

GENERAL TERMS & CONDITIONS OF WORK CONTRACT

1. PRELIMINARY

- 1.1 This is a Contract for Civil, False Ceiling, Plumbing, Electrical and automation wiring Work for Saturday Club Global Trust Head office.
- 1.2 The Tenderer for the above mentioned item of work is
- 1.3 The terms and conditions mentioned hereunder are the terms and conditions of the Contract for the execution of the work mentioned under item 1.1 above.
- 1.4 It is the clear understanding between Saturday Club Global Trust. and Bidder..... that (Name and address of the tenderer) In case the tender of above-mentioned work Is accepted by _____ and an intimation to that effect is so issued and also a Purchase Order is placed with (Name and Address of the tenderer)
This document will be termed as a Contract between the parties and terms and conditions hereunder would govern the parties' interest.
- 1.5 Interpretation of Contract Documents: All documents forming part of the Contract are to be taken mutually explanatory. Should there be any discrepancy, inconsistency, error or omission in the contract, the decision of the Owner/ CONSULTANT shall be the final and the contractor shall abide by the decision. The decision shall not be arbitrable. Works shown upon the drawings but not mentioned in the specification or described in the specifications without being shown on the drawings shall nevertheless be deemed to be included in the same manner as if they are shown in the drawings and described in the specifications.
- 1.6 Special Condition of Contract: The special conditions of contract, if any provided and whenever and wherever referred to shall be read in conjunction with General Terms and Conditions of Contract, specifications, drawings and any other documents forming part of this contract wherever the context so requires. Notwithstanding the subdivision of the documents into separate sections, parts volumes, every section, part or volume shall be deemed to be supplementary or complementary to each other and shall be read in whole. In case of any misunderstanding arising with the same shall be referred to decision of the PMC/Owner/ CONSULTANT and their decision shall be final and binding and the decision shall not be arbitral.

It is the clear understanding that wherever it is mentioned that the Contract shall do/perform a work and/or provide facilities for the performance of the work, the doing or the performance or the providing of the facilities is at the cost and expenses of the work not liable to be paid or reimbursed by the Owner.

2 DEFINITIONS

2.1 APPROVED/ APPROVAL :

Approved/ Approval shall mean approved/approval in writing.

2.2 APPROVED EQUAL :

Approved Equal shall mean an alternative product or service approved by the Owner as being equivalent to that specified in the Contract Documents.

2.3 CONSULTANT :

CONSULTANT shall mean **Interior Committee of Saturday Club Global Trust** with its office at Ecstasy, City of Joy, Mulund W.

2.4 CHANGE ORDER:

Change Order shall mean a change order in the form agreed on between the parties.

2.5 CONTRACT:

The Contract shall mean the agreement between the Owner and the Contractor for the proper execution and successful completion of the Work in accordance with the Contract Documents.

2.6 CONTRACTOR :

The Contractor shall mean the person or persons, firm, company or consortium who's Tender has been accepted by the Owner and includes the Contractor's legal representatives, successors and permitted assign.

2.6 The 'Contract' between Employer and the Contractor shall mean and include all documents like enquiry, tender submitted by the Contractor and the purchase order issued by Employer and other documents connected with the issue of the purchase order and orders, instructions, drawings, change orders, directions issued by Employer/ CONSULTANT for the execution, completion and commissioning of the works and the period of contract mentioned in the Contract including such periods of time extensions as may be granted by Employer at the request of the Contractor and such period of time for which the work is continued by the Contractor for purposes of completion of the work.

2.7 'The Contractor' means the person or the persons, firm or Company whose tender has been accepted by Employer and includes the Contractor's legal heirs, representative, successor(s) and permitted assignees.

2.8 The 'Drawings' shall include maps, plans and tracings or prints thereof with any modifications approved in writing by the CONSULTANT & such other

drawings as may, from time to time, be furnished or approved in writing by the CONSULTANT.

- 2.9 'The Employer' means the **Saturday Club Global Trust**
- 2.10 The 'Permanent Work' means and includes works which form a part of the work to be handed over to Employer by the Contractor on completion of the contract.
- 2.11 The 'Site' means the land on which the work is to be executed or carried out and such other place(s) for purpose of performing the Contract.
- 2.12 The 'Specifications' shall mean the various technical and other specifications attached and referred to in the tender documents. It shall also include the latest editions, including all addenda/ corrigenda or relevant Indian Standard Specifications and Bureau of Indian Standards.
- 2.13 The "Sub-Contractor" means any person or firm or Company (other than the Contractor) to whom any part of the work has been entrusted by the Contractors with the prior writing consent of Employer/ CONSULTANT and their legal heirs, representatives, successors and permitted assignees of such person, firm or Company.
- 2.14 The 'Temporary Work' means and includes all such works which are a part of the contract for execution of the permanent work but does not form part of the permanent work conforming to practices, procedures applicable rules and regulations relevant in that behalf.
- 2.15 The 'Tender' means the document submitted by a person or authority for carrying out the work and the Bidder means a person or authority who submits the tender offering to carryout the work as per the terms and conditions.
- 2.16 The 'Work' shall mean the works to be executed in accordance with the Contract or part thereof as the case may be and shall include extra, additional, altered or substituted works as may be required for the purposes of completion of the work contemplated under the Contract.
- 2.17 The term 'Agreement' wherever appearing in this document shall be read as "Contract".

3 SUBMISSION OF TENDER

- 3.1 Before submitting the Tender, the Bidder shall at their own cost and expenses visit the site, examine and satisfy as to the nature of the existing roads, means of communications, state of land and of the excavations, the correct dimensions of the work facilities for procuring various construction and other material and their availability and shall obtain information on all matters and conditions as they may feel necessary for the execution of the works as intended by Employers and shall also satisfy of the availability of suitable water for construction of civil works and for drinking purpose and power

required for fabrication work etc. Bidder, whose tender may be accepted and with whom the Contract is entered into shall not be eligible and be able to make any claim on any of the said counts in what so ever manner for what so ever reasons at any point of time and such a claim shall not be raised as a dispute and shall not be arbitrable.

- 3.2 The Bidder shall be deemed to have satisfied fully 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.
- 3.3 It must be clearly understood that the whole of the conditions and specifications are intended to be strictly enforced and that no work will be considered as extra work and allowed and paid for unless they are clearly outside the scope, spirit, meaning of the Contract and intent of Employer and have been so ordered in writing by Employer and/or CONSULTANT whose decision shall be final and binding.
- 3.4 Before filling the Tender the Contractor will check and satisfy all drawings and materials to be procured and the schedule of quantities by obtaining clarification from Employer on alternative items as may be desired by the Bidder. No claim for any alleged loss or compensation will be entertained on this account, after submission of Tender by the Bidder/ Contractor and such a claim shall not be arbitrable.
- 3.5 No escalation in the Tender rates will be permitted throughout the period of contract or the period of completion of the job whichever is later on account of any variation in prices of materials or cost of labour or due to any other reasons. Claims on account of escalation shall not be arbitrable.
- 3.6 The quantities indicated in the Tender are approximate. The approved schedule of rates of the contract will be applicable for variations upto plus or minus 25% of the contract value. No revision of schedule of rates will be permitted for such variations in the contract value, including variations of individual quantities, addition of new items, alterations, additions/ deletions or substitutions of items, as mentioned above. Quantities etc. mentioned and accepted in the joint measurement sheets shall alone be final and binding on the parties.
- 3.7 Employer reserves their right to award the contract to any Bidder and their decision in this regard shall be final. They also reserve their right to reject any or all tenders received. No disputes could be raised by any Bidder(s) whose tender has been rejected.
- 3.8 The rates quoted by the Bidder shall include costs and expenses on all counts viz. cost of materials, transportation of machine(s), tools, equipments, labour, power, Administration Charges, price escalations, profits etc. except to the extent of the cost of material(s), if any, agreed to be supplied by Employer and mentioned specifically in that regard in condition of Contract, in which case, the cost of such material if taken for preparation of the Contractor's Bill(s) shall be deducted before making payment of the Bill(s) of the

Contractor. The description given in the schedule of quantities shall unless otherwise stated be held to include wastage on materials, carriage and cartage, carrying in and return of empties, hoisting, setting, fitting and fixing in position and all other expense necessary in and for the full and complete execution and completion of works and in accordance with good practice and recognized principles in that regard.

