Engineer-in-Charge's stores), machinery, tools & plants as specified in Schedule F. In addition to this, appliances, implements, other plants, ladders, cordage, tackle, scaffolding and temporary works required for the proper execution of the work, whether original, altered or substituted and whether included in the specifications or other documents forming part of the contract or referred to in these conditions or not, or which may be necessary for the purpose of satisfying or complying with the requirements of the Engineer-in-Charge as to any matter as to which under these conditions he is entitled to be satisfied, or which he is entitled to require together with carriage therefore to and from the work. The contractor shall also supply without charge the requisite number of persons with the means and materials, necessary for the purpose of setting out works, and counting, weighing and assisting the measurement for examination at any time and from time to time of the work or materials. Failing his so doing, the same may be provided by the Engineer-in-Charge at the expense of the contractor and the expenses may be deducted, from any money due to the contractor, under this contract or otherwise and/or from his security deposit or the proceeds of sale thereof, or of a sufficient portions thereof.

#### **CLAUSE 18 A**

##### **Recovery of Compensation paid to Workmen**

In every case in which by virtue of the provisions sub-section (1) of section 12 of the Workmen's Compensation Act, 1923, Government is obliged to pay compensation to a workman employed by the contractor, in execution of the works, Government will recover from the contractor, the amount of the compensation so paid: and, without prejudice to the rights of the Government under sub-section(2) of section 12, of the said Act, Government shall be at liberty to recover such amount or any part thereof by deducting it from the security deposit or from any sum due by Government to the contractor whether under this contract or otherwise. Government shall not be bound to contest any claim made against it under sub-section (1) of section 12, of the said Act, except on the written request of the contractor and upon his giving to Government full security for all costs for which Government might become liable in consequence of contesting such claim.

#### **CLAUSE 18 B**

##### **Ensuring Payment and Amenities to Workers if Contractor fails**

In every case in which by virtue of the provisions of the Contract Labour (Regulation and Abolition) Act, 1970, and of the Contract Labour (Regulation and Abolition) Central Rules, 1971, NHIDCL is obliged to pay any amounts of wages to a workman employed by the contractor in execution of the works, or to incur any expenditure in providing welfare and health amenities required to be provided under the above said Act and the rules under Clause 19H or under the C.P.W.D. Contractor's Labour Regulations, or under the Rules framed by NHIDCL from time to time for the protection of health and sanitary arrangements for workers employed by NHIDCL Contractors, NHIDCL will recover from the contractor, the amount of wages so paid or the amount of expenditure so incurred; and without prejudice to the rights of the NHIDCL under sub-section(2) of Section 20, and sub-section (4) of Section 21, of the Contract Labour (Regulation and Abolition)

Act, 1970, NHIDCL shall be at liberty to recover such amount or any part thereof by deducting it from the security deposit or from any sum due by NHIDCL to the contractor whether under this contract or otherwise NHIDCL shall not be bound to contest any claim made against it under sub-section (1) of Section 20, sub-section (4) of Section 21, of the said Act, except on the written request of the contractor and upon his giving to the NHIDCL full security for all costs for which NHIDCL might become liable in contesting such claim.

## **CLAUSE 19**

### **Labour Laws to be complied by the Contractor**

The contractor shall obtain a valid license under the Contract Labour (R&A) Act, 1970, and the Contract Labour (Regulation and Abolition) Central Rules, 1971, before the commencement of the work, and continue to have a valid license until the completion of the work.

The contractor shall also comply with provisions of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.

The contractor shall also abide by the provisions of the Child Labour (Prohibition and Regulation) Act, 1986.

The contractor shall also comply with the provisions of the building and other Construction Workers (Regulation of Employment & Conditions of Service) Act, 1996 and the building and other Construction Workers Welfare Cess Act, 1996.

Any failure to fulfill these requirements shall attract the penal provisions of this contract arising out of the resultant non-execution of the work.

## **CLAUSE 19A**

No labour below the age of Eighteen years shall be employed on the work.

## **CLAUSE 19 B**

Payment of wages:

- (i) The contractor shall pay to labour employed by him either directly or through sub-contractors ,wages not less than fair wages as defined in the Contract Labour (Regulation and Abolition) Act, 1970 and the contract Labour (Regulation and Abolition) Central Rules, 1971, wherever applicable.
- (ii) The contractor shall, notwithstanding the provisions of any contract to the contrary, cause to be paid fair wage to labour indirectly engaged on the work, including any labour engaged by his sub-contractors in connection with the said work, as if the labour had been immediately employed by him.
- (iii) In respect of all labour directly or indirectly employed in the works for performance of the contractor's part of this contract, the contractor shall comply with contractor's Labour Regulations made by Government from time to time in regard to payment of wages, wage period, deductions from wages recovery of wages not paid and deductions unauthorized made, maintenance of wage books or wage slips publication of scale of wage and other terms of employment, inspection and submission of periodical returns and all other matters of the like nature or as per the provisions of the Contract Labour (Regulation and Abolition) Act, 1970, and the Contract Labour (Regulation and Abolition) Central Rules, 1971, wherever applicable
- (iv) The Engineer-in-Charge concerned shall have the right to deduct from the moneys due to the contractor any sum required or estimated to be required for making good the loss suffered by a

worker or workers by reason of non- fulfillment of the conditions of the contract for the benefit of the workers, non- payment of wages or of deductions made from his or their wages which are not justified by their terms of the contract or non-observance of the Regulations.

- (v) Under the provision of Minimum Wages (Central) Rules, 1950, the contractor is bound to allow to the labourers directly or indirectly employed in the works one day rest for 6 days continuous work and pay wages at the same rate as for duty. In the event of default, the Engineer-in-Charge shall have the right to deduct the sum or sums not paid on account of wages for weekly holidays to any labour and pay the same to the persons entitled thereto from any money due to the contractor by the Engineer-in-Charge concerned.
- (vi) The contractor shall comply with the provisions of the Payment of Wages Act, 1936, Minimum Wages Act, 1948, Employees Liability Act, 1938, Workmen's Compensation Act, 1923, Industrial Disputes Act, 1947, Maternity Benefits Act, 1961, and the Contractor's Labour (Regulation and Abolition) Act 1970, or the modifications thereof or any other laws relating thereto and the rules made there under from time to time.
- (vii) The contractor shall indemnify and keep indemnified Government against payments to be made under and for the observance of the laws aforesaid and the Contractor's Labour Regulations without prejudice to his right to claim indemnity from his sub-contractors.
- (viii) The laws aforesaid shall be deemed to be a part of this contract and any breach thereof shall be deemed to be a breach of this contract.
- (ix) Whatever is the minimum wage for the time being, or if the wage payable is higher than such wage, such wage shall be paid by the contractor to the workmen directly without the intervention of Jamadar and that Jamadar shall not be entitled to deduct or recover any amount from the minimum wage payable to the workmen as and by way of commission or otherwise.
- (x) The contractor shall ensure that no amount by way of commission or otherwise is deducted or recovered by the Jamadar from the wage of workmen.

#### **CLAUSE 19C**

In respect of all labour directly or indirectly employed in the work for the performance of the contractor's part of this contract, the contractor shall at his own expense arrange for the safety provisions as per C.P.W.D. Safety Code framed from time to time and shall at his own expense provide for all facilities in connection therewith. In case the contractor fails to make arrangement and provide necessary facilities as aforesaid, he shall be liable to pay a penalty as decided by the authority mentioned in Schedule F for each default and in addition, the Engineer-in- Charge shall be at liberty to make arrangement and provide facilities as aforesaid and recover the costs incurred in that behalf from the contractor.

#### **CLAUSE 19D**

The contractor shall submit by the 4th and 19th of every month, to the Engineer- in-Charge, a true statement showing in respect of the second half of the preceding month and the first half of the current month respectively:-

- (1) the number of labourers employed by him on the work,
- (2) their working hours,
- (3) the wages paid to them,
- (4) the accidents that occurred during the said for night showing the circumstances under which they happened and the extent of damage and injury caused by them, and
- (5) The number of female workers who have been allowed maternity benefit according to

Clause 19F and the amount paid to them.

Failing which the contractor shall be liable to pay to Government, a sum as decided by the authority mentioned in Schedule F for each default or materially incorrect statement. The decision of the Engineer in charge shall be final in deducting from any bill due to the contractor; the amount levied as fine and be binding on the contractor.

#### **CLAUSE 19 E**

In respect of all labour directly or indirectly employed in the works for the performance of the contractor's part of this contract, the contractor shall comply with or cause to be complied with all the rules framed by Government from time to time for the protection of health and sanitary arrangements for workers employed by the Central Public Works Department and its contractors.

#### **CLAUSE 19 F**

Leave and pay during leave shall be regulated as follows:-

1. Leave:

- (i) in the case of delivery - maternity leave not exceeding 8 weeks, 4 weeks up to and including the day of delivery and 4 weeks following that day,
- (ii) in the case of miscarriage - up to 3 weeks from the date of miscarriage.

