

SPECIAL CONDITIONS OF CONTRACT

FOR CIVIL ENGINEERING WORKS

1. The scope of contract generally covers complete civil engineering works required in connection with (i) including all ancillary works such as drains, diversions, alterations and additions to existing Civil Engineering Works and cleaning the site etc. complete as per the approved working drawings and instructions used to contractor from time to time. The contractor shall have to take the necessary precaution to safeguard against any damage to the neighboring existing structure and underground services etc.

2. The tenderer shall visit and is deemed to have visited the site and make himself thoroughly acquainted with the nature and requirement of the job, facilities of access for materials and removal of rubbish cost, of carriage, freights and other charges and shall allow in his tender for special difficulties if any in carrying out the work. He shall also include in his tender, charges for doing final surfacing to all repairs required to be done for any type of fixture, installation, etc. and for the removal of spoil arising of his contract.

3. The contract for the work is a complete one for labour, materials and workmanship including the use of construction equipments, tools and tackles. The contractor shall have to make his own arrangement for all materials required for the due performance of the contract.

All lap lengths in reinforcement rods have to be approved by the Engineer. Measurements of reinforcement will be inclusive of approved chairs, spacers, stays and overlaps.

4. The specifications and drawings given for execution, acceptance of construction and erection works are obligatory on the contractor for the construction works of NIT, Rourkela. If in the course of construction work, some additional problems arise, which are not covered by the given specifications, the contractor will be given proper instruction by the Engineer. Such instructions shall be observed in full by the contractor regarding specifications, drawings, method of conducting work, any other measures necessary for the fulfillment of construction. Verbal instructions be always got confirmed from the Engineers concerned, before execution by the contractor.

5. Specifications for the quality of building materials as also for the quality of construction work are given in corresponding sections of these specifications and / or the working drawings. Unless otherwise specified all materials and workmanship shall conform to the specifications attached and drawings supplied. Any item not covered by these, shall conform of the latest Indian Standard specifications.

6. Work shall be carried out in such a manner as not to interfere with or affect, retard or disturb the progress of other works being executed by other agencies. The contractor's rate shall include for any losses due to likely delay in coordinating with other works and interruption on account of inherent nature of the job, and as such, no extra claim will be admissible on such account.

7. If due to the design and other stipulations in the tender, or requirements at site, a particular sequence of overall constructional operations has to be followed due to which certain interruptions to any one or more types of work or items of execution are inherent, no claims for such interruption are admissible.
8. For carrying out the work, the contractor will be provided with two sets of working drawings.
9. All technical documents regarding the construction of works are generally given in the metric system and all works should be carried out according to the metric system. All documents concerning the work shall also be carried out in the metric system.
10. While carrying out the works the contractors should be provided for:-
- a) Safety of personnel engaged on the construction.
 - b) Protection and safety of works during their progress.
 - c) Sanitary and hygienic condition of working and living for his workers, as per labour regulations.
11. In respect of portions of works which are likely to be embedded or covered up by the other works, the contractors shall submit them for technical inspection and have the necessary measurement and completion certificates duly signed by the engineer and contractor before letting such portions to be embedded or covered.
12. On completion of work, the contractor must submit to the engineer the following documents for the passing of the works:-
- i) The technical documents according to which the work was carried out.
 - ii) A copy of the working drawing showing thereon all additions and alterations in the process of execution.
 - iii) Completion certificates for 'embedded' and 'covered up' works.
 - iv) Manufacture's certificates, guarantees and test certificates.
 - v) Certificates or control checking and test of materials.
13. The contractor shall submit to the engineer, in the form required by him and in the appointed time, the information regarding the progress of the work being carried out by them.
14. The power given to the representative of the contractor for signing technical certificates shall be indicated in a special letter addressed to the engineer.
15. The technical commission for the acceptance of covered work and unfinished work should consist of a representative each of:-
- (1) Employer
 - (2) Consultants.
 - (3) Contractor who has done the work, and
 - (4) Agency who accepts the work for continuation of the construction of the building or/ erection of equipment.