- 3.9 Employees of the State and Central Govt. and employees of the Public Sector Undertaking, including retired employees are covered under their respective service conditions/ rules in regard to their submitting the tender. All such persons should ensure compliance to the respective / applicable conditions, rules etc. Any person not complying with those rules etc. but submitting the tender in violation of such rules, after being so noticed shall be liable for the forfeiture of the Earnest Money Deposit made with the tender, termination of Contract and sufferance on account of forfeiture of Security Deposit and sufferance of damages arising as a result of termination of Contract.
- 3.10 Tender submitted by Bidder shall remain valid for a period of 6 months from the date of opening of the tender. The Bidder shall not be entitled during the said period of 6 months, to revoke or cancel the tender without the consent in writing from Employer. In case the Bidder revokes or cancels the tender or varies any of terms of the tender without the Consent of Employer, in writing, the Bidder forfeits the right to the refund of the Earnest Money paid along with the tender.
- 3.11 The prices quoted by the Bidder shall be firm during the validity period of 6 months and also during the period of Contract including period(s) of extensions of time, if any, as stated earlier. Escalation in prices will not be permitted during the said period. The Bidder shall particularly take note of this factor before submitting their tender(s).
- 3.12 The works shall be carried out strictly as per approved specifications. Deviations, if any, shall have to be authorized by the CONSULTANT in writing prior to implementing deviations. The price benefit, if any, arising out of the accepted deviation shall be passed on to Employer. The decision of CONSULTANT shall be final in this matter.
- 3.13 The Contractor shall make all arrangements at his own cost to transport the required materials outside and inside the working places and leaving the premises in a neat and tidy condition after completion of the job to the satisfaction of Employer. All materials except those agreed to be supplied by Employer shall be supplied by the Contractor at his own cost and the rates quoted by the Contractor should be inclusive of all royalties, rents, taxes, duties, octroi, statutory levies, if any, etc.
- 3.14 The Contractor shall not carry on any work other than the work under this Contract within Employers premises without prior permission in writing from the CONSULTANT.
- 3.15 The Contractor shall be bound to follow and ensure compliance to all the safety and security regulations and other statutory rules applicable to the

area. In the event of any damage or loss or sufferance caused due to non-observance of such rules and regulations the Contractor shall be solely responsible for the same and shall keep Employer indemnified against all such losses and claims arising from the same.

- 3.16 At any time after acceptance of tender, Employer reserves the right to add, amend or delete any work item, the bill of quantities at a later date or reduce the scope of work in the overall interest of the work by prior discussion of Employer, with reasons recorded therefore, shall be final and binding on both Employer and the Contractor. The Contractor shall not have right to claim compensation or damage etc. in that regard. The Employer reserves the right to split the work under this contract between two or more Contractors without assigning any reasons.
- 3.17 Contractor shall not be entitled to sublet, subcontract or assign the work under this Contract without the prior consent of the Employer obtained in writing.
- 3.18 All signatures in tender document shall be dated as well as all the pages of all sections of the tender documents shall be initialed at the lower position and signed, wherever required in the tender papers by the Bidder or by a person holding Power of Attorney authorizing him to sign on behalf of the Bidder before submission of tender.
- 3.19 The tender should be quoted in English, both in figures as well as in words. The rates and amounts tendered by the Bidder in the Schedule of Rates for each item and in such a way that insertion is not possible. The total tendered amount should also be indicated both in figures and words with the signature of Bidder.
- 3.20 All corrections and alterations in the entries of tender paper will be signed in full by the Bidder with date. No erasures or over writings are permissible.
- 3.21 Transfer of tender document by one intending tendered to another one is not permissible. The Bidder on whose name the tender has been sent only can quote.
- 3.22 The Tender submitted by a Bidder if found to be incomplete in any or all manners is liable to be rejected. The decision of Employer in this regard is final and binding. In case of any error/ discrepancy in the amount written in words and figures, the lower amount between the two shall prevail.

4. DEPOSITS

EARNEST MONEY DEPOSIT (E.M.D.)

The Bidder will be required to pay a sum as specified in the covering letter, as earnest money deposit along with the tender by a crossed demand draft in favor of **Saturday Club Global Trust** from any Nationalized Bank payable at Mumbai. The Earnest Money Deposit will be refunded after finalization of the Contract.

Earnest Money Deposit Rupees: 23000/-

SECURITY DEPOSIT

The Bidder, with whom the contract is decided to be entered into and intimation is so given will have to make a security deposit of Five percent (5%) of the total contract value in the form of account payee crossed demand draft drawn in favor of the Employer payable at Mumbai, within 2 days from the date of intimation of acceptance of their tender, failing which Employer reserves the right to cancel the Contract and forfeit the E.M.D.

5. EXECUTION OF WORK

All the works shall be executed in strict conformity with the provision of the contract documents and with such explanatory details, drawings, specifications and instructions as may be furnished from time to time to the Contractor by the CONSULTANT, whether mentioned in the Contract or not. The Contractor shall be responsible for ensuring that works throughout is executed in the most proper and workman-like manner with the quality of material and workmanship in strict accordance with the specifications and to the entire satisfaction of the CONSULTANT.

For working on Sundays/ Holidays, the Contractor shall obtain the necessary permission from the Employer in advance. The Contractor shall be permitted to work beyond the normal hours with prior approval of CONSULTANT and the Contractor quoted rate is inclusive of all such extended hours of working and no extra amount shall be payable by Employer on this account.

5. a SETTING OUT OF WORKS AND SITE INSTRUCTIONS.

5.a.1 The CONSULTANT shall furnish the Contractor with Setting out drawings of the work site and the Contractor shall set out the works and shall provide an efficient staff for the purpose and shall be solely responsible for the accuracy of such setting out.

5.a.2 The Contractor shall provide, fix and be responsible for the maintenance of all necessary stakes, templates, level marks, profiles and other similar things and shall take all necessary precautions to prevent their removal or disturbance and shall be responsible for consequences of such removal or disturbance should the same take place and for their efficient and timely reinstatement. The Contractor shall also be responsible for the maintenance of all existing survey markings, either existing or supplied and fixed by the Contractor. The work shall be set out to the satisfaction of the CONSULTANT. The approval thereof or joining in setting out the work shall not relieve the Contractor of his responsibility.

5. a.3 On completion of works, the Contractor shall submit the as-built drawings/ documents according to which the work was carried out.

5.a.4 The CONSULTANT shall communicate or confirm his instructions to the Contractor in respect of the executions of work in a "work site order book"

maintained in the office having duplicate sheet and the authorized representative of the Contractor shall confirm receipt of such instructions by signing the relevant entries in the book.

- 5.a.5 All instructions issued by the CONSULTANT shall be in writing. The Contractor shall be liable to carry out the instructions without fail.
- 5.a.6 If the Contractor after receipt of written instruction from the CONSULTANT requiring compliance within seven days fails to comply with such drawings or 'Instructions' or both as the CONSULTANT may issue, Employer may employ and pay other persons to execute any such work whatsoever that may be necessary to give effect to such drawings or 'instructions' and all cost and expenses incurred in connection therewith as certified by the CONSULTANT be borne by the Contractor or may be deducted from amounts due or that may become due to the Contractor under the contract or may be recovered as a debt.
- 5.a.7 The Contractor shall be entirely and exclusively responsible for the horizontal and vertical alignment, the levels and correctness of every part of the work and shall rectify effectually any errors or imperfections therein. Such rectifications shall be carried out by the Contractor, at his own cost.
- 5.a.8 In case any doubts arise in the mind of the Contractor in regard to any expressions, interpretations, statements, calculations of quantities, supply of material rates, etc. the Contractor shall refer the same to the CONSULTANTS or their representatives for their clarification, instructions, guidance or clearing of doubts. The decision of the CONSULTANT shall be final and the Contractor shall be bound by such a decision.
- 5.a.9 The Contractor shall take adequate precautions, to ensure that his operations do not create nuisance or misuse of the work space that shall cause unnecessary disturbance or inconvenience to others at the work site.
- 5.a.10 Contractor will be entirely and exclusively responsible to provide and maintain at his expenses all equipments when and where even necessary or/ as required by the CONSULTANT for the protection of works or safety and convenience to all the members employed at the site or general public.'