2. Pay:

- (i) in the case of delivery - leave pay during maternity leave will be at the rate of the women's average daily earnings, calculated on total wages earned on the days when full time work was done during a period of three months immediately preceding the date on which she gives notice that she expects to be confined or at the rate of Rupee one only a day whichever is greater.
- (ii) in the case of miscarriage - leave pay at the rate of average daily earning calculated on the total wages earned on the days when full time work was done during a period of three months immediately preceding the date of such miscarriage.

3. Conditions for the grant of Maternity Leave:

No maternity leave benefit shall be admissible to a woman unless she has been employed for a total period of not less than six months immediately preceding the date on which she proceeds on leave.

4. The contractor shall maintain a register of Maternity (Benefit) in the Prescribe Form as shown in Appendix -I and II, and the same shall be kept at the place of work.

#### **LIST OF ACTS AND OMISSIONS FOR WHICH FINES CAN BE IMPOSED ON WORKMEN:**

In accordance with NHIDCL Rules to be displayed prominently at the site of working in both English and local language.

1. Willful insubordination or disobedience, whether alone or in combination with other.
2. Theft, fraud or dishonesty in connection with the contractors beside a business or property of NHIDCL.
3. Taking or giving bribes or any illegal gratifications.
4. Habitual late attendance.
5. Drunkenness fighting, riotous or disorderly or indifferent behavior.
6. Habitual negligence.
7. Smoking near or around the area where combustible or other materials are locked.
8. Habitual indiscipline.
9. Causing damage to work in the progress or to property of the NHIDCL or of the contractor.
10. Sleeping on duty.
11. Malingering or slowing down work.
12. Giving of false information regarding name, age, father's name etc.
13. Habitual loss of wage cards supplied by the employers.
14. Unauthorized use of employer's property for manufacture or making of unauthorized articles at the work place.
15. Bad workmanship in construction and maintenance by skilled workers which is not approved by the NHIDCL and for which the contractors are Compelled to undertake rectifications.
16. Making false complaints and/or misleading statements.
17. Engaging on trade within the premises of the establishments.
18. Any unauthorized divulgence of business affairs of the employees.
19. Collection or canvassing for the collection of any money within the premises of an establishment unless authorized by the employer.
20. Holding meeting inside the premises without previous sanction of the employers.
21. Threatening or intimidating any workman or employee during the working hours within the premises.

### **CLAUSE 19 G**

In the event of the contractor(s) committing a default or breach of any of the provisions of the National Highways & Infrastructure Development Corporation Limited, Contractor's Labour Regulations and Model Rules for the protection of health and sanitary arrangements for the workers as amended from time to time or furnishing any information or submitting or filing any statement under the provisions of the above Regulations and' Rules which is materially incorrect, he/they shall, without prejudice to any other liability, pay to the Government/NHIDCL a sum as decided by the authority mentioned in Schedule F for every default, breach or furnishing, making, submitting, filing such materially incorrect statements and in the event of the contractor(s) defaulting continuously in this respect, the penalty may be enhanced to as decided by the authority mentioned in Schedule F per day for each day of default subject to a maximum of 5 percent of the estimated cost of the work put to tender. The decision of the Engineer-in-Charge shall be final and binding on the parties.

Should it appear to the Engineer-in-Charge that the contractor(s) is/are not properly observing and complying with the provisions of the NHIDCL Contractor's Labour Regulations and Model Rules and the provisions of the Contract Labour (Regulation and Abolition) Act 1970, and the Contract Labour (R& A) Central Rules 1971, for the protection of health and sanitary arrangements for work-people employed by the contractor(s) (hereinafter referred as "the said Rules") the Engineer-in-Charge shall have power to give notice in writing to the contractor(s) requiring that the said Rules be complied with and the amenities prescribed therein be provided to the work-people within a reasonable time to be specified in the notice. If the contractor(s) shall fail within the period specified in the notice to comply with and/observe the said Rules and to provide the amenities to the work-people as aforesaid, the Engineer-in-Charge shall have the power to provide the amenities hereinbefore mentioned at the cost of the contractor(s). The contractor(s) shall erect, make and maintain at his/their own expense and to approved standards all necessary huts and sanitary arrangements required for his/their work-people on the site in connection with the execution of the works, and if the same shall not have been erected or constructed, according to approved standards, the Engineer-in- Charge shall have power to give notice in writing to the contractor(s) requiring that the said huts and sanitary arrangements be remodeled and/or reconstructed according to approved standards, and if the contractor(s) shall fail to remodel or reconstruct such huts and sanitary arrangements according to approved standards within the period specified in the notice, the Engineer-in-Charge shall have the power to remodel or reconstruct such huts and sanitary arrangements according to approved standards at the cost of the contractor(s).

### **CLAUSE 19 H**

The contractor(s) shall at his/their own cost provide his/their labour with a sufficient number of huts (hereinafter referred to as the camp) of the following specifications on a suitable plot of land to be approved by the Engineer-in- Charge.

- (i)
  - (a) The minimum height of each hut at the eaves level shall be 2.10m (7 ft.) and the floor area to be provided will be at the rate of 2.7 sq.m. (30 sq.ft.) for each

member of the worker's family staying with the labourer.

- (b) The contractor(s) shall in addition construct suitable cooking places having a minimum area of 1.80m x 1.50m (6'x5') adjacent to the hut for each family.
- (c) The contractor(s) shall also construct temporary latrines and urinals for the use of the labourers each on the scale of not less than four per each one hundred of the total strength, separate latrines and urinals being provided for women.
- (d) The contractor(s) shall construct sufficient number of bathing and washing places, one unit for every 25 persons residing in the camp. These bathing and washing places shall be suitably screened.

(ii)

- (a) All the huts shall have walls of sun-dried or burnt-bricks laid in mud mortar or other suitable local materials as may be approved by the Engineer-in-Charge. In case of sun-dried bricks, the walls should be plastered with mud gobri on both sides. The floor may be kutcha but plastered with mud gobri and shall be at least 15 cm (6") above the surrounding ground. The roofs shall be laid with thatch or any other materials as may be approved by the Engineer-in-Charge and the contractor shall ensure that throughout the period of their occupation, the roofs remain water-tight.
- (b) The contractor(s) shall provide each hut with proper ventilation.
- (c) All doors, windows, and ventilators shall be provided with suitable leaves for security purposes.
- (d) There shall be kept an open space of at least 7.2m (8 yards) between the rows of huts which may be reduced to 6m (20 ft.) according to the availability of site with the approval of the Engineer-in-Charge. Back to back construction will be allowed.

(i) **Water Supply** - The contractor(s) shall provide adequate supply of water for the use of labourers. The provisions shall not be less than two gallons of pure and wholesome water per head per day for drinking purposes and three gallons of clean water per head per day for bathing and washing purposes. Where piped water supply is available, supply shall be at stand posts and where the supply is from wells or river, tanks which may be of metal or masonry, shall be provided. The contractor(s) shall also at his/ their own cost make arrangements for laying pipe lines for water supply to his/ their labour camp from the existing mains wherever available, and shall pay all fees and charges therefore.

(ii) The site selected for the camp shall be high ground, removed from jungle.

(iii) **Disposal of Excreta** - The contractor(s) shall make necessary arrangements for the disposal of excreta from the latrines by trenching or incineration which shall be according to the requirements laid down by the Local Health Authorities. If trenching or incineration is not allowed, the contractor(s) shall make arrangements for the removal of the excreta through the Municipal Committee/authority and inform it about the number of labourers employed so that arrangements may be made by such Committee/authority for the removal of the excreta. All charges on this account shall be borne by the contractor and paid direct by him to the Municipality/authority. The contractor shall provide one sweeper for every eight seats in case of dry system.

(iv) **Drainage** - The contractor(s) shall provide efficient arrangements for draining away silage water so as to keep the camp neat and tidy.

(v) The contractor(s) shall make necessary arrangements for keeping the camp area sufficiently lighted to avoid accidents to the workers.

(vi) **Sanitation** - The contractor(s) shall make arrangements for conservancy and sanitation in the labour camps according to the rules of the Local Public Health and Medical Authorities.

#### **CLAUSE 19 I**

The Engineer-in-Charge may require the contractor to dismiss or remove from the site of the work any person or persons in the contractors' employ upon the work who may be incompetent or misconduct himself and the contractor shall forthwith comply with such requirements. In respect of maintenance/repair or renovation works etc. where the labour have an easy access to the individual houses, the contractor shall issue identity cards to the labourers, whether temporary or permanent and he shall be responsible for any untoward action on the part of such labour. AE/JE/Engineer will display a list of contractors working in the colony/Blocks on the notice board in the colony and also at the service centre, to apprise the residents about the same.

#### **CLAUSE 19J**

It shall be the responsibility of the contractor to see that the building under construction is not occupied by anybody unauthorized during construction, and is handed over to the Engineer-in-Charge with vacant possession of complete building. If such building though completed is occupied illegally, then the Engineer-in-Charge shall have the option to refuse to accept the said building/buildings in that position. Any delay in acceptance on this account will be treated as the delay in completion and for such delay, a levy upto 5% of tendered/contract value of work may be imposed by the Engineer whose decision shall be final both with regard to the justification and quantum and be binding on the contractor.