16. Contractor shall properly store all materials brought by him to the work site to prevent damage due to rain, wind direct exposure to sun etc. and also from theft, pilferage etc. The contractor shall maintain stocks of all materials required by him for the proper and speedy execution of his work.
17. The contractor shall make his own arrangement to procure all construction plant and equipment, tool and tackles etc. for his works.
18. All materials, construction plants and equipments etc. once brought by the contractor within the NIT area are not to be moved from there without the written authority from the engineer. Similarly, all enabling works built by the contractor for the main construction undertaken by him, are not to be dismantled and removed without authority from the Engineer.
19. The contractor shall at all times provide sufficient fencing, notice boards, lights, watchmen to protect and guard the works and provide all facilities and observe all the rules mentioned in the General Conditions of the Contract enclosed with the tender.
20. (a) Concrete and mortars are generally specified by the strength or the approximate proportions by volume respectively. The contractor may quote on the basis of their proportions. The concrete that will be used in the work shall be proved to be of requisite standard as laid down in the Indian standard specification and also by other intermediate test that may be prescribed for important construction. Batching by volume may be permitted at the discretion of the Engineer.
- (b) The quantities of all excavation, concrete, reinforcement steel work and shuttering as shown in the tender schedule are approximate. The rate quoted shall fully apply for any variations in the scope of work and the resulting quantities. The payment shall be made on actual quantities constructed and measured at site as per standard practice in conformity with I.S 1200.
21. The aggregate to be used in the work shall be hard, strong and durable and shall be clean and free from clay films and other adherent coating. These must be machine crushed, screened before mixing. Sand must be coarse and thoroughly screened before mixing. Mixing shall be done by an approved mechanical batch mixer or by portable concrete mixers.
22. In the areas of fill, filling shall not be done until foundations and underground work e.g. pipes cables, etc. are completed. Should the fill be done prior to such completion, the contractor shall do all excavation and protection work for doing the foundations, underground works etc. at his own cost.
23. (a) The specifications prescribe various tests at specified intervals for ascertaining the quality of his work done. If the tests prove unsatisfactory, the Engineer shall have liberty to order the contractor to redo the work done, in that period, and do order such alterations and strengthening that may be necessary at the cost of the contractor. The contractor shall be bound to carry out such orders failing which the rectification, will be done by the Engineer through other agencies and cost recovered from the contractor.
- (b) Structure test:- The engineer shall instruct the contractor to make a loading test on the work or any part thereof at the contractors cost, if in his opinion such a test is necessary.

(c) Charges for all tests shall be borne by the contractor.

24. The contractor shall not allow any visitors on the works except with the approval of the Engineer.

25. The tenderers are required to quote rates against all the items of the attached Tender schedule, failing which their tender may not be considered.

26. All guarantees such as for water- proofing materials for the entire work as obtained from the manufacture shall be transferred to the employer by the contractor after completion of the work.

27. The contractor shall keep a competent and qualified engineer constantly, assisted by others, who will be responsible for carrying out of the work to the satisfaction of the engineer-in – charge. Any direction or instructions given to him in writing shall be held to have been given to the contractor.

28. The following guidelines should be followed in respect of calculation of theoretical consumption of cement for civil engineering works:-

- i) Theoretical consumption will be calculated on the basis of design-mix.
- ii) In case of concretes and mortar specified in the contract on volumetric proportion basis, the calculation of theoretical consumption will be governed by analysis.
- iii) The permissible wastage of cement over the theoretical consumption as indicated above will be upto 5%.

29. (a) Item of work not covered by the specification attached shall conform of the latest version of Indian standard Specification.

(b) The contractor shall employ such workers who possess good antecedent reports. The contractor shall be fully responsible for the conduct of his workman and shall ensure that his workers do not indulge in any criminal activities. In case of any loss suffered by the NIT due to theft, damage etc. caused by the contractor's workmen, the same will be made good by suitable recovery from the contractors running bills without prejudice to other rights of the company under the contract and under the law.

30. a) The contractor should be conversant about the location & the condition of the surroundings before quoting the rates.

b) The provision for approach road for bringing the building materials at the works site will be the responsibilities of the contractor at his cost.

31. The date of taking over of the building by the representative of NIT shall be taken as the date of completion of the building. The defects of construction which are within the scope of the contract shall be recovered and signed jointly by the contractor's representative. The recorded defects will have to be attended by the contractor and it shall be the sole responsibility of the the contractor. Only after completion, finalization of accounts in respect of final bill will be taken up by the department. If the recorded defects are not attended to by the contractor within 15 days, the department will at its own discretion employ another agency at

the risk and cost of the contractor to get those recorded defects attended without any further reference to the contractor.

32. The contractor shall deal with all aspect of their as well as their sub- contractors labour including industrial relations.

33. The contractor should ensure payment of all dues including retrenchment compensation, even if the labour is engaged by his sub-contractor.