5.b COMMENCEMENT OF WORK

The Contractor shall after paying the requisite security deposit, commence work within 7 days from the date of receipt of the intimation of intent from Employer informing that the contract, is being awarded. The date of intimation shall be the date/day for counting the starting day/date and the ending day/date will be accordingly calculated. Penalty, if any, for the delay in execution shall be calculated accordingly.

Contractor should prepare detailed construction programme for approval by the CONSULTANT within two days of receipt of Letter of Intent. The work shall be executed strictly as per such time schedule. The period of Contract includes

the time required for any kinds of sampling/ testing, rectifications, if any, retesting and completion of work in all respects to the entire satisfaction of the CONSULTANT.

5.c SUBLETTING OF WORK

- 5.c.1 No part of the contract nor any share or interest thereof shall in any manner or degree be transferred, assigned or sublet, by the Contractor, directly or indirectly to any firm or corporation whatsoever, without the prior consent in writing of Employer.
- 5.c.2 At the commencement of the work the Contractor shall furnish to the CONSULTANT list of all sub-Contractors or other persons or firms engaged by the Contractor.
- 5.c.3 Notwithstanding any sub-letting with such approval as aforesaid and notwithstanding that the CONSULTANT shall have received copies of any sub-contract, the Contractor shall be and shall remain solely to be responsible for the quality and proper and expeditious execution of the works and the performance of all the conditions of the contract in all respects as if such subletting or sub-contracting had not taken place and as if such work had been done directly by the Contractor.

5.d EXTENSION OF TIME.

If the Contractor does not complete the work within the contractual period he may apply in writing to Employer before 15 days of the period of expiry of the contract stating therein in detail, the reasons on which he desires to have extension and the period of extension, the Contractor so desires. Employer on his part shall consider the request of the Contractor for such extension of time and shall take a decision after discussion with the Contractor and communicate the same to the Contractor before 8 days of expiry of the contract. The decision of Employer in this regard shall be final and binding.

If Employer extends the time for completion of work as mentioned above, it shall be the understanding between Employer and the Contractor that the Contractor shall be liable to pay damages, costs and expenses to Employer, at the rate of 1% per week of the value of the remaining portion of work to be determined on the last date of the original period of contract, such value being determined by Employer and accepted by the Contractor. In case of any dispute arising in the determination of the amount; Employer shall be at liberty to terminate the contract, upon which event, consequences would follow according to the term and condition provided under the Clause for termination of the contract.

5.e. SUSPENSION OF WORKS

- 5.e.1 Subject to the provisions of this contract, the Contractor shall if ordered in writing by the CONSULTANT for reasons recorded suspend the works or any part thereof for such period and such time so ordered and shall not, after

receiving such written order, proceed with the work therein ordered to be suspended until he shall have received a written order to re-start. The Contractor shall be entitled to claim extension of time for that period of time the work was ordered to be suspended. Neither Employer nor the Contractor shall be entitled to claim compensation or damages on account of such an extension of time.

- 5.e.2 In case of suspension of entire work, ordered in writing by CONSULTANT for a period of 30 days, Employer shall have the option to terminate the Contract as provided under the clause for termination. The Contractor shall not be at liberty to remove from the site of the works any part or materials belonging to him and Employer shall have lien upon all such plant and materials.
- 5.e.3 The contract shall, in case of suspension have the right to raise a dispute and have the same arbitrated but however, shall not have the right to have the work stopped from further progress and completion either by Employer or through other Contractor appointed by Employer.

5.f EMPLOYER MAY DO PART OF WORK

Notwithstanding anything contained elsewhere in this contract, Employer upon failure of the Contractor to comply with any instructions given in accordance with the provisions of this contract, may instead of terminating the Contract and undertaking charge of entire work, place additional labour force, tools, equipment and materials on such parts of the work, as Employer may decide or engage another Contractor to carry out the balance of work. In such cases, Employer shall have the right to deduct from the amounts payable to the Contractor the difference in cost of such work and material with ten percent overhead added to cover all departmental charges. Should the total amount thereof exceed the amount due to the Contractor, the Contractor shall pay the difference to Employer within 15 days of making demand for payment failing which the Contractor shall be liable to pay interest 24% p.a. on such amounts till the date of payment.

5.g INSPECTION OF WORKS

- 5.g.1 The CONSULTANT and Employer will have full power and authority to inspect the works at any time wherever in progress, either on the site or at the Contractor's premises/ workshops of any person, firm or corporation where work in connection with the contract may be in hand or where the materials are being or are to be supplied, and the Contractor shall afford or procure for the CONSULTANT every facility and assistance to carry out such inspection. The Contractor shall, at all times during the usual working hours and at all other times at which reasonable notice of the intention of the CONSULTANT or his representative to visit the works shall have 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 the 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. The Contractor shall give not less than seven days notice in writing to the CONSULTANT covering

up or otherwise placing beyond reach of inspection and measurement any work in order that the same may be inspected and measure. In the event of breach of above, the same shall be uncovered at Contractor's expense for carrying out such measurement and/or inspection.

- 5.g.2 No material shall be removed and dispatched by the Contractor from the site without the prior approvals in writing of the Consultants. The Contractor is to provide at all times during the progress of the work and the maintenance period proper means of access with ladders, gangways, etc. and the necessary attendance to move and adapt as directed for inspection or measurements of the works by the Consultant.

5.h SAMPLES

- 5.h.1 The Contractor shall furnish to the CONSULTANT for approval when requested or required adequate samples of all materials and finishes to be used in the work.
- 5.h.2 Samples shall be furnished by the Contractor sufficiently in advance and before commencement of the work so as Employer can carry out tests and examinations thereof and approve or reject the samples for use in the works. All materials samples furnished and finally used/ applied in actual work shall fully be of the same quality of the approved samples.

5.i TESTS FOR QUALITY OF WORK

- 5.i.1 All workmanship shall be of the respective kinds described in the contract documents and in accordance with the instructions of the CONSULTANT and shall be subjected from time to time to such tests at Contractor's cost as the CONSULTANT may direct at the place of manufacture or fabrication or on the site or at all or any such places. The Contractor shall provide assistance, instruments, labour and materials as are normally required for examining, measuring and testing any workmanship as may be selected and required by the CONSULTANT.
- 5.i.2 All the tests that will be necessary in connection with the execution of the work as decided by the CONSULTANT shall be carried out at the Contractors cost and expenses.
- 5.i.3 If any tests are required to be carried out in connection with the work or materials or workmanship to be supplied by the Employer, such tests shall be carried out by the Contractor as per instructions of CONSULTANT and expenses for such tests, if any, incurred by the Contractor shall be reimbursed by Employer. The Contractor should file his claim with Employer within 7 (seven) days of inspection/ test and any claim made beyond that period shall lapse and be not payable.

5.j ALTERATIONS AND ADDITIONS TO SPECIFICATIONS, DESIGNS AND WORKS.