However, the Engineer, through a notice, may require the contractor to remove the illegal occupation any time on or before construction and delivery.

#### **CLAUSE 19K**

##### **Employment of skilled/semi-skilled workers**

The contractor shall, at all stages of work, deploy skilled/semi-skilled tradesmen who are qualified and possess certificate in particular trade from CPWD Training Institute/Industrial Training Institute/ National Institute of construction Management and Research (NICMAR)/ National Academy of Construction, CIDC or any similar reputed and recognized Institute managed/ certified by State/Central Government. The number of such qualified tradesmen shall not be less than 20% of total skilled/semi-skilled workers required in each trade at any stage of work. The contractor shall submit number of man days required in respect of each trade, its scheduling and the list of qualified tradesmen along with requisite certificate from recognized Institute to Engineer in charge for approval. Notwithstanding such approval, if the tradesmen are found to have inadequate skill to execute the work of respective trade, the contractor shall substitute such tradesmen within two days of

written notice from Engineer-in- Charge. Failure on the part of contractor to obtain approval of Engineer-in-Charge or failure to deploy qualified tradesmen will attract a compensation to be paid by contractor at the rate specified in schedule 'F' per such tradesman per day. Decision of Engineer in Charge as to whether particular tradesman possesses requisite skill and amount of compensation in case of default shall be final and binding.

Provided always, that the provisions of this clause shall not be applicable for works with estimated cost put to tender being less than Rs. 5 crores.

For work costing more than Rs. 10 Crores, and upto Rs. 50 Crores, the contractor shall arrange on site training as per National Skill Development Corporation (NSDC) norms for at least 20% of the unskilled workers engaged in the project in co-ordination with the CPWD Regional Training Institute & National Skill Development Corporation (NSDC) for certification at the level of skilled/semi-skilled tradesmen.

For work costing more than Rs. 50 Crores, the contractor shall arrange on site training as per National Skill Development Corporation (NSDC) norms for at least 30% of the unskilled worker engaged in the project in co-ordination with the CPWD Regional Training Institute & National Skill Development Corporation (NSDC) for certification at the level of skilled/semi-skilled tradesmen. The cost of such training as stated above shall be borne by the Government. The necessary space and workers shall be provided by the contractor and no claim what so ever shall be entertained.

#### **CLAUSE 19L**

##### **Contribution of EPF and ESI**

The ESI and EPF contributions on the part of employer in respect of this contract shall be paid by the contractor. These contributions on the part of the employer paid by the contractor shall be reimbursed by the Engineer-in-charge to the contractor on actual basis. The verification of deployment of labour will be done through biometric attendance system or any other suitable method by the Engineer in Charge. The applicable and eligible amount of EPF & ESI shall be reimbursed preferably within 7 days but not later than 30 days of submission of documentary proof of payment provided same are in order.

#### **CLAUSE 20**

##### **Minimum Wages Act to be complied with**

The contractor shall comply with all the provisions of the Minimum Wages Act, 1948, and Contract Labour (Regulation and Abolition) Act, 1970, amended from time to time and rules framed there under and other labour laws affecting contract labour that may be brought into force from time to time.

#### **CLAUSE 21**

##### **Work not to be sublet. Action in case of insolvency**

The contract shall not be assigned or sublet without the written approval of the Engineer-in-Charge. And if the contractor shall assign or sublet his contract, or attempt to do so, or become insolvent or commence any insolvency proceedings or make any composition with his creditors or attempt to do so, or if any bribe,

gratuity, gift, loan, perquisite, reward or advantage pecuniary or otherwise, shall either directly or indirectly, be given, promised or offered by the contractor, or any of his servants or agent to any public officer or person in the employ of Government in any way relating to his office or employment, or if any such officer or person shall become in any way directly or indirectly interested in the contract, the Engineer-in-Charge on behalf of the President of India through National Highways & Infrastructure Development Corporation Limited, New Delhi shall have power to adopt the course specified in Clause 3 hereof in the interest of Government and in the event of such course being adopted, the consequences specified in the said Clause 3 shall ensue.

#### **CLAUSE 22**

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

#### **CLAUSE 23**

##### **Changes in firm's Constitution to be intimated**

Where the contractor is a partnership firm, the previous approval in writing of the Engineer-in-Charge shall be obtained before any change is made in the constitution of the firm. Where the contractor is an individual or a Hindu undivided family business concern, such approval as aforesaid shall likewise be obtained before the contractor enters into any partnership agreement where under the partnership firm would have the right to carry out the works hereby undertaken by the contractor. If previous approval as aforesaid is not obtained, the contract shall be deemed to have been assigned in contravention of Clause 21 hereof and the same action may be taken, and the same consequences shall ensue as provided in the said Clause 21.

#### **CLAUSE 24**

##### **Life Cycle Cost**

The contractor shall have obligation to rectify construction defects (as specified in Schedule F) minimum up to 5 (five) years from the date of completion of work. The defects have to be rectified within a reasonable time not exceeding three months after issue of notice by Engineer- in-Charge.

#### **CLAUSE 25**

##### **Dispute Resolution**

##### **Dispute Resolution**

- (i) Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the "**Dispute**") shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 25.2.
- (ii) The Parties agree to use their best efforts for resolving all Disputes arising under or

in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non- privileged records, information and data pertaining to any Dispute.

### **Conciliation**

In the event of any Dispute between the Parties, either Party may call upon the Authority's Engineer, or such other person as the Parties may mutually agree upon (the "**Conciliator**") to mediate and assist the Parties in arriving at an amicable settlement thereof. Failing mediation by the Conciliator or without the intervention of the Conciliator, either Party may require such Dispute to be referred to the Chairman of the Authority and the Chairman of the Board of Directors of the Contractor for amicable settlement, and upon such reference, the said persons shall meet no later than 7 (seven) business days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 30 (thirty) business day period or the Dispute is not amicably settled within 30 (thirty) days of the meeting or the Dispute is not resolved as evidenced by the signing of written terms of settlement within 30 (thirty) days of the notice in writing referred to in Clause 25.1.1 or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to arbitration in accordance with the provisions of Clause 25.3 but before resorting to such arbitration, the parties agree to explore conciliation by the Conciliation Committees of Independent Experts set up by the Authority in accordance with the procedure decided by the panel of such experts and notified by the Authority on its website including its subsequent amendments. In the event of the conciliation proceedings being successful, the parties to the dispute would sign the written settlement agreement and the conciliators would authenticate the same. Such settlement agreement would then be binding on the parties in terms of Section 73 of the Arbitration Act. In case of failure of the conciliation process even at the level of the Conciliation Committee, either party may refer the Dispute to arbitration in accordance with the provisions of Clause 25.3.

### **Arbitration**

*Any dispute which remains unresolved between the parties through the mechanisms available/prescribed in the Agreement, irrespective of any claim value, which has not been agreed upon/ reached settlement by the parties, will be referred to the Arbitral Tribunal as per the Arbitration and Conciliation Act.*

- (i) The Arbitral Tribunal shall make a reasoned award (the "Award"). Any Award made in any arbitration held pursuant to this Article 26 shall be final and binding on the Parties as from the date it is made, and the Contractor and the Authority agree and undertake to carry out such Award without delay.
- (ii) The Contractor and the Authority agree that an Award may be enforced against the Contractor and/or the Authority, as the case may be, and their respective assets wherever situated.
- (iii) This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder. Further, the parties unconditionally acknowledge and agree that notwithstanding any dispute between them, each Party shall proceed with the performance of its respective obligations, pending resolution of Dispute in accordance with this Article.
- (iv) In the event the Party against whom the Award has been granted challenges the Award for any reason in a court of law, it shall make an interim payment to the other Party for an amount equal to 75% (seventy five per cent) of the Award, pending final settlement of the Dispute. The aforesaid amount shall be paid

forthwith upon furnishing an irrevocable Bank Guarantee for a sum equal to 120 % (one hundred and twenty per cent) of the aforesaid amount. Upon final settlement of the Dispute, the aforesaid interim payment shall be adjusted and any balance amount due to be paid or returned, as the case may be, shall be paid or returned with interest calculated at the rate of 10% (ten per cent) per annum from the date of interim payment to the date of final settlement of such balance.

#### **Adjudication by Regulatory Authority, Tribunal or Commission**

In the event of constitution of a statutory regulatory authority, tribunal or commission, as the case may be, with powers to adjudicate upon disputes between the Contractor and the Authority, all Disputes arising after such constitution shall, instead of reference to arbitration under Clause 25.3, be adjudicated upon by such regulatory authority, tribunal or commission in accordance with the Applicable Law and all references to Dispute Resolution Procedure shall be construed accordingly. For the avoidance of doubt, the Parties hereto agree that the adjudication hereunder shall not be final and binding until an appeal against such adjudication has been decided by an appellate tribunal or court of competent jurisdiction, as the case may be, or no such appeal has been preferred within the time specified in the Applicable Law.