**GENERAL CONDITIONS
OF
CONTRACT**

**NATIONAL INSTITUTE OF TECHNOLOGY
ROURKELA**

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CONDITIONS OF CONTRACT

Part-1, General Conditions

DEFINITIONS & INTERPRETATION

1.1 Definitions

In the contract (as hereinafter defined) the following words and expression shall have the meanings hereby assigned to them except where the context otherwise requires:-

- a] “Employer” means the NIT, Rourkela.
- b] “Contractor” means the person or persons, firm or company, whose tender has been accepted by the Employer and includes the Contractors personal representatives, successors and permitted assignees.
- c] “Engineer-in-charge” means representative of NIT, Rourkela and notified in writing to the contractor to act as Engineer for the purpose of the contract.
- d] “Engineers representative” means any resident engineer or assistant of the Engineer or any clerk of works or any other employee or agent appointed from time to time by the Employer.
- e] “Work” shall mean and include all work specified or set forth and required in and by the specifications drawing and schedule here to be annexed or to be implied there from or incidental thereto or to be hereafter specified or required in such explanatory instructions and drawings.
- f] “Contract” means the Invitation to Tender, Instructions to Tenders, General Conditions of Contract, Special conditions of Contract, Specifications, Drawings, Tender Schedule showing approximate quantities, quoted rates and amount against each item, Time Schedule, Letter of intent, Tender and the Contract agreement.
- g] “Contract” Price” means the sum named in the tender subject to such additions thereto or deductions there from as may be made under the provisions of the Contract.
- h] “Constructional Plant” means all appliances or things of whatsoever, nature required in or about the execution, completion or maintenance of the Works or Temporary Works.
- i] “Temporary Works” means all temporary works of every kind required in or about the execution, completion or maintenance of the work.
- j] “Drawing” means the drawings referred to in the Specification and any modification of such drawings approved in writing by the Engineer and such other drawings as may from time to time be furnished or approved in writing by the Engineer.
- k] “Site” means the lands and other places envisaged by the Employer where the work are to be executed or carried out.
- l] “Letter of Intent” is an intimation by a letter to tenderer that tender has been accepted in accordance with the provision contained in that letter.
- m] “Approved” means approved in writing including subsequent written confirmation of previous verbal approval.

1.2 Terms “Specifications”

The term ‘Specification’ shall mean schedules, detailed designs, statements of technical data, performance characteristics and all such particulars mentioned as such in the contract. In the absence of any specific specifications issued by the Employer, the specifications issued by the B.I.S will apply.

2.0 Engineer’s Representative

The duties of the Engineer’s representative are to watch and supervise the works and to test and examine any materials to be used or workmanship employed in connection with the works. He shall have no authority to relieve the Contractor of any of his duties or obligations under the Contract nor except as expressly provided hereunder or elsewhere in the Contract to order any work involving delay or any extra payment by the Employer nor to make any variation of or in the Works. The Engineer may from time to time in writing delegate to the Engineer’s representatives any of the powers and authorities vested in the Engineer.

3.0 Assignment and Sub-Letting

The Contractor shall not assign the Contract or any part thereof or any benefit or interest therein or there under without the prior written consent of the Employer.

The Contractor shall not sublet the whole or a part of the work without prior written consent of the Employer and Sub-Contractor or Sub-Contractors are approved in writing by the Employer. Subletting shall not relieve the Contractor from any liability or obligation under the contract, and he shall be responsible for the acts, defaults and neglects of any Sub-Contractor, his agents, servants or workmen as fully as if they were the acts, defaults or neglects of the Contractor, his agents, servants or workmen. Subletting beyond the first stage shall not be permitted.

4.0 Extent of Contract

The Contract comprises of the construction, completion and maintenance of the works & except in so far as the contract otherwise provides the provision of all labour, materials, Constructional Plant, temporary works and everything whether of a temporary or permanent nature, required for such construction, completion and maintenance.

5.0 Contract Documents

The drawings shall remain in the sole custody of the Engineer but two copies thereof shall be furnished to the Contractor free of cost.

One copy of the drawings furnished to the Contractor as aforesaid shall be kept by the Contractor on the site and the same shall at the reasonable times be available for inspection and use by the Engineer and Engineers representative and by any other person authorized by the Engineer.

6.0 General Obligations

6.01 *Contract Agreement* : The Contractor shall enter into and execute a contract agreement in the form annexed hereto within the time specified in letter of intent and in default thereof the earnest money paid by the Contractor shall be forfeited and acceptance of his tender shall be considered as withdrawn. The cost of the stamp fee of the agreement is to be borne and paid by the contractor.