- 5.j.1 The CONSULTANT shall have powers to make any alterations, additions and/or substitutions to the schedule of quantities, the original specifications, drawings, designs and instructions that may become necessary or advisable during the progress of the work and the Contractor shall be bound to carryout such altered/extra/ new items of work in accordance with instructions which may be given to him in writing signed by the CONSULTANT. Such alterations, omissions, additions or substitutions shall not invalidate the contract. The altered, additional or substituted work which the Contractor may be directed to carry on in the manner as part of the work shall be carried out by the Contractor on the same conditions in all respects on which he has agreed to do the work. The time for completion of such altered added and/or substituted work may be extended for that part of the particular job. The rates for such additional altered or substituted work under this Clause shall, be worked out in accordance with the following provisions:
- 5.j.2 If the rates for the additional, altered or substituted work are specified in the contract for similar class of work, the Contractor is bound to carryout the additional, altered or substituted work at the same rates as are specified in the contract.
- 5.j.3 If the rates for the additional, altered or substituted work are note specifically provided in the contract for the work, the rates will be derived from the rates for similar class of work as are specified in the contract for the work. In the opinion of the CONSULTANT as to whether or not the rates can be reasonably so derived from the items in this contract, will be final and binding on the Contractor.
- 5.j.4 If the rates for the altered, additional or substituted work cannot be determined in the manner specified above, then the Contractor shall, within seven days of the date of receipt of order to carry out the work, inform the CONSULTANT of the rate at which he intends to charge for such class of work, supported by analysis of the rate or rates claimed and the CONSULTANT shall determine the rates on the basis of the prevailing market rates for both material and labour plus 10% to cover overhead and profit of labour rates and pay the Contractor accordingly. The opinion of the CONSULTANT as to current market rates of materials and the quantum of labour involved per unit of measurement will be final and binding on the Contractor.
- 5.j.5 The quantities indicated in the Tender are approximate. The approved schedule of rates of the contract will be applicable for variations of upto +25% of the estimated contract value. No revision of schedule of rates will be permitted for such variations in the contract value, even for variations of individual quantities, addition of new items, alterations, additions/ deletion or substitutions of items, as mentioned above.
- 5.j.6 In case of any item of work for which there is no specification supplied by Employer and is mentioned in the tender documents, such work shall be carried out in accordance with Indian Standard Specifications and if the Indian Standard Specifications do not cover the same, the work should be carried

out as per standard Engineering Practice subject to the approval of the CONSULTANT.

5.k. PROVISIONAL ACCEPTANCE

Acceptance of sections of the works for purposes of equipment erection, piping, INTERIOR work and similar usages by Employer and payment for such work or parts of work shall not constitute a waiver of any portion of this contract and shall not be constructed so as to prevent the CONSULTANT from requiring replacement of defective work that may become apparent after the said acceptance and also shall not absolve the Contractor of the obligations under this contract. It is made clear that, such an acceptance does not indicate or denote or establish to the fact of execution of that work or the Contract until the work is completed in full in accordance with the provisions of this Contract.

5.l COMPLETION OF WORK AND COMPLETION CERTIFICATE

As soon as the work is completed in all respects, the Contractor shall give notice of such completion to the Site in charge or Employer and within thirty days of receipt of such notice the site in charge shall inspect the work and shall furnish the Contractor with a certificate of completion indicating:

- a. Defects, if any, to be rectified by the Contractor.
- b. Items, if any, for which payment shall be made in reduced rates.
- c. The date of completion.

5.m USE OF MATERIALS AND RETURN OF SURPLUS MATERIALS.

5.m.1. Notwithstanding anything contained to the contrary in any or all of the clauses of this contract, where any materials for the execution of the contract are procured with the assistance of Government either by issue from Government stocks or purchase made under orders or permits or licences issued by Government, the Contractor shall use the said materials economically and solely for the purpose of the contract and shall not dispose them of without the permission of Employer.

5.m.2. All surplus (serviceable) or unserviceable materials that may be left over after the completion of the contract or at its termination for any reason whatsoever, the Contractor shall deliver the said product to Employer without any demur. The price to be paid to the Contractor, if not already paid either in full or in part, however, shall not exceed the amount mentioned in the Schedule of Rates for such material and in cases where such rates are not so mentioned shall not exceed the CPWD schedules rates. In the event of breach of the aforesaid condition the Contractor shall become liable for contravention of the terms of the Contract.

5.m.3 The surplus (serviceable) and unserviceable products shall be determined by joint measurement. In case where joint measurement has failed to take place, Employer may measure the same and determine the quantity.

- 5.m.4. It is made clear that Employer shall not be liable to take stock and keep possession and pay for the surplus and unserviceable stocks and Employer may direct the Contractor to take back such material brought by the Contractor and becoming surplus and which Employer may decide to keep and not to pay for the same.

5.n DEFECT LIABILITY PERIOD.

The Contractor shall guarantee the work executed for a period of 12 months from the date of virtual completion of the job. Any damage or defect that may arise or lie undiscovered at the time of completion of the job shall be rectified or replaced by the Contractor at his own cost. The decision of the CONSULTANT / Employer shall be the final in deciding whether the defect has to be rectified or replaced.

Employer shall intimate the defects noticed in writing by a Registered A.D. letter or otherwise and the Contractor within 15 days of receipt of the intimation shall start the rectification work and complete within the time specified by Employer failing which Employer will get the defects rectified by themselves or by any other Contractor and the expenses incurred in getting the same done shall be paid by the Contractor under the provision of the Contract.

Thus, defect liability is applicable in case of the entire Scope of work covered in this document, where any damage or defect may arise in future (i.e. within 12 months from the date of completion of job) or lie undiscovered at the time of completion of job.

5.o. DAMAGE TO PROPERTY

- 5.o.1. Contractor shall be responsible for making good to the satisfaction of Employer any loss of and any damage to all structures and properties belonging to the Employer or being executed or procured by Employer or of other agencies within the premises of the work of the Employer, if such loss or damage is due to fault and/or the negligence or willful acts or omission of the Contractor, his employees, agents, representatives or sub-Contractors.
- 5.o.2. The Contractors shall indemnify and keep the Employer harmless of all claims for damage to Employer's property arising under or by reason of this contract.

6. DUTIES AND RESPONSIBILITIES OF CONTRACTOR

6.a. EMPLOYMENT LIABILITY TOWARDS WORKERS EMPLOYED BY THE CONTRACTOR.

- 6.a.1. The Contractor shall be solely and exclusively responsible for engaging or employing persons for the execution of work. All persons engaged by the

Contractor shall be on Contractor's payroll and paid by Contractor. All disputes or differences between the Contractor and his/their employees shall be settled by Contractor.

6.a.2. Employer has absolutely no liability whatsoever concerning the employees of the Contractor. The Contractor shall indemnify Employer against any loss or damage or liability arising out of or in the course of his/their employing persons or relation with his / their employees. The Contractor shall make regular and full payment of wages and on any complaint by any employee of the Contractor or his sub Contractor regarding non-payment of wages, salaries or other dues. Employer reserves the right to make payments directly to such employees or sub-Contractor of the Contractor and recover the amount in full from the bills of the Contractor and the Contractor shall not claim any compensation or reimbursement thereof. The Contractor shall comply with the Minimum Wages Act applicable to the area of work site with regard to payment of wages to his employees and also to employees of his sub Contractor.

6.a.3. The Contractor shall advise in writing or in such appropriate way to all of his employees and employees of sub-Contractors and any other person engaged by him that their appointment/ employment is not by the Employer but by the Contractor and that their present appointment is only in connection with the construction contract with Employer and that therefore, such an employment/ appointment with the Employer either temporarily or / and permanent basis.

6.b. NOTICE TO LOCAL BODIES.

The Contractor shall comply with and give all notices required under any Government authority, instruction, rule or order made under nay act of parliament, state law as or any regulations or bye-laws of any local authority relating to the works.

6.c. FIRST AID AND INDUSTRIAL INJURIES

6.c.1 Contractor shall maintain first aid facility for his employees and those of his sub-Contractors.

6.c.2. Contractor shall make arrangements for ambulance service and for the treatment of all types of injuries. Names and telephone numbers of those providing such services shall be furnished to Employer prior to start of construction and their name board shall be prominently displayed in Contractor's field office.

6.c.3. All industrial injuries shall be reported promptly to Employer and a copy of Contractor's report covering each personal injury requiring the attention of a physician shall be furnished to the Employer.