#### **CLAUSE 26**

##### **Contractor to indemnify NHIDCL against Patent Rights**

The contractor shall fully indemnify and keep indemnified the President of India through National Highways & Infrastructure Development Corporation Limited against any action, claim or proceeding relating to infringement or use of any patent or design or any alleged patent or design rights and shall pay any royalties which may be payable in respect of any article or part thereof included in the contract. In the event of any claims made under or action brought against Government in respect of any such matters as aforesaid, the contractor shall be immediately notified thereof and the contractor shall be at liberty, at his own expense, to settle any dispute or to conduct any litigation that may arise there from, provided that the contractor shall not be liable to indemnify the President of India if the infringement of the patent or design or any alleged patent or design right is the direct result of an order passed by the Engineer-in-Charge in this behalf.

#### **CLAUSE 27**

##### **Action where no Specifications are specified**

In the case of any class of work for which there is no such specifications as referred to in Clause 11, such work shall be carried out in accordance with the Bureau of Indian Standards Specifications. In case there are no such specifications in Bureau of Indian Standards, the work shall be carried out as per manufacturers' specifications, if not available then as per State/District specifications. In case there are no such specifications as required above, the work shall be carried out in all respects in accordance with the instructions and requirements of the Engineer-in-Charge.

#### **CLAUSE 28**

##### **Withholding and lien in respect of sum due from contractor**

- (a) Whenever any claim or claims for payment of a sum of money arises out of or under the contract or against the contractor, the Engineer-in-Charge or the Government shall be entitled to withhold and also have a lien to retain such sum or sums in whole or in part from the security, if any deposited by the contractor and for the purpose aforesaid, the Engineer-in-Charge or the Government shall be entitled to withhold the security deposit, if any, furnished as the case may be and also have a lien over the same pending finalization or adjudication of any such claim. In the event of the security being insufficient to cover the claimed amount or amounts or if no security has been taken from the contractor, the Engineer-in-Charge or the Government shall be entitled to withhold and have a lien to retain to the extent of such claimed amount or amounts referred to above, from any sum or sums found payable or which may at any time thereafter become payable to the contractor under the same contract or any other contract with the Engineer-in-Charge of the Government or any contracting person through the Engineer-in-Charge pending finalization of adjudication of any such claim.

It is an agreed term of the contract that the sum of money or moneys so withheld or retained under the lien referred to above by the Engineer-in-Charge or Government will be kept withheld or retained as such by the Engineer-in-Charge or Government till the claim arising out of or under the contract is determined by the arbitrator (if the contract is governed by the arbitration clause) by the competent court, as the case may be and that the contractor will have no claim for interest or damages whatsoever on any account in respect of such withholding or retention under the lien referred to above and duly notified as such to the contractor. For the purpose of this clause, where the contractor is a partnership firm or a limited company, the Engineer-in-Charge or the Government shall be entitled to withhold and also have a lien to retain towards such claimed amount or amounts in whole or in part from any sum found payable to any partner/limited company as the case may be, whether in his individual capacity or otherwise.

- (b) Government shall have the right to cause an audit and technical examination of the works and the final bills of the contractor including all supporting vouchers, abstract, etc., to be made after payment of the final bill and if as a result of such audit and technical examination any sum is found to have been overpaid in respect of any work done by the contractor under the contractor any work claimed to have been done by him under the contract and found not to have been executed, the contractor shall be liable to refund the amount of overpayment and it shall be lawful for Government to recover the same from him in the manner prescribed in sub-clause (i) of this clause or in any other manner legally permissible; and if it is found that the contractor was paid less than what was due to him under the contract in respect of any work executed by him under it, the amount of such under payment shall be duly paid by Government to the contractor, without any interest there on whatsoever.

Provided that the Government shall not be entitled to recover any sum overpaid, nor the contractor shall be entitled to payment of any sum paid short where such payment has been agreed upon between the Engineers on the one hand and the contractor on the other under any term of the contract permitting payment for work after assessment by the Engineer.

#### **CLAUSE 29A**

### **Lien in respect of claims in other Contracts**

Any sum of money due and payable to the contractor (including the security deposit returnable to him) under the contract may be withheld or retained by way of lien by the Engineer-in-Charge or the Government or any other contracting person or persons through Engineer-in-Charge against any claim of the Engineer-in-Charge or Government or such other person or persons in respect of payment of a sum of money arising out of or under any other contract made by the contractor with the Engineer-in-Charge or the Government or with such other person or persons. It is an agreed term of the contract that the sum of money so withheld or retained under this clause by the Engineer-in-Charge or the Government will be kept withheld or retained as such by the Engineer-in-Charge or the Government or till his claim arising out of the same contract or any other contract is either mutually settled or determined by the arbitration clause or by the competent court, as the case may be and that the contractor shall have no claim for interest or damages whatsoever on this account or on any other ground in respect of any sum of money withheld or retained under this clause and duly notified as such to the contractor.

### **Clause 29 B**

#### **Employment of coal mining or controlled area labour not Permissible**

The contractor shall not employ coal mining or controlled area labour falling under any category whatsoever on or in connection with the work or recruit labour from area within a radius of 32 km (20 miles) of the controlled area. Subject as above the contractor shall employ imported labour only i.e., deposit imported labour or labour imported by contractors from area, from which import is permitted.

Where ceiling price for imported labour has been fixed by State or Regional Labour Committees not more than that ceiling price shall be paid to the labour by the contractor.

The contractor shall immediately remove any labourer who may be pointed out by the Engineer in-Charge as being a coal mining or controlled area labourer. Failure to do so shall render the contractor liable to pay to Government a sum calculated at the rate of Rs.10/- per day per labourer. The certificate of the Engineer-in-Charge about the number of coal mining or controlled area labourer and the number of days for which they worked shall be final and binding upon all parties to this contract.

It is declared and agreed between the parties that the aforesaid stipulation in this clause is one in which the public are interested within the meaning of the exception in Section 74 of Indian Contract Act, 1872.

#### **Explanation: - Controlled Area means the following areas:**

Districts of Dhanbad, Hazaribagh, Jamtara - a Sub-Division under Santhal Pargana Commissionery, Districts of Bankuara, Birbhum, Burdwan, District of Bilaspur.

Any other area which may be declared a Controlled Area by or with the approval of the Central Government.

### **CLAUSE 30**

#### **Unfiltered water supply**

The contractor(s) shall make his/their own arrangements for water required for the work and nothing extra will be paid for the same. This will be subject to the following conditions.

- (i) That the water used by the contractor(s) shall be fit for construction purposes to the satisfaction of the Engineer-in-Charge.
- (ii) The Engineer-in-Charge shall make alternative arrangements for supply of water at the risk and cost of contractor(s) if the arrangements made by the contractor(s) for procurement of water are in the opinion of the Engineer-in-Charge, unsatisfactory.

### **Clause 31**

#### **Hire of Plant & Machinery**

The contractor shall arrange at his own expense all tools, plant, machinery and equipment (hereinafter referred to as T & P) required for execution of the work.

### **Clause 32**

#### **Employment of Technical Staff and employees**

Contractors Superintendence, Supervision, Technical Staff & Employees

- (i) The contractor shall provide all necessary superintendence during execution of the work and all along thereafter as may be necessary for proper fulfilling of the obligations under the contract.

The contractor shall immediately after receiving letter of acceptance of the tender and before commencement of the work, intimate in writing to the Engineer-in-Charge, the name(s), qualifications, experience, age, address(s) and other particulars along with certificates, of the principal technical representative to be in charge of the work and other technical representative(s) who will be supervising the work. Minimum requirement of such technical representative(s) and their qualifications and experience shall not be lower than specified in Schedule 'F'. Even if the contractor (or partner(s) in case of firm/ company) is himself / herself an Engineer, it is necessary on the part of the contractor to Employ principal technical representative / technical representative (s) as per stipulation in Schedule 'F'

The Engineer-in-Charge shall within 3 days of receipt of such communication intimate in writing his approval or otherwise of such a representative(s) to the contractor. Any such approval may at any time be withdrawn and in case of such withdrawal, the contractor shall appoint another such representative(s) according to the provisions of this clause. Decision of the tender accepting authority shall be final and binding on the contractor in this respect. Such a principal technical representative and other technical representative(s) shall be appointed by the contractor soon after receipt of the approval from Engineer-in-charge and shall be available at site before start of work.

All the provisions applicable to the principal technical representative under the Clause will also be applicable to other technical representative(s). The principal technical representative and other technical representative(s) shall be present at the site of work for supervision at all times when any construction activity is in progress and also present himself/themselves, as required, to the Engineer-in-Charge and/or his designated representative to take instructions. Instructions given to the principal technical representative or other technical representative(s) shall be deemed to have the same force as if these have been given to the contractor. The principal technical representative and other technical representative(s) shall be actually available at site fully during all stages of execution of work, during recording/checking/test checking of measurements of works and whenever so required by the Engineer-in-Charge and shall also note down instructions conveyed by the Engineer-in-Charge or his designated representative(s) in the site order book and shall affix his/their signature in token of noting down the instructions and in token of acceptance of measurements/checked measurements/ test checked measurements. The representative(s) shall not look after any other work. Substitutes, duly approved by Engineer-in-Charge of the work in similar manner as aforesaid shall be provided in event of absence of any of the representative(s) by more than two days.