6.02 *Security Deposit* : The Contractor shall within the time specified in the letter of intent/work order deposit with the NIT Rourkela, further sum in addition to the earnest money paid with the tender to work upto a rate 2 ½ % of the value of the contract at the accepted rates as security deposit in cash or in the form of demand draft from a Nationalized Bank in favour of NIT, Rourkela.

In the event of this not being furnished within the period specified in the letter of intent/work order the earnest money shall stand forfeited and acceptance of the Contractor's tender shall stand withdrawn.

To this sum shall be added the deduction from the contractor's interim bills for work done, so as to make a total security of 10% of the value of the contract as aforesaid.

The security deposit shall remain at the entire disposal of the Employer as a security for the satisfactory execution and completion of the works in accordance with the conditions of the contract.

“When the Security Deposit exceeds Rs.1.00 lakh (Rupees one lakh only), the Contractor, if he so desires, may convert the amount in excess of Rs.1.00 lakh into a Bank Guarantee Bond of one of the Scheduled or Nationalized Banks.

On due satisfactory performance and completion of the contract in all respects, the security deposit will be returned to the Contractor without any interest on presentation of an absolute no demand certificate from the Engineer in the prescribed form after completion of maintenance period.

6.03 *Work to the satisfaction of Engineer* : The Contractor shall execute, complete and maintain the works in strict accordance with the Contract to the satisfaction of the Engineer and shall comply with and adhere strictly to the Engineer's instructions and directions on any matter. The Contractor shall take instruction and directions only from the Engineer/Engineer's representative.

6.04 *Programme to be furnished* : As soon as practicable after the acceptance of his tender, the Contractor shall, if required submit the Engineer for his approval a programme showing the order of procedure and method in which he proposes to carry out the works.

- 6.05 *Contractors Superintendence* : The Contractor shall give or provide all necessary superintendence during execution of the works. The Contractor or his competent and authorized agent is to be constantly on the works and shall give his whole time to the superintendence of the same.
- 6.06 *Contractors Employees* : The Contractor shall provide and employ on the site in connection with the execution and maintenance of the Works:
- (a) Technical assistants and other staff, skilled and experienced in their respective Area who are competent to give proper supervision to the work.
 - (b) Skilled, semi-skilled and unskilled labour as is necessary for the proper and timely execution and maintenance of the works.
- 6.07 *Setting-out of the Works* : The Contractor shall be responsible for the true and proper setting out of the works and for the correctness of the positions, levels, dimensions and alignment of all parts of the works and for the provision of all necessary instruments, appliance and labour in connection therewith. The checking of any setting out or of any line or level by the Engineer or the Engineer's representative shall not in any way relieve the Contractor of his responsibility for the correctness thereof.
- 6.08 *Use of the Explosives* : Explosive shall not be used on the works by the contractor without the permission in writing of the Engineer.
- 6.09 *Watching & Lighting* : The Contractor shall in connection with the works provide and maintain at his own cost all light, guards, fencing and watching when and where necessary or required by the engineer/engineer's representative.
- 6.10 *Care of Works* : From the commencement to the completion of the works, the Contractor shall take full responsibility or the care thereof & of all the temporary works and in case any damage, loss or injury shall happen to the works or to any part thereof or to any temporary works from any cause whatsoever.
- 6.11 *Accident or injury to Workman* : The Employer shall not be liable for or in respect of any damages or compensation payable by Law in respect or in consequence of any accident or injury to any workman or other person in the employment of the Contractor or any sub-contractor save and except an accident or injury resulting from any act or default of the Employer.
- 6.12 *Workman's Compensation* : The Contractor shall at all times indemnify the Employer against all claims for compensation under the provision of the Workman's Compensation Act. or any other Law for the time being in force by or in respect of any workman employed by the Contractor in carrying out the contract.
- 6.13 *Giving of Notice and Payment of fees* : The Contractor shall give all notices and pay all fees required to be given or paid under any Central or State Statute, Ordinance or other Law.