6.d. SAFETY CODE

- 6.d.1. The Contractor shall at his own expenses arrange for the Safety provisions as may be necessary for the execution of the work or as required by the CONSULTANT in respect of all laborers directly or indirectly employed for performance of the works and shall provide all facilities in connections therewith. In case the Contractor fails to make arrangements and provide necessary facilities as aforesaid, the Employer shall be entitled to do so and recover the cost thereof from the Contractor.
- 6.d.2. From the commencement to the completion of the works, the Contractor shall take full responsibility for the care thereof and of all the temporary works (defined as meaning all temporary works of every kind required in or for the execution, completion or maintenance of the works). In case damage, loss or injury shall happen to the works or to any part thereof or to temporary works or to any cause whatsoever repair at his (Contractor's) own cost and make good the same so that at the time of completion, the works shall be in good order and condition and in conformity in every respect with the requirements of the contract and CONSULTANT's instructions.
- 6.c.3. In respect of all labor, directly or indirectly employed in the work for the performance of the Contractor's part of this agreement, the Contractor shall at his own expense arrange for all the safety provisions as per relevant Safety Codes of C.P.W.D., Bureau of Indian Standards, the Electricity Act/ I.E. Rules, as applicable.
- 6.c.4. The Contractor shall observe and abide by all fire and safety regulations of the Employer. Before starting construction work, the Contractor shall consult with CONSULTANT and must make good to the satisfaction of the Employer any loss or damage due to fire to any portion of the work done or to be done under this agreement or to any of the Employer's existing property.
- 6.c.5. The Contractor will be fully responsible for complying with all relevant provisions of the Contract Labour Act and shall pay rates of Wages and observe hours of work/ conditions of employment according to the rules in force from time to time.
- 6.c.6. The Contractor will be fully responsible for complying with the provision including documentation and submission of reports on the above to the concerned authorities and shall indemnify the Client from any such lapse for which the Government will be taking action against them.
- 6.c.7. Employer shall on a report having been made by an inspecting Office as defined in the Contract Labour Regulations have the power to deduct from the money due to the Contractor any sum required or estimated to be required for making good the loss suffered by a worker(s) by reasons of non-fulfillment of conditions of contract for the benefit of workers no-payment of wages or of deductions made from his or their wages which are not justified by the terms of contract or non observance of the said Contractor's labour Regulation.

6. e. INSURANCE AND LABOUR

Contractor shall at his own expense obtain and maintain an insurance policy with a Nationalised Insurance Company to the satisfaction of the Employer as provided hereunder.

6.E.1. EMPLOYEES STATE INSURANCE ACT.

i. The Contractors agrees to and does hereby accept full and exclusive liability for the compliance with all obligations imposed by Employees State Insurance Act, 1948, and the Contractor further agrees to defend indemnify and hold Employer harmless from any liability or penalty which may be imposed by the Central, State or Local Authority by reason of any asserted violation by Contractor, or sub-Contractor of the Employees' State Insurance Act, 1948 and also from all claims, suits or proceedings that may be brought against the Employer arising under, growing out for by reason of the work provided for by this contract whether brought by employees of the Contractor, by third parties or by Central or State Government authority or any political sub-division thereof.

ii. The Contractor agrees to file with the Employees State Insurance Corporation, the Declaration forms and all forms which may be required in respect of the Contractor's or sub-Contractor's employee whose aggregate remuneration is within the specified limit and who are employed in the work provided or those covered by ESI Act under any amendment to the Act from time to time. The Contractor shall deduct and secure the agreement of the sub-Contractor to deduct the employee's contribution as per the first schedule of the

Employee's State Insurance Act from wages and affix the employee's contribution cards at wages payment intervals. The Contractor shall remit and secure the agreement of the sub Contractor to remit to the State Bank of Indian, Employee's State Insurance Corporation Account, and the Employee's contribution as required by the Act.

iii. The Contractor agrees to maintain all records as required under the Act in respect of employees and payments and the Contractor shall secure the agreement of the sub Contractor to maintain such records. Any expenses incurred for the contributions, making contribution or maintaining records shall be to the Contractor's or sub-Contractor's account.

iv. The Employer shall retain such sum as may be necessary from the total contract value until the Contractor shall furnish satisfactory proof that all contributions as required by the Employees State Insurance Act, 1948, have been paid.

v. WORKMAN'S COMPENSATION AND EMPLOYEE'S LIABILITY INSURANCE

Provide Insurance for all the Contractor's employees engaged in the performance of this contract. If any of the work is sublet, the Contractor shall ensure that the sub Contractor provides workmen's

compensation and Employer's Liability Insurance for the latter's employees who are not covered under the Contractor's insurance.

vi. AUTOMOBILE LIABILITY INSURANCE

Contractor shall take out Insurance to cover all risks to Employer for each of his vehicles plying on works of this contract and these insurances shall be valid for the total contract period. No extra payment will be made for this insurance. Employer shall not be liable for any damage or loss not made good by the Insurance Company, should such damage or loss result from unauthorized use of the vehicle. The provisions of the Motor Vehicle Act would apply.

vii. FIRE INSURANCE

Contractor shall within two weeks after award of contract insure the Works, Plant and Equipment and keep them insured until the final completion of the Contract against loss or damage by accident, fire or any other cause with an insurance company to be approved by Employer/ Consultant in the joint names of Employer and the Contractor (name of the former being placed first in the Policy). Such Policy shall cover the property of Employer only.

6.e.2. ANY OTHER INSURANCE REQUIRED UNDER LAW OR REGULATION OR BY EMPLOYER.

- i. Contractor shall also provide and maintain any and all other insurance which may be required under any law or regulations from time to time. He shall also carry and maintain any other insurance which may be required by the Employer.
- ii. The aforesaid insurance policy/ policies shall provide that they shall not be cancelled till the CONSULTANT has agreed to their cancellation.
- iii. The Contractor shall satisfy to the CONSULTANT from time to time that he has taken out all insurance policies referred to above and has paid the necessary premium for keeping the policies alive till the expiry of the defects liability period.
- iv. The Contractor shall ensure that similar insurance policies are taken out by his sub-Contractor (if any) and shall be responsible for any claims or losses to the Employer resulting from their failure to obtain adequate insurance protections in connection thereof. The Contractor shall produce or cause to be produced by his sub-Contractor (if any) as the case may be, the relevant policy or policies and premium receipts as and when required by the CONSULTANT.

6.e.3. LABOUR AND LABOUR LAWS.

- i. The Contractor shall at his own cost employ persons during the period of contract and the persons so appointed shall not be constructed under any circumstances to be in the employment of the Employer.
- ii. All payments shall be made by the Contractor to the labour employed by him in accordance with the various rules and regulations stated above. The Contractor shall keep the Employer indemnified from any claims whatsoever inclusive of damages/ costs or otherwise arising from injuries or alleged injuries to or death of a person employed by the Contractor or damages or alleged damages to the property.
- iii. No labour below the age of eighteen years shall be employed on the work. The Contractor shall not pay less than what is provided under the provisions of the contract labour (Regulations and Abolition) Act, 1970 and the rules made there under and as may be amended from time to time. He shall pay the required deposit under the Act appropriate to the number of workman to be employed by him or through sub Contractor and get himself registered under the Act. He shall produce the required Certificates to the Employer before commencement of the work. The Employer recognizes only the Contractor and not his sub Contractor under the provisions of the Act. The Contractor will have to submit daily a list of his workforce. He will also keep the wage register at the work site or/and produce the same to the Employer, whenever desired. A deposit may be taken by the Employer from the Contractor to be refunded only after the Employer is satisfied that all workmen employed by the Contractor have been fully paid for the period of work in Employer's premises at rates equal to or better than wages provided for under the Minimum Wages Act. The Contractor shall be responsible and liable for any complaints that may arise in this regard and the consequences thereto.
- iv. The Contractor will comply with the provisions of the Employee's Provident Fund Act and Family Pension Act as may be applicable and as amended from time to time.
- v. The Contractor will comply with the provisions of the payment of Gratuity Act, 1972, as may be applicable and as amended from time to time.
- vi. IMPLEMENTATION OF APPRENTICES ACT, 1961.