If the Engineer-in-Charge, whose decision in this respect is final and binding on the contractor, is convinced that no such technical representative(s) is/are effectively appointed or is/are effectively attending or fulfilling the provision of this clause, a recovery (nonrefundable) shall be effected from the contractor as specified in Schedule 'F' and the decision of the Engineer-In-Charge as recorded in the site order book and measurement recorded checked/test checked in Measurement Books shall be final and binding on the contractor. Further if the contractor fails to appoint suitable technical Principal technical representative and/or other technical representative(s) and if such appointed persons are not effectively present or are absent by more than two days without duly approved substitute or do not discharge their responsibilities satisfactorily, the Engineer- in-Charge shall have full powers to suspend the execution of the work until such date as suitable other technical representative(s) is/are appointed and the contractor shall be held responsible for the delay so caused to the work. The contractor shall submit a certificate of employment of the technical representative(s) (in the form of copy of Form-16 or CPF deduction issued to the Engineers employed by him) along with every one account bill final bill and shall produce evidence if at any time so required by the Engineer-in-Charge.

- (ii) The contractor shall provide and employ on the site only such technical assistants as are skilled and experienced in their respective fields and such foremen and supervisory staff as are competent to give proper supervision to the work.

The contractor shall provide and employ skilled, semiskilled and unskilled labour as is necessary for proper and timely execution of the work.

The Engineer-in-Charge shall be at liberty to object to and require the contractor to remove from the works any person who in his opinion misconducts himself, or is incompetent or negligent in the performance of his duties or whose employment is otherwise considered by the Engineer-in-Charge to be undesirable. Such person shall not be employed again at works site without the written permission of the Engineer-in-Charge and the persons so removed shall be replaced as soon as possible by competent substitutes.

### **CLAUSE 33**

#### **Levy/Taxes payable by Contractor**

Building and other Construction Workers Welfare Cess or any other tax, levy or Cess in respect of input for or output by this contract shall be payable by the contractor and Government shall not entertain any claim whatsoever in this respect except as provided under Clause 38 The contractor shall deposit royalty and obtain necessary permit for supply of the red bajri, stone, kankar, etc. from local authorities.

If pursuant to or under any law, notification or order any royalty, cess or the like becomes payable by the Government of India and does not any time become payable by the contractor to the State Government, Local authorities in respect of any material used by the contractor in the works, then in such a case, it shall be lawful to the Government of India and it will have the right and be entitled to recover the amount paid in the circumstances as aforesaid from dues of the contractor.

### **CLAUSE 34**

#### **Conditions for reimbursement of levy/taxes if levied after receipt of Tenders**

All tendered rates shall be inclusive of any tax, levy or cess applicable on last stipulated date of receipt to f tender including extension if any. No adjustment i.e. increases or decrease shall be made for any variation in the rate of GST, Building and Other Construction Workers Welfare Cess or any tax, levy or cess applicable on inputs.

### **CLAUSE 35**

#### **Termination of Contract on death of contractor**

Without prejudice to any of the rights or remedies under this contract, if the contractor dies, the Engineer-in-Charge on behalf of the President of India through National highways & Infrastructure Development Corporation Limited shall have the option of terminating the contract without levy of compensation to the contractor.

### **CLAUSE 36**

#### **If relative working in NHIDCL then the contractor not allowed to tender**

The contractor shall not be permitted to tender for works in the NHIDCL responsible for award and execution of contracts in which his near relative is posted as Accountant or as an officer in any capacity between the grades of the Superintending Engineer/Equivalent and Junior Engineer/equivalent (both inclusive). He shall also intimate the names of persons who are working with him in any capacity or are subsequently employed by him and who are near relatives to any Gazetted Officer in the NHIDCL or in the Ministry of Road Transport & Highways. Any breach of this condition by the contractor would render him liable to be removed from the approved list of contractors of this Department. If however the contractor is registered in any other department, he shall be debarred from

tendering in NHIDCL for any breach of this condition.

NOTE: By the term "near relatives" is meant wife, husband, parents and grandparents, children and grandchildren, brothers and sisters, uncles, aunts and cousins and their corresponding in-laws.

#### **CLAUSE 37**

##### **No Gazetted Engineer to work as Contractor within one year of retirement**

No engineer of Gazetted rank or other Gazetted officer employed in engineering or administrative duties in an engineering department of the Government of India shall work as a contractor or employee of a contractor for a period of one year after his retirement from government service without the previous permission of Government of India in writing. This contract is liable to be cancelled if either the contractor or any of his employees is found at any time to be such a person who had not obtained the permission of Government of India as aforesaid, before submission of the tender or engagement in the contractor's service, as the case maybe.

#### **CLAUSE 38**

##### **Theoretical consumption of Material**

After completion of the work and also at any intermediate stage in the event of Non reconciliation of materials issued theoretical quantity of materials used in the work shall be calculated on the basis and method given hereunder:-

- (a) Quantity of cement & bitumen shall be calculated on the basis of quantity of cement & bitumen required for different items of work as shown in the Schedule of Rates mentioned in Schedule 'F'. In case any item is executed for which standard constants for the consumption of cement or bitumen are not available in the above mentioned schedule/statement or cannot be derived from the same shall be calculated on the basis of standard formula to be laid down by the Engineer-in-Charge.
- (b) Theoretical quantity of steel reinforcement or structural steel sections shall be taken as the quantity required as per design or as authorized by Engineer-in-Charge, including authorized lappings, chairs etc. plus 3% wastage due to cutting into pieces, such theoretical quantity being determined and compared with the actual issues each diameter wise, section wise and category wise separately.
- (c) Theoretical quantity of G.I. & C.I. or other pipes, conduits, wires and cables, pig lead and G.I./M.S. sheets shall be taken as quantity actually required and measured plus 5% for wastage due to cutting into pieces (except in the case of G.I./M.S. sheets it shall be 10%), such determination & comparison being made diameter wise & category wise.
- (d) For any other material as per actual requirements.

Over the theoretical quantities of materials so computed a variation shall be allowed as specified in Schedule 'F' for nonscheduled items, the decision of the Superintending Engineer regarding theoretical quantities of materials which should have been actually used, shall be final and binding on the contractor.

- i. The said action under this clause is without prejudice to the right of the Government to take action against the contractor under any other conditions of contract for not doing the work according to the prescribed specifications.

### **CLAUSE 39**

#### **Compensation during warlike situations**

The work (whether fully constructed or not) and all materials, machines, tools and plants, scaffolding, temporary buildings and other things connected therewith shall be at the risk of the contractor until the work has been delivered to the Engineer-in-Charge and a certificate from him to that effect obtained. In the event of the work or any materials properly brought to the site for incorporation in the work being damaged or destroyed in consequence of hostilities or warlike operation, the contractor shall when ordered (in writing) by the Engineer-in-Charge to remove any debris from the site, collect and properly stack or remove in store all serviceable materials salvaged from the damaged work and shall be paid at the contract rates in accordance with the provision of this agreement for the work of clearing the site of debris, stacking or removal of serviceable material and for reconstruction of all works ordered by the Engineer-in-Charge, such payments being in addition to compensation upto the value of the work originally executed before being damaged or destroyed and not paid for. In case of works damaged or destroyed but not already measured and paid for, the compensation shall be assessed by the Engineer upto Rs.2,00,000/-- and by the next higher officer concerned for a higher amount. The contractor shall be paid for the damages/destruction suffered and for restoring the material at the rate based on analysis of rates tendered for in accordance with the provision of the contract. The certificate of the Engineer-in-Charge regarding the quality and quantity of materials and the purpose for which they were collected shall be final and binding on all parties to this contract.

Provided always that no compensation shall be payable for any loss in consequence of hostilities or warlike operations (a) unless the contractor had taken all such precautions against air raid as are deemed necessary by the A.R.P. (Air Raid precaution) Officers or the Engineer-in-Charge (b) for any material etc. not on the site of the work or for any tools, plant, machinery, scaffolding, temporary building and other things not intended for the work. In the event of the contractor having to carry out reconstruction as aforesaid, he shall be allowed such extension of time for its completion as is considered reasonable by the Engineer.

### **CLAUSE 40**

#### **Apprentices Act provisions to be complied with**

The contractor shall comply with the provisions of the Apprentices Act, 1961 and the rules and orders issued there under from time to time. If he fails to do so, his failure will be a breach of the contract and the Competent Authority may, in his discretion, cancel the contract. The contractor shall also be liable for any pecuniary liability arising on account of any violation by him of the provisions of the said Act.