- 6.14 *Compliance With Statutes Regulation etc* : The Contractor shall conform in all respects with the provision of any such Statute, Ordinance or Law as aforesaid and the rules, Regulations or Bye-Laws of any local or other duly constituted authority which may be applicable to the Works.
- 6.15 *Opportunities for other Contractors* : The Contractor shall in accordance with the requirement of the Engineer afford all reasonable opportunities for carrying out their work to any other contractors employed by the Employer and their workmen and to the workmen of the Employer & of any other duly constituted authorities who may be employed in the execution on or near the site of any work not included in the Contract.
- 6.16 *Supply of Plant Materials and Labour* : Except where otherwise specified the Contractor shall at his own expense supply and provide all the Constructional Plant, materials both for temporary and for permanent works, and labour required for the constructions completion and maintenance of the works.
- 6.17 *Site Clearance on Completion of Work* : On the completion of the work all rubbish, debris, kilns, vats tanks, materials and temporary structures of any sort or kind used for the purpose or connected with its construction are to be removed by the contractor and all pits and excavations filled up and the site handed over in a tidy and workmanlike condition.

7.0 Labour

In respect of all labour directly or indirectly employed on the works, the Contractor shall comply with all rules framed from time to time by Government (Central or State) or other local authority and legislations governing labour for the protection or health, sanitary arrangements, wages, welfare and safety of workers.

8.0 Work Materials and Plant

- 8.01 (a) All materials and workmanship shall be of the respective kinds described in the Contract and in accordance with the Engineer's instructions and shall be subjected from time to time to such tests as the Engineer may direct at the place of manufacture or fabrication or on the site. The Contractor shall provide such assistance, instruments, machines, (labour and materials as are normally required for examining, measuring and testing any work and the quality).
- (b) All sample shall be supplied by the Contractor at his own cost.
- (c) The cost of making any test in performance of his works, shall be borne by the Contractor.
- 8.02 *Access to Site* : The Employer and / or the Engineer and any person authorized by him shall at all times have access to the works and to the site.

8.03 *Removal of improper Work and Materials* : The Engineer shall during the progress of the works have power to order in writing from time to time.

- (a) The removal from the site of any materials which in the opinion of the Engineer are not in accordance with the Contract.
- (b) The substitution of proper and suitable materials.
- (c) The removal and proper re-execution of any work which in respect of materials or workmanship, is not in the opinion of the Engineer in accordance with the contract.

9.0 Commencement Time & Delays

9.01 *Commencement of Works* : The Contractor shall commence the works on site within the period indicated in the Contract and shall proceed with the same with due expedition and without delay except as may be ordered by the Engineer.

9.02 *Time for Completion* : The whole of the works shall be completed within the time stated in the contract.

9.03 *Extension of time for Completion* : Should the amount of extra or additional work of any kind or other special circumstances of any kind whatsoever which may occur be such as fairly to entitle the Contractor to extension of time for the completion of the work the Engineer shall determine the amount of such extension.

9.04 *Rate of Progress* : The whole of the materials, plant and labour to be provided by the Contractor & the mode, manner and speed of execution and maintenance of the works are to be a kind and conducted in a manner to the satisfaction of the Engineer. Should the rate of progress of the work or any part thereof be at any time in the opinion of the Engineer too slow to ensure the completion of the works by the prescribed time or extended time for completion, the Engineer shall so notify the Contractor in writing and the Contractor shall thereupon take such steps as the Contractor may think necessary and the Engineer may approve to expedite progress so as to complete the works by the prescribed time or extended time for completion. If the work is not being carried on by day and by night and the Contractor shall request permission to work by night as well as by day.

9.05 *Liquidated Damages to Delay* : In case the Contractor fails to complete the work within the stipulated time period indicated in the contract, unless such failure is due to force majeure or due to the Employer's default, the contractor shall pay to the Employer by way of compensation for delay and not as penalty, a sum up to maximum 10% of the contract value. This is agreed that this is a pre-estimate of the loss/damage which will be suffered on account of delay/breach on the part of the contractor and the said amount will be payable on demand without there being any proof of the actual loss or damages caused by such delay/breach. The decisions of the Engineer/Site-in-charge in regard to the actual delay will be final and binding on the contractor.

9.06 *Certificate of Completion of Works* : As soon as in the opinion of the Engineer the works shall have been substantially completed & shall have satisfactorily passed any final test that may be prescribed by the contract the Engineer shall on receiving a written undertaking by the contractor to finish any outstanding work during the period of Maintenance, issue a certificate of completion in respect of the works and the period of Maintenance of the works shall commence from the date of such certificate.