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 CONSULTANT may, at 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 provision of the Act.
- vii. ODEL RULES FOR LABOUR WELFARE

The Contractor shall at his own expenses comply with or cause be complied with Model rules for Labour Welfare as appended to those conditions or rules framed by the Government from time to time for the protection of health and for making sanitary arrangements for worker employed directly or indirectly on the works. In case the Contractor fails to make arrangements as aforesaid the CONSULTANT shall be entitled to do so and recover the cost thereof from the Contractor.

6.f. DOCUMENTS CONCERNING WORKS

6.f.1. All documents including drawings, blue prints, tracking, reproducible models, plans, specifications and copies, thereof furnished by the Employer as well as all drawings, tracings, reproducible plans, specifications, design calculations etc. prepared by the Contractor for the purpose of execution of works covered in or connected with this contract shall be the property of the Employer and shall not be used by the Contractor for any other work but are to be delivered to the Employer and shall not be used by the Contractor for any other work but are to be delivered to the Employer at the completion or otherwise of the contract.

6.f.2. The Contractor shall keep and maintain secrecy of the documents, drawings etc. issued to him for the execution of this contract and restrict access to such documents, drawings etc. and further the Contractor shall execute a SECRECY agreement from each or any person employed by the Contractor having access to such documents, drawings etc. The Contractor shall not issue drawings and documents to any other agency or individual without the written approval by the CONSULTANT.

6.f.3. Contractor will not give any information or document etc. concerning details of the work to the press or a news disseminating agency without prior written approval from CONSULTANT. Contractor shall not take any pictures on site without written approval of CONSULTANT.

7. PAYMENT OF CONTRACTOR'S BILLS

7.1 The Contractor shall submit his running bills to The Employer for the work satisfactorily done by him in the opinion of the CONSULTANT, recorded and signed jointly by the Contractor and the Employer/ his representative. Along with the bill the contractor should submit statements giving the up to-date information as required or as desired by the Employer. The minimum value of work for which running bills payment shall be claimed by the Contractor is Rs. 50 lakhs (Rupees Fifty lakhs only).

The Contractor on submitting the bill shall be entitled to receive a payment proportionate to the part thereof then executed to the satisfaction of the CONSULTANT and the Employer whose certificate of the sum so payable shall be final and conclusive against the Contractor.

But all such intermediate payments shall be regarded as payments by way of advance against the final payment only and not as payments for work actually done and completed. It shall not preclude the repairing out bad, unsound and imperfect or unskilled work to be removed and taken away and reconstructed or re-erected or be considered as an admission of the due performance for the contract or any part there of in any respect of the occurring of any claim not shall it conclude, determine , or affect in any way the powers of them as to the final settlement and adjustment of the accounts.

Payments will be made against Running Accounts Bills certified by the Employer's CONSULTANT within 7 days from the date of receipt of the certified bill by the Disbursement Section of the Employer. Payments shall be honored only for works executed at Site & not towards purchase of materials or advance towards the same.

- 7.2 Running Account Bills and the final bill shall be submitted by the Contractor together with the duly signed measurements sheet(s) to the CONSULTANT of the Employer in quadruplicate for certification. The Bills shall also be accompanied by quantity calculations in support of the quantities contained in the bill.
- 7.3 All running account payments shall be regarded as on account payment(s) to be finally adjusted against the final bill payment. Payment of Running Account Bill(s) shall not determine or affect in any way the rights of the Employer under this Contract to make the final adjustments of the quantities of material, measurements of work and adjustments of amount etc. in the final bill.
- 7.4 The final bill shall be submitted by the Contractor within one month of the date of completion of the work fully and completely in all respects. If the Contractor fails to submit the final bill accordingly CONSULTANT may make the measurement and determine the total amount payable for the work carried out by the Contractor and such a certification shall be final and binding on the Contractor. The Employer/ CONSULTANT may take the assistance of an outside party for taking the measurement, the expenses of which shall be payable by the Contractor.
- 7.5 Payment of final bill shall be made within 30 days from the date of receipt of the certified bill by the Disbursement Section of the Employer.

7.6 SECURITY DEPOSIT AND LIMIT OF RETENTION MONEY

In addition to the Earnest Money deposited by the Contractor, the Owner will deduct a further sum to be called as Security deposit at the rate of 5% (Five percent) of the value of works completed under the contract at the time of making any payments against running account bills and the final bill.

No interest is payable to the contractor for Earnest Money / or security deposit.

At virtual completion of work 50% of security deposit along with the earnest money withheld, would be paid or released as the case may, to the Contractor.

The balance 50% of Security deposit will be retained by the Owner for a further period of twelve months called "Defects Liability Period" after the expiry of the Defects Liability Period and upon certification by the CONSULTANT in the form of final completion certificate, this balance amount will be returned to the Contractor. In event of any defects appearing during the Defects Liability Period, the same shall be recovered from the Security Deposit retained by the Employer.

7.7. MEASUREMENT OF WORKS

7.7.1 All measurements shall be in English feet & inches system. All the works will be jointly measured by the representative of the CONSULTANT and the Contractor or their authorized agent progressively. Such measurement will be recorded in the Measurement Book/ Measurement Sheet by the Contractor or his authorized representative and signed in token of acceptance by the Employer or their authorized representative.

7.7.2. For the purpose of taking joint measurement, the Contractor/ representative shall be bound to be present whenever required by the CONSULTANT. If, however, they are absent for any reasons whatsoever, the measurement will be taken by the CONSULTANT or his representative and the same would be deemed to be correct and binding on the Contractor.

7.7.3. In case of any dispute as to the mode of measurement for any item of work, the latest Indian Standard Specifications shall be followed. In case of any further dispute on the same the same shall be as per the certification of an outside qualified Engineer/ Consultant. Such a measurement shall be final and binding on the Employer and the Contractor

7.8. BILLING OF WORKS EXECUTED

The Contractor will submit a bill in approved proforma in quadruplicate to the CONSULTANT of the work giving abstract and detailed measurement for the various items executed during a month, before the expiry of the first week of the succeeding month. The CONSULTANT shall take or cause to be taken the requisite measurements for the purpose of having the bill verified and/or checked before forwarding the same to the Disbursement office of the Employer for further action in terms of the Contract and payment thereafter. The CONSULTANT shall verify the bills within 7 days of submission of the Bill by the Contractor.

7.9. RETENTION MONEY

5% of the total value of the Running Account and Final Bill will be deducted and retained by the Employer as retention money on account of any damage / defect liability that may arise for the period covered under the defect liability period clause of the Contract free of interest. Any damage or defect that may arise or lie undiscovered at the time of issue of completion certificate connected in any way with the equipment or materials supplied by Contractor or in workmanship shall be rectified or replaced by the Contractor at his own expense failing which the Employer shall be entitled to rectify the said damage/ defect from the retention money. Any excess of expenditure incurred by the Employer on account of damage or defect shall be payable by the Contractor. The decision of the Employer in this behalf shall not be liable to be questioned but shall be final and binding on the Contractor.

Thus, deduction towards retention money is applicable in case of entire Scope of work covered by this Tender document where any damage or defect may arise in future (i.e. within 12 month from the date of completion of job) or lie undiscovered at the time of issue of completion certificate.