#### **CLAUSE 41**

##### **Release of Security deposit/ Retention Money after labour clearance**

Release of Security Deposit of the work shall not be refunded till the contractor produces a clearance deposit after labour certificate from the Labour Officer. As soon as the work is virtually complete the contractor shall apply for the clearance certificate to the Labour Officer under intimation to the Engineer-in-Charge. The Engineer-in-Charge, on receipt of the said communication, shall write to the Labour Officer to intimate if any complaint is pending against the contractor in respect of the work. If no complaint is pending, on record till after 3 months after completion of the work and/or no communication is received from the Labour Officer to this effect till six months after the date of completion, it will be deemed to have received the clearance certificate and the Security Deposit will be released if otherwise due.

### **Additional Conditions of Contract**

1. The Contractor shall maintain a separate account with a Schedule Bank for this particular work for the purpose of receiving all the payments under the Contract (s) and for utilization of payments received from the Employer for disbursement to petty contractors, vendors, etc of the contractor. The Contractor shall maintain separate books of accounts for all payments under this contract and the Engineer-in – Charge shall have access to these at all times including access to bank statement of the account maintained separately for the work.
2. A tenderer shall be deemed to have full knowledge of the site whether he inspects it or not and no extra charges consequent on any misunderstanding or otherwise shall be allowed. It shall be deemed that the contractor has satisfied himself as to the nature and location of the work, general and local conditions and particularly those pertaining to probable location of batching plant, contractor's offices site, transport, handling and storage of materials, availability of labour, weather conditions at site and general ground/sub soil conditions and the contractor has to estimate his cost accordingly.
3. The contractor (s) shall get himself acquainted with nature and extent of the work and satisfy himself about the availability of materials from approved quarries for collection and conveyance of materials required for construction.
4. The tenderer shall see the approaches to the site. In case any approach from main road is required at site or existing approach is to be improved and maintained for cartage of materials by the contractor, the same shall be provided, improved and maintained by the contractor at his own cost. No payment shall be made on this account.
5. On account of Security consideration, there would be some restrictions on the working hours, movement of vehicles for transportation of material and location of labour camp. The contractor shall be bound to follow all such restrictions and adjust the programme for execution of work.
6. The contractor shall also be enquired to follow the rules and restrictions imposed on working/movement/stacking of materials by the local competent authority at all times. Nothing extra shall be payable on this account.
7. Rates for the items are inclusive of all labour materials, transportation, T&P, incidental charges, octroi, taxes, contractors profit and overheads, etc. unless otherwise specified. The contractor shall quote the rates accordingly.
8. The contractor shall bear all incidental charges for cartage, storage, and safe custody of materials brought to site. The contractor shall be fully responsible for the safe custody of materials brought by him issued to him even though some materials are under double lock and key system.
9. Royalty at the prevailing rates wherever payable shall have to be paid by the contractor on the boulders, metal, shingle, sand and bajri etc or nay other material collected by him for the work direct to revenue authorities and the department shall not pay anything for the same.
10. The contractor or his authorized representative should always be available at the site of work to take instructions from departmental officers and ensure proper execution of work. No work should be done in absence of such authorized representative.
11. The contractor shall maintain in good condition, all works executed till the completion of entire work allotted to the contractor.
12. No payment shall be made to the contractor for any damage caused by rain, floods, earthquake or any other natural causes whatsoever during execution of the work. The contractor at his own cost will make the damages to the work good and no claim on this account shall be entertained.

13. Any damage done by the contractor to any existing work or work being executed by other agencies shall be made good by himself his own cost.
14. Any cement slurry added over base surface for continuation of concreting for better bond is deemed to have been included in the items and noting extra shall be payable on this account., also the cement consumed on this account shall not be considered in theoretical consumption.
15. **Plants and Equipment's**
1. The contractor shall at his own cost and risk provide and operate all the required equipment, T&P and machinery as required at site.
  2. The contractor has to arrange a minimum number of following major plants and equipment's in good working condition required for execution of work at appropriate time.

Sr. No.	Equipment	Capacity (Minimum)	Numbers (Nos) (Minimum)
<b>Equipment for concrete work</b>			
	Fully automatic computerized concrete batching and mixing plant as per the specifications with printouts for admixtures, concrete batching and other items.	15 cum/hour	1
	Transit mixers	6 cum	As per requirement
	Concrete pumps	15 cum/hour	1
	Tippers and dumpers		2
	Water tanker with sprinkler	Min. capacity of 5000 litre	1
	Needle vibrator		4
	Table vibrator/Plate vibrator (electrical/petrol)		2
	Screed leveler		2
<b>Equipment for building work</b>			
	Block machine		1
	Bar bending machine		1
	Bar cutting machine		1
	Automatic Ring Making machine (reinforcement)		1
	Welding machine (400 Ampere)		1
	Drilling machine		2
	Cube testing machine		1
	MS pipes		As per site requirement
	Steel shuttering		As per site requirement
	Steel scaffolding		As per site requirement
	Soundless Diesel Generator (62.5 kVA)		1

Earth moving equipment			
	Excavator cum loader (JCB 3D Model or equivalent)		2
Equipment for hoisting and lifting			
	Tower		1
	Builders hoist		1
Survey instrument			
	Total Station		1
Other			
	Centrifugal mono block water pump minimum capacity 2 HP		3
	Road roller 8 to 10 tons		1
	Floor grinding/polishing machines		3
	Desktop Computers (All in one),		2
	Laptops for maintaining records and making presentations		2
	Digital Camera with Optical Zoom of 50X & arrangement for time lapse cameras (at least at three locations) for taking photographs and video recording of major activities for record purpose and for quality assurance.		1
	Any other machinery required for completion of the work as per decision of Engineer-in-charge.		As per Actual requirement

16. **Drawings to be kept at site**

Two complete sets of the drawings as approved by the department shall be kept by the contractor at the site within 10 days of date of start out of which one set shall be lined with cloth and same shall at all reasonable time be available for inspection and use by the Engineer-in-charge and the representative of the engineer-in –charge or other person authorized by the Engineer-in-Charge in writing.

17. **Cost of Testing**

All costs involved in carrying out the tests and other incidental expense thereto shall be borne by the contractor regardless of the result of the tests. The contractor shall take down or cut out and reconstruct the defective work or shall make the remedial measures instructed at his own cost including consultancy charges for suggestion of remedial measures. If the load testing is instructed on any ground other than mentioned above, then the cost of the same shall be borne by the department, if the result of the test is found to be satisfactory.

18. **Other Tests**

In addition to the above load tests, non-destructive test methods such as core test and ultrasonic pulse velocity test shall be carried out by the contractor at his own expense if so desired by the Engineer-in-Charge and shall be done using only recommended testing equipment. The acceptance criteria for these tests shall be as specified by the testing agency or good engineering practice and as approved by the Engineer.

19. **Other Approved Laboratories**

The tests which cannot be carried out in the field laboratory shall be conducted in the approved external laboratories as detailed below or any other lab approved by the Engineer-in-Charge.

1. IIT Guwahati
2. NIT Arunachal Pradesh
3. Tezpur University
4. Any other NABL accredited laboratory listed in IRC:SP:94:2011, as approved by the Engineer-in-Charge.

20. **Drawings and Photographs of the Works**

The contractor shall do photography/video photography of the site firstly before the start of the work, secondly mid-way in the execution of different stages of work and lastly after the completion of the work. No separate payment will be made to the contractor for this.

No photographs/Video photography shall be published or otherwise circulated without the approval of the Engineer inwriting.

21. **EXISTING SERVICES**

The contractor shall identify all underground/overhead services and take necessary measures to protect the services before starting any excavation/ activity. All temporary supports and other measures required to protect and maintain the services during construction period as per direction of Engineer-in-charge, shall be deemed to be included in the quoted rate / amount of the contractor and nothing extra shall be payable on this account.

22. **Diversion of Services**

All works pertaining to services including rerouting /diversion of services, routine testing, installation etc. embracing in one or more than one process shall be subject to examination and approval to each stage thereof by the Engineer-in-charge of concerned department as would be

notified by the Engineer-in-charge or his accredited representative when such stage is ready. In default of such notices, the Engineer-in-charge shall be entitled to appraise the quantity and extent thereof and the decision of the Engineer-in-charge or his accredited representative in this regard shall be final and binding.

The contractor will not have any claim in case of any delay by the Engineer-in-charge in removal of trees or shifting, raising, removal of telephone or electric lines (over or underground) water and sewer lines and other structures etc. if any, which may come in the way of the works. However suitable extension of time will be granted to cover such delay.

23. **Barricades**

The contractor shall make adequate arrangement for temporary barricading and as directed by the Engineer-in-Charge to cover the entire construction site including all building materials in order to prevent the working area from the risk of accidents due to the vehicular movement. Same way barricades protect the road users from the danger of construction equipment and other temporary structures. No extra payment shall be made for providing barricading of required size/specification as the cost of barricading is deemed to be included in the quoted rates of different items by the contractor. The structural dimensions the barricade boards, material and composition, its colour scheme, NHIDCL logo details shall be in accordance with the drawing attached with the tender document or from the direction of the Engineer-in-Charge.

The requirement of providing and fixing barricading at site shall be decided on directions or approval of Engineer-in-Charge. The barricading shall be maintained during the execution period till the completion of project and shall not be removed at any stage without prior approval of Engineer-in-Charge. Red lights shall be fixed on top of barricades.