7.10. TAXES, DUTIES, OCTROI ETC.

7.10.1. The Contractor accepts full and exclusive liability for the payment of any and all taxes, duties, octroi, rates, cess, levies, and statutory payment payable under all or any of the statutes etc. now or hereafter imposed, increased from time to time in respect of works and materials and all contributions and taxes for unemployment compensation, insurance and old age pensions or annuities now or hereafter imposed by Central or State Government authorities which are imposed with respect to or covered by the wages, salaries or other compensation paid to the persons employed by the Contractor and the Contractor shall be responsible for the compliance with all obligations and restrictions imposed by the Labour Law or any other law affecting employer-employee relationship and the Contractor further agrees to comply and to secure the compliance of all sub-Contractors with all applicable Central, State, Municipal and Local laws, and regulations and requirements of any Central, State or Local Government agency or authority. Contractor further agrees to defend, indemnify and hold harmless from any liability or penalty which may be imposed by the Central, State or Local authorities by reason of any violation by Contractor or sub-Contractor of such laws, regulations or requirements and also from all claims, suits or proceedings that may be brought against the Employer arising under, growing out of, or by reasons of the work provided for by this contract by third parties, or by Central or State Government authority or any administrative sub-division thereof. The Contractors further agrees that in case any such demand is raised against the Employer, and Employer has no way but to pay and pays/ makes payment of the same, the Employer shall have the right to deduct the same from the amounts due and payable to the Contractor. The Contractor shall not raise any demand or dispute in respect of the same but may have recourse to respect of the same but may have recourse to recover/ receive from the concerned authorities on the basis of the Certificate of the Employer issued in that behalf.

7.10.2. The rates quoted should be inclusive of all rates, cess, taxes and sales tax on works contracts wherever applicable. However, wherever the sales tax on works contract is applicable and is to be deducted at source, the same will be deducted from the bills of the Contractor and paid to the concerned authorities. The proof of such payments of sales tax on work contract will be furnished to the Contractor.

7.10.3. Income Tax will be deducted at source as per rules at prevailing rates, unless certificate, if any, for deduction at lesser rate or nil deduction is submitted by the Contractor from appropriate authority.

7.11. MATERIALS TO BE SUPPLIED BY CONTRACTOR.

7.11.1. The Contractor shall procure and provide the whole of the materials required for the works including tools and equipment for the completion and maintenance of the works that may be agreed to be supplied as provided elsewhere in the contract. The Contractor shall make arrangement for procuring such materials and for the transport thereof at their own cost and expenses.

7.11.2. The Employer may give necessary recommendation to the respective authority if so desired by the Contractor by assumes no responsibility of any nature.

7.11.3. All materials procured should meet the specifications given in the tender document. The CONSULTANT may, at his discretion, ask for samples and test certificate for any batch of any materials procured. Before procuring, the Contractor should get the approval of CONSULTANT for any materials to be used for the works.

7.11.4. Manufacturer's certificate shall be submitted for all materials supplied by the Contractor. If, however, in the opinion of the CONSULTANT any tests are required to be conducted on the material supplied by the Contractor, these will be arranged by the Contractor promptly at his own cost.

8. PAYMENT OF CLAIMS AND DAMAGES.

Should the Employer have to pay money in respect of claims or demands as aforesaid the amount so paid and the costs incurred by the Employer shall be charged to and paid by the Contractor and the Contractor shall not be entitled to dispute or question the right of the Employer to make such payments.

Notwithstanding the same may have been without his consent or authority or in law or otherwise to the contrary.

In every case in which by virtue of the provisions of Workmen's Compensation Act, 1923, or other Acts, the Employer is obliged to pay Compensation to a Workman employed by the Contractor in execution of the works, the Employer will recover from the Contractor the amount of compensation so

paid and without prejudice to the rights of Employer under the said Act. Employer shall be at liberty to recover such amount or any part thereof by deducting it from the security deposit or from any sum due to the Contractor whether under this contract or otherwise. The Employer shall not be bound to contest any claim made under Section 12 sub section (1) of the said Act, except on the written request of the Contractor and upon his giving to the Employer full security for all costs for which the Employer might become liable in consequence of contesting such claim.

8.1. ACTION AND COMPENSATION IN CASE OF BAD WORK

If it shall appear to the CONSULTANT that any work has been executed with bad, imperfect or unskilled workmanship, or with materials, or that any materials or articles provided by the Contractor for execution of the work are not of standards specified/ inferior quality to that contracted for, or otherwise not in accordance with the contract, the CONTRACTOR shall on demand in writing from the CONSULTANT or his authorized representative specifying the work, materials or articles complained of, notwithstanding that the same may have been inadvertently passed, certified and paid for, forthwith rectify or remove and reconstruct the work so specified and at his own charge and cost and expenses and in the event of failure to do so within a period of 15 days of such intimation/ information/ knowledge, the Contractor shall be liable to pay compensation equivalent to the cost of reconstruction by the Employer. On expiry of 15 days period mentioned above, the Employer may be they or otherwise rectify or remove and re-execute the work or remove and replace with others, the materials of articles complained of as the case may be at the risk and expenses in all respects of the Contractor. The decision of the CONSULTANT as to any question arising under this clause shall be final and conclusive and shall not be raised as a dispute or shall be arbitral.

8.2. INSPECTION AND AUDIT OF CONTRACT AND WORKS.

This project is subject to inspection by the Employer, the CONSULTANT or any Government agencies, as required during stages of execution of works. The Contractor shall extend full cooperation to all the Government and other agencies in the inspection of the works, audit of the Contract and the documents of Contract Bills, measurements sheets etc. and examination of the records of works and make enquiries interrogation as they may deem fit, proper and necessary. Upon inspection etc. by such agencies if it is pointed out that the contract work has not been carried out according to the prescribed terms and conditions as laid down in the tender documents and if any recoveries are recommended, the same shall be recovered from the Contractors running bills/ final bill/ from ordered/ suggested Security Deposit/ Retention Money. The Contractor shall not raise any dispute on any such account and the same shall not be arbitral

9. CONTRACTOR TO INDEMNIFY THE EMPLOYER.

The Contractor shall indemnify the Employer and every member, employee of the Employer, also the CONSULTANT and his staff against all the actions, proceedings, claims, demands, costs, expenses, whatsoever arising out of or

in connection with the works and all actions, proceedings, claims, demands, costs, expenses which may be made against the Employer for or in respect of or arising out of any failure by the Contractor in the performance of his obligations, under the Contract. The Contractor shall be liable for or in respect of or in consequence of any accident or injury to any workmen or other person in the employment of the Contractor or his sub Contractor and Contractor and Contractor shall indemnify and keep indemnified the Employer against all such damages, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto.

10. LIQUIDATED DAMAGES

In case of delay in completing the work beyond the period of contract the Contractor shall be liable to pay liquidated damages at the rate of 0.5% of the total contract value for every day or part thereof of the delay subject to a maximum of 10% of the total contract value. The liquidated damages shall be recovered by the Employer out of the amounts, payable to the Contractor or from the Guarantees or Deposits furnished by the Contractor or the Retention Money retained from the Bills of the Contractor. Should the amount of liquidated damages is not recoverable or recovered in any manner in part or in full, the same shall be payable by the Contractor on demand by the Employer with 24% p.a. interest till the date of payment.

11. DEFECTS AFTER TAKING OVER OR TERMINATION OF WORK CONTRACT BY EMPLOYER.

The Contractor shall remain responsible and liable to make good all losses or damages that may occur / appear to the work carried out under this Contract within a period of 6 months from date of issue of the Completion Certificate and/or the date of Employer taking over the work, whichever is earlier. The Contractor shall issue a Bank Guarantee to the Employer in the sum of 5% of the work entrusted in the Contract, from any Nationalized Bank acceptable to the Employer and if however, the Contractor fails to furnish such a Bank Guarantee the Employer shall have right to retain the Security Deposit and Retention Money to cover the 5% of the Guarantee amount under this clause and to return/ refund the same after the expiry of the period of 6 months without any interest thereon.