24. **Program Chart**

The contractor shall prepare integrated program chart for the execution of work showing clearly all activities from start of work to completion of work, with details of equipment and machinery required for the fulfilment of program within the stipulated period and submit the same to Engineer -in - charge within two weeks of award of contract.

- i) The program chart shall include the following:
- a) Descriptive note explaining the sequence of various activities.
  - b) Network (PERT/CPM/Bar Chart) prepared on MS Project98/Prima VeraP3, which will indicate resources in the financial term, manpower and specialized equipment's for every important stage.
  - c) Program for procurement of materials by the contractor
  - d) Program for procurement of plants and machinery having adequate capacity, commensurate with the quantum of work to be done within stipulated period by the contractor.

e) The submission for approval by the Engineer– in- charge of such programme or the furnishing of such particulars shall not relieve the contractor of any of his duties or responsibility under the contract.

25. **LICENSES**

(i) The contractor shall pay to the municipal, police or other authorities all the fees required for execution of work, obtain requisite licenses for temporary construction enclosures, and pay all fees, taxes and charges which shall be leviable on this account observations in executions of the contract. No extra claim will be entertained on this regard. However, department shall provide necessary assistance by way of forward applications of the contractor.

(ii) All license fees, royalty charges shall be paid by the contractor directly to the concerned.

26. **Method Statement:**

1. The Contractor shall submit a 'Methods statement' for each important activity for the approval of the Engineer-in-charge soon after the award of work to him. The 'Methods statement' is a statement by which the construction procedures for any activity of construction is formulated and stated in chronological order. The 'Methods statement', should have a description of the item with elaborate procedures in steps to implement the same, the specifications of the materials involved, their testing and acceptance criteria, equipment to be used, Precautions to be taken, etc.
2. The work shall be carried out in accordance with the Design Basis Report, Architectural drawings and structural drawings (proof checked/vetted by the Contractor) and approved by the Engineer-in-Charge. The Technical Specifications are to be read with and in general conforming to the CPWD Specifications 2018.
3. The Contractor shall procure the required materials in advance so that there is sufficient time to testing of the materials and clearance of the same before use in the work. The Contractor shall provide at his own cost suitable weighing and measuring arrangements at site for checking the weight / dimensions as may be necessary for execution of work. No claim will be entertained on this account.
4. The Contractor shall conduct his work, so as not to interfere with or hinder the progress or completion of the work being performed by other Contractor(s) or by the Engineer-in- Charge and shall as far as possible arrange his work and shall place and dispose of the materials being used or removed, so as not to interfere with the operations of other Contractor simultaneously working or he shall arrange his work with that of the others in an acceptable and coordinated manner and shall perform it in proper sequence to the complete satisfaction of others.

27. On account of security consideration there would be some restrictions on the working hours/ movement of vehicles for transportation of material and location of labour camp. The contractor shall be bound to follow such restrictions and adjust his program for execution of work.

28. The contractor shall also be required to follow the rules and regulations, imposed on working /movement/stacking of material by the local competent authority at all times. Nothing extra shall be payable on this account.
29. The contractor shall take all precautionary measures to avoid any damages to the adjoining property. All necessary arrangement shall be made at his own cost. Any damages caused by the contractor to existing building/installation /roads/boundary wall shall be made good by contractor at his own cost.
30. The contractor shall make his own arrangement of water for completion of work and nothing will be paid on this account. The contractor shall get the water tested with regard to the suitability and conforming to relevant IS Codes. The contractor shall obtain written permission from the engineer- in -charge before he proceeds by using the same for execution. Water charges shall not be recovered in case arrangement of water is made at his own by the contractor.
31. For taking the permission to execute the work/NOC if any required from any government agency like traffic police, Water supply department, Municipal authority, Govt of Arunachal Pradesh etc., the contractor shall apply to the concerned agency and make efforts to get the required permissions and send a copy of application to the Engineer- in- charge. The department will recommend the case to the concerned agencies. In no case any hindrance will be given for any delay by the agencies in giving permission for execution of work nor will anything be paid extra on this account.
32. The contractor shall make his own arrangement for obtaining electric connection from the concerned department and make necessary payments directly to the department concerned. The NHIDCL will however make all reasonable recommendation to the authority concerned in this regard
33. The work shall be executed and measured as per metric dimensions given in the schedule of quantities, drawings etc. (FPS units wherever indicated are only for guidance). The work should be planned in a systematic and coordinated manner with other agencies working at site. The work shall be carried out in such a manner so as not to interfere and disturb other works being executed by other agencies if any. Nothing extra shall made on this account. If any damage done by the contractor to existing structures/services or work done by the other contractor shall be made good by him at his own cost.
34. The Contractor or his authorized representative should always be available at the site of work to take instructions from departmental officers, and ensure proper execution of work. No work should be done in the absence of such authorized representative.
35. The contractor should maintain in good condition, all works executed till the completion of entire work allotted to the contractor.
36. Any damage done by the contractor to any existing work or work being executed by other agencies shall be good by him at his own cost.
37. Any cement slurry added over base surface for continuation of concreting for better bond is deemed to have been included in the items and nothing extra shall be payable on this account, also the cement consumed on this account shall not be considered in theoretical.
38. Regarding testing of civil & electrical & other materials, the testing of materials shall be conducted in Govt. Laboratory/ Govt. Engineering Colleges/ IITs/ NITs or from the laboratory approved by Engineer-in-charge. The charges of testing of materials in approved laboratory shall be borne by the Contractor.
39. No payment shall be made for any damage caused by rain, snowfall, flood or any other natural calamity, whatsoever during the execution of the work. The Contractor shall be fully responsible for any damage to the govt. property and work for which the payment has been advanced to him under the contract and he shall make good the same at his risk and cost. The Contractor shall be fully responsible for safety and security of his material, T&P, Machinery brought to the site by him.

40. The Contractor shall comply with the safety procedures, norms and guidelines (as applicable) as outlined in the document Part 7 Constructional practices and safety-2016, National Building code of India, Bureau of Indian Standards. A copy of all pertinent regulations and notices concerning accidents, injury and first-aid shall be prominently exhibited at the work site. Depending upon the scope & nature of work, a person qualified in first-aid shall be available at work site to render and direct first-aid to casualties. A telephone may be provided to first-aid assistant with telephone numbers of the hospitals displayed. Complete reports of all accidents and action taken thereon shall be forwarded to the competent authorities.
41. Unless otherwise provided in the schedule of quantities the rates tendered by the contractor shall be inclusive and shall apply to all heights lifts, leads and depths of the building and nothing extra shall be payable on this account,
42. The contractor shall make his own arrangements for obtaining electric connection (if required) and make necessary payments directly to the department concerned.
43. Other agencies doing works related to this projects will also simultaneously execute the work and the contractor shall provide necessary facilities for the same. The contractor shall leave such necessary hole opening etc for burying in the work pipes, cables, conduits, clamps, boxes and hooks for fan clamps etc as may be required for other agencies. Conduits for electrical wiring/cables will be laid in a way that they leave enough space for concreting and do not adversely affect the structural members. Nothing extra over the agreement rates shall be paid for the same.
44. The building work will be carried out in the manner complying in all respects with the requirements of relevant bye laws of the local body under the jurisdiction of which the work is to be executed or as directed by the Engineer-in-Charge and nothing extra will be paid on this account.
45. The work of water supply, internal sanitary installation and drainage work etc shall be carried out as per local body bye laws and the contractor shall produce necessary completion certificate from such authorities after completion of the work.
46. Water tanks, taps, sanitary, water supply and drainage pipe fittings and accessories should conform to bye laws and specification of NHIDCL. The contractor should engage licensed plumbers for the work and get the materials (fixtures/fittings) tested by the municipal body/ corporation authorities wherever required at his own cost,
47. The contractor shall give a performance test of the entire installation (s) as per standing specification before the work is finally accepted and nothing extra whatsoever shall be payable to the contractor for the test.
48. The structural and architectural drawings shall at all times be properly correlated before executing work. However, in case of any discrepancy in the items given in the schedule of quantities appended with the tender and architectural drawings related to the relevant item, the former shall prevail unless otherwise given in writing by the Engineer-in-Charge.
49. All Reinforced Cement Concrete work shall be machine batched, machine mixed and machine vibrated design mix of specified grade. The contractor shall install on site batching plant of requisite capacity for production of concrete. The department will facilitate to make available the land required for installation of plant etc, if available.

## **SPECIAL CONDITIONS OF CONTRACT**

### **1. Operation and Maintenance System**

Contractor shall provide required manpower and spares for the smooth operation and maintenance of parking facility during the O&M period.

Contractor shall submit daily operation log sheets generated from the system.

Contractor shall deposit the proceedings of any cash transactions with NHIDCL on account of parking fee.

Required energy for operation, fuels and lubricants for generators will be provided by Govt. of Arunachal Pradesh.