12. TERMINATION OF CONTRACT

- 12.1 The Employer may terminate the contract at any stage of the construction for reasons to be recorded in the letter of termination.
- 12.2. The Employer inter alia may terminate the Contract for any or all of the following reasons that the Contractor.
 - a. Has abandoned the work/ Contract.
 - b. Has failed to commence the works, or has without any lawful excuse under these conditions suspended the work for 4 consecutive days.
 - c. has failed to remove materials from the site or to pull down and replace the work within 4 days after receiving from Engineer written

- notice that the said materials or work were condemned and/or rejected by the CONSULTANT under specified conditions.
- d. has neglected or failed to observe and perform all or any of the terms acts, matters or things under this Contract to be observed and performed by the Contractor.
 - e. Has to the detriment of good workmanship or in defiance of the CONSULTANT's instructions to the contrary sub-let any part of the Contract?
 - f. has acted in any manner to the detrimental interest, reputation, dignity, name or prestige of the Employer.
 - g. Has stopped attending to work without any prior notice and prior permission for a period of 4 days.
 - h. Has become untraceable.
 - i. Has without authority acted in violation of the terms and conditions of this contract and has committed breach of terms of the contract in best judgment of the Employer.
 - j. has been declared insolvent/ bankrupt.
 - k. In the event of sudden death of the Contractor.
- 12.3 The Employer on termination of such contract shall have the right to appropriate the Security Deposit, Retention Money and invoke the Bank Guarantee furnished by the Contractor and to appropriate the same towards the amounts due and payable by the Contractor as per the conditions of Contract and return to the Contractor excess money, if any, left over.
- 12.4. The Employer shall have the right to carry out the unexecuted portion of work either by themselves or by Contractor through other agencies at the cost of the Contractor.
- 12.5 The Contractor within or at the time fixed by the Employer shall depute his authorized representative for taking joint final measurements of the works executed thus far and submit the final bill for the work as per joint final measurement within 15 days of the date of joint final measurement. If the Contractor fails to depute their representative for joint measurement, the Employer shall take the measurement with their CONSULTANT or any other outside representatives. Such a measurement shall not be questioned by the Contractor and no dispute can be raised by the Contractor for purpose of Arbitration.
- 12.6. The Employer may enter upon and take possession of the works and all plant, tools, scaffoldings, sheds, machinery, power operated tools and steel, cement and other materials of the Contract at the site or around the site and use or employ the same for completion of the work or employ any other Contractor or other person or persons to complete the works. The Contractor shall not in any way object or interrupt or do any act, matter or thing to prevent or hinder such actions, other Contractor or other persons employed for completing and finishing or using the materials and plant for the works. When the works shall be completed or as soon thereafter the CONSULTANT shall give a notice in writing to the Contractor to remove surplus materials and plant, if any, and belonging to the Contractor except as provided elsewhere in the Contract and should the Contractor fail to do so within a period of 4

days after receipt thereof the Employer may sell the same by public auction and shall give credit to the Contractor for the amount realized. The Employer shall thereafter ascertain and certify in writing under his hand what (if anything) shall be due or payable to our by the Employer for the value of the plant and materials so taken possession and the expense or loss which the Employer shall have been put to in procuring the works, to be so completed, and the amount if any, owing to the Contractor and the amount which shall be so certified shall thereupon be paid by the Employer to the Contractor or by the Contractor to the Employer, as the case may, and the Certificate of the Employer shall be final and conclusive between the parties.

- 12.7. When the contract is terminated by the Employer for all or any of the reasons mentioned above the Contractor shall not have any right to claim compensation on account of such termination.

13 FORCE MAJEURE

- 13.1 Any delay in or failure of the performance of either part hereto shall not constitute default hereunder or give rise to any claims for damage, if any, to the extent such delays or failure of performance is caused by occurrences such as Acts of God or in enemy, expropriation or confiscation of facilities by Government authorities, acts of war, rebellion, sabotage or fires, floods, explosions, riots, or strikes. The Contractor shall keep records of the circumstances referred to above and bring these to the notice of the CONSULTANT in writing immediately on such occurrences. The amount of time, if any, lost on any of these counts shall not be counted for the Contract Period. One decision of the Employer arrived at after consultation with the Contractor, shall be final and binding. Such a determined period of time be extended by the Employer to enable the Contractor to complete the job within such extended period of time.
- 13.2 If Contractor is prevented or delayed from the performing any of its obligations under this Agreement by Force Majeure, then Contractor shall notify Employer the circumstances constituting the Force Majeure and the obligations performance of which is thereby delayed or prevented, within seven days of the occurrence of the events.

14. ARBITRATION

- 14.1 Disputes or differences arising out of or in relation to agreement/ contract shall be referred to the Functional Director of the Employer who may either act himself as Sole Arbitrator or nominate some Officer of the Employer to act as an Arbitrator to adjudicate the disputes and differences between the parties (except those in respect of which the decision of any person is by the Contract express to be final and binding).
- 14.2 The Contractor shall not be entitled to raise any objection to the appointment of such officer of the Employer as the sole arbitrator on the ground that the said officer is an officer of the Employer or that he/she has to deal of dealt with the matter to which the contract relates or that in the course of duties

as an officer of the Employer he / she has/ had expressed views on all or any of the matters in dispute or difference.

- 14.3 In the event of the arbitrator to whom the matter is originally referred to, is transferred or vacates office, the Functional Director, aforesaid, shall nominate another officer of the Employer shall act as Arbitrator.
- 14.4 Such officer nominated as Sole Arbitrator shall be entitled to proceed with the arbitration from the stage at which it was left by the predecessor. It is the term of this contract that no person other than the Functional Director or a person nominated by Functional Director of the Employer shall act as Arbitrator.
- 14.5 The award of the arbitrator shall be final, conclusive and binding on all the Parties to the agreement subject to the provisions of the Arbitration Act, 1940 and the rules made there under for the time being in force.
- 14.6 The award shall be made in writing and published by the Arbitrator within six months of entering upon the reference or within such further time mutually extended by the parties. The arbitrator shall have power to order and direct the parties to abide by, observe and perform all such directions as the arbitrator may think fit and proper to issue having regard to the fact that the arbitration proceedings have to be completed within the specified period solely on the principles of Natural Justices.
- 14.7 The arbitrator shall be at liberty to appoint, if found necessary any accountant or engineering or other person to assist him/her and to act by the opinion so taken.
- 14.8 The arbitrator shall have power to make one or more awards whether interim or otherwise in respect of the dispute and differences and in particular shall make separate awards in respect of each claim or cross claims of the parties.
- 14.9 The arbitrator shall be entitled to direct any of the parties to pay the costs of arbitration in such manner and to such extent as the arbitrator may in his discretion determine and shall also be entitled to require one or both the parties to deposit funds in such proportions to meet the arbitration expenses. The parties to arbitration whenever called upon to do so shall be bound to comply with such direction without any demur.
- 14.10 Notwithstanding anything contained in any other law, the Parties hereby agree that the courts in the city of Bombay alone shall have jurisdiction in respect of all or anything arising under this agreement and any award or awards made by the sole arbitrator hereunder shall be filed in the courts in the city of Bombay only

15. **GENERAL**

- 15.1 Materials required for the works whether brought by or supplied by the Employer shall be stored by the Contractor only at places approved by

CONSULTANT. Storage and safe custody of the material shall be the responsibility of the Contractor.

- 15.2 Employer and/or CONSULTANT connected with the contract, shall be entitled at any time to inspect and examine any materials intended to be used in or on the works, either on the site or at factory or workshop or at other place(s) manufactured or at any places where these are laying or from which these are being obtained and the Contractor shall give such facilities as may be required for such inspection and examination.
- 15.3 In case of any class of work for which there is no such specification supplied by the Employer as is mentioned in the tender documents, such work shall be carried out in accordance with Indian Standard Specifications and if the Indian Standard Specifications do not cover the same the work should be carried out as per standard Engineering practice subject to the approval of the CONSULTANT.
- 15.4 Should the work be suspended by reason of rain, strike, lockouts or other cause the Contractor shall take all precautions necessary for the protection of the work and at his own expense shall make good any damages arising from any of these cause.
- 15.5 The Contractor shall cover up and protect from injury from any cause all new work also for supplying all temporary doors, protection to windows and any other requisite protection for the whole of the works executed whether by himself or special tradesmen or sub-Contractors and any damage caused must be made good by the Contractors at his own expense.