### **2. Condition of Steel Reinforcement Fe 500 D for RCC Works**

- i. Supply of Steel Reinforcement: The contractor shall procure steel reinforcement bars conforming to relevant specifications from Primary producers listed in this document and no re-rolled steel shall be permitted. The contractor shall have to obtain and furnish test certificates to the Engineer-in-Charge in respect of all supplies of steel brought by him to the site of work.
- ii. Samples shall also be taken and got tested by the Engineer-in-Charge as per provisions contained in this regard in IS 1786-2008.

In case the test results indicate that the steel arranged by the contractor does not conform to BIS codes, the same shall stand rejected and shall be removed from the site of work by the contractor at his cost within a week's time from written orders from the Engineer-in-Charge to do so.
- iii. The steel reinforcement shall be brought in bulk supply of 20 tonnes or more or as decided by the Engineer-in-Charge alongwith manufacturer test certificate for each lot.
- iv. The steel reinforcement shall be stored by the contractor at site of work about 30 cm to 45 cm above ground. A coat of cement wash shall be given to steel bars so as to prevent corrosion. Nothing extra shall be paid on these account. Bars of different sizes and lengths shall be stored separately to facilitate easy counting and checking.
- v. The contractor shall supply free of charge the steel required for testing. The cost of tests shall be borne by the contractor.
- vi. The Actual issue and consumption of steel on work shall be regulated and proper account maintained as per provision of the contract. The theoretical consumption of steel shall be worked out as per procedure prescribed in Clause 38 of the contract and shall be governed by conditions laid therein.
- vii. Steel brought to site and steel remaining unused shall not be removed from site without the written permission of the Engineer-in-Charge.
- viii. In case the contractor bring surplus quantity of steel the same after completion of the work will be removed from the site by the contractor at his own cost after approval of the Engineer-in-Charge.
- ix. Records of actual sectional weights shall also be kept dia-wise and lot-wise. The average sectional weight for each diameter shall be arrived at from samples from each lot of steel received at site. The decision of the Engineer-in-Charge shall be final for the procedure to be followed for determining the average sectional weight of each lot quantity of each diameter of steel

received at site of work each day will constitute on single lot for the purpose. The weight of steel by conversion of length of various sizes of bars based on the actual weighted average sectional weight shall be termed as Derived Actual Weight.

### 3. Condition for Cement

- i. Contractor has to produce manufacturers test certificate for each lot of cement procured at site.
- ii. The contractor shall procure 43 grade (conforming to IS 8112) ordinary Portland cement, as required in the work, from reputed manufacturers of cement, having a production capacity of one million tones per annum or more. Supply of cement shall be taken in 50 kg bags bearing manufacturer's name and ISI marking, samples of cement arranged by contractor shall be taken by the engineer-in-Charge and got tested in accordance with provisions of relevant BIS codes.

In case test results indicate that the cement arranged by contractor does not conform to the relevant BIS codes, the same shall stand rejected and shall be removed from the site by the contractor at his own coat within a week's time of written order from the Engineer-in-Charge to do so.

- iii. The cement shall be brought at site in bulk supply of approximately 50 tonnes or as decided by the Engineer-in-Charge.
- iv. The cement godown of the capacity to store a minimum of 500 bags or as decided by the Engineer-in-Charge of cement shall be constructed by the contractor at site of work for which no extra payment shall be made. Double lock provision shall be made to the door of the cement godown. The keys of one lock shall remain with the Engineer-in-Charge or his authorized representative and the key of the other lock shall remain with the contractor. The contractor shall be responsible for the watch and ward and safety of the cement godown. The contractor shall facilitate the inspection of the godown by the Engineer-in-Charge at any time.
- v. The contractor shall supply free of charge the cement required for testing. **The cost of tests shall be borne by the contractor.**
- vi. The actual issue and consumption of cement on work shall be regulated. The theoretical consumption of cement shall be worked out as per procedure prescribed in Clause 38 of the contract and shall be governed by the conditions laid therein.
- vii. Cement brought to site and cement remaining unused after completion of work shall not be removed from site without written permission of the Engineer-in-Charge.

### 4. Special Conditions for Structural Steel Work

- i. No space is available for onsite fabrication.
- ii. Contractor has to fabricate all structural sections at his own workshop or get it fabricated from the approved workshop.
- iii. Inspection and approval of workshop, fabrication equipments etc to be got approved by NHIDCL prior to commencement of structural steel work.
- iv. No fabricated item shall be painted without inspection and approval of structural components by NHIDCL.
- v. After inspection one coat of zinc rich primer and two or more coats of synthetic enamel paint of approved make after properly cleaning the steel surface with wire brush and mild acid solution followed by washing with water and drying the surface completely, to be applied to individually fabricated parts of the structure prior to their

erection & assembly in their final place. All complete as to entire satisfaction of the Engineer-in-Charge.

- vi. All the fasteners, structural steel and welding consumables shall be procured with test certificates and shall be submitted to NHIDCL for verification and their record.
- vii. Contractor shall employ skilled erection team and tested lifting equipments. Contractor should follow all stipulated safety requirements while working at heights.
- viii. Contractor should deploy suitable cranes for erection work.
- ix. Temporary supports, staging and templates shall be removed after completion of work. Nothing extra shall be paid on this account.

#### **5. Special Conditions for Building Work**

- i. The work will be carried out as per CPWD Specifications 2019 Vol I to Vol II with upto date Correction slips issued till date of submission of tender.
- ii. There is no space for setting office, laboratory, workshop and stores etc at site. Contractor has to make his own arrangements for such facilities and transportation of materials for testing etc at his own cost.
- iii. The contractor shall take in hand joinery work immediately after the award of work. The frames and shutters shall not be painted, oiled or otherwise treated or fixed in position before these are approved by the Engineer-in-Charge or his authorized agent in writing.
- iv. The contractor shall keep himself in touch with the progress of building work to regulate the progress of sanitary work accordingly.
- v. The samples of sanitary pipes and fittings and specials accessories, manhole covers and frames, CP fittings shall be got approved from Engineer-in – Charge before using them in work.
- vi. The cost of cutting holes and making good the same is included in the items of providing and fixing in WC, floor traps and connecting pipes between the trap or the floor and the soil or waste pipe.

#### **6. 3<sup>rd</sup> Party Quality Assurance**

The 3<sup>rd</sup> party quality assurance/audit will be carried out by the Agency engaged by NHICL for the purpose. The 100% of the work carried out by the contractor shall be subjected to checking by the Agency apart from NHIDCL officers. All necessary field/lab test (s) as per CPWD specifications or BIS Code shall be carried out by the Agency for which duly equipped site Lab shall be provided by the contractor at his own cost or from the approved labs mentioned at Para 19 of Additional Conditions of Contract (Pg.192)

The testing charges of the above said labs shall be borne by the contractor.

The 3<sup>rd</sup> party quality assurance agency will carry out 10% test check of the measurements of costly items and shall be jointly signed by the Agency and the Contractor or their representatives. The copy of the measurements shall be machine numbered, bound and certified by the Agency before the same are recommended for payments against the bill in token of their acceptance.

The department will be at liberty to get the work checked from IIT, NCCBM, CRR, EIL, RITES or any other agency and the findings of the checking agency will be final and binding on the contractor. The payment to be made to the checking agency shall be borne by NHIDCL.

#### **7. ENGAGING SPECIALIZED AGENCIES FOR WORKS**

- i. The Contractor shall engage if not in houses expertise with prior approval of

Engineer-in-Charge specialized agency having adequate technical capability and experience of having executed at least one work of similar items of equal or more magnitude or two works of similar items of minimum 60% magnitude work for executing the following items of the work : (a) Water Proofing Works (b) Automated Multilevel Car Parking Equipment / Car Management System (c) Gym Equipments.

- ii. The specialized agency for the work shall be got approved from the Engineer-in-Charge well before the actual commencement of the item of work. The contractor shall submit the list of specialized agencies proposed to be engaged by him along with necessary performance certificates within 30 days from the date of issue of acceptance letter to substantiate technical capability and experience of the agency for prior approval of the Engineer-in-Charge.
- iii. The conditions of approval of specialized agency shall be final and binding on the contractor and he shall comply such conditions of approval.
- iv. The Contractor has to provide Warranty and additional security deposit @ 2.5% of the actual cost of BOQ items of Water Proofing Works in the form of PBG having validity of 05 years plus 60 days from the date of completion of the work.
- v. The Contractor has to provide Warranty and additional security deposit @ 2.5% of the actual cost of BOQ items of Structural Glazing Works in the form of PBG having validity of 05 years plus 60 days from the date of completion of the work.
- vi. The Contractor has to provide Warranty and additional security deposit @ 2.5% of the actual cost of BOQ items of DG Set in the form of PBG having validity of 05 years plus 60 days from the date of completion of the work.
- vii. The Contractor has to provide Warranty and additional security deposit @ 2.5% of the actual cost of BOQ items of Automated Car Parking Equipment / Car management System in the form of PBG having validity of 05 years plus 60 days from the date of completion of the work.
- viii. The Contractor has to provide Warranty and additional security deposit @ 2.5% of the actual cost of BOQ items of Gym Equipment in the form of PBG having validity of 05 years plus 60 days from the date of completion of the work.