- 9.07 *Definition of Period of Maintenance* : In these conditions the expression “Period of Maintenance” shall be either twelve months or any other period if specifically specified in the special conditions of this contract, and calculated from the date of completion of the works certified by the Engineer.
- 9.08 *Execution of Works of repair etc.* : To the intent that the works shall at or as soon as practicable after the expiration of the period of maintenance be delivered up to the NIT in as good & perfect a condition to the satisfaction of the Engineer as that in which they were at the commencement of the period of maintenance the Contractor shall execute all such work of repair, amendment, reconstruction, rectification and making good of defects imperfection, or other faults as may be required of the contractor in writing by the Engineer during the period of maintenance.
- 9.09 *Cost of Execution of Works of Repair etc.* : All such work shall be carried out by the contractor at his own expense if the necessity thereof shall in the opinion of the Engineer be due to the use of materials or workmanship not in accordance with the contract or to neglect or failure on the part of the contractor to comply with any obligation expressed or implied on contractor’s part under the contract.

10.0 Alternations, Additions & Omissions

- 10.01 *Variations* : The Engineer shall make any variation of the form of quantity of the works or any part thereof that may in his opinion be necessary and for that purpose or if for any other reason it shall in his opinion be desirable shall have power to order the contractor to do and the contractor shall do any of the following :
- a) Increase or decrease the quantity of any work included in the contract.
 - b) Omit any such work.
 - c) Change the character or kind of any such work.
 - d) Execute additional work of any kind necessary for the completion of the work.
- 10.02 *Valuation of Variation* : The Engineer shall determine the amount (if any) to be added or to be deducted from the sum named in the tender in respect of any extra or additional work done or work omitted by his order. All such work shall be valued at the rates set out in the Contract if in the opinion of the Engineer the same shall be applicable.
- 10.03 *Claims* : The Contractor shall send to the Engineer’s representative once in every month an account giving particulars as full and detailed as possible of all claims for any additional expense to which the Contractor may consider himself entitled and of all extra or additional work order by the Engineer which he has executed during the preceding month and no claim for payment for any such work will be considered which has not been included in such particulars.

10.04 *Materials Obtained from Dismantlement and Excavation etc :*

- (1) The Contractors in the course of their works, should understand that all material obtained in the work of dismantling, excavation etc. will considered Employer's property.
- (2) All gold, silver, oil and other minerals of any description and precious stones, coins, treasures, etc. which shall be found in or upon the site shall be the property of the employer, and the Contractor shall duly preserve the same to the satisfaction of Employer and shall from time to time, deliver the same to such person or persons as the Employer may appoint to receive the same.

11.0 Measurement

11.01 *Quantities :* The quantities set out in the tender Schedule are the estimated quantities of the work but they are not to be taken as the actual and correct quantities of the works to be executed by the Contractor in fulfillment of his obligations under the Contract.

11.02 *Works to be Measured :* The Engineer shall except as otherwise stated ascertain and determine by taking measurement of the work done in accordance with the Contract. He shall when he requires any part or part of the works to be measured give notice to the Contractor's authorized representative should forthwith attend or send a qualified agent to assist the Engineer or his representative in making such measurement and shall furnish all particulars required by them. The Contractor shall be paid for the quantities resulting from measurement of the executed work.

12.0 Provisional Payment

(a) No payment's shall ordinarily be made for works estimated to cost less than Rupees One Thousand till after the whole of the works shall have been completed but if any payment during the course of the execution of works is considered desirable in the interest of works, the Contractor may be paid at the direction of Engineer. But in the case of works estimated to cost more than Rupees One Thousand, mostly payments for the portion of work already done, may be made either on the basis, of measurements to be recorded by the Engineer or the Contractor shall on submitting the bill therefore be entitled to receive a monthly payment proportionate to the part there of then approved and passed by the Engineer, whose passing of the sum to be 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.

(b) A bill shall be submitted by the Contractor each month on or before the date fixed by the Engineer for all work, executed in the previous month and the Engineer shall take or cause to be taken the requisite measurement for the purpose of having the same verified and the claim, as far as admissible, adjusted, if possible, before the expiry of ten days from the presentation of the bill. If the Contractor does not submit the bill within the time fixed as aforesaid the engineer may depute his representative to measure up the said work in the presence of the Contractor, whose countersignature to the measurement list will be sufficient warrant and the Engineer may prepare a bill from such list which shall be binding on the Contractor in all respects.

(c) As and by way of additional security from every progressive on account bill of the Contractor, 7 ½ percent of the value of the work executed, shall be deducted and kept as security deposit until the total of the amount so deducted plus the security (including the earnest money) already deposited will equal the prescribed security, which is 10 % of the value of the works.

(d) The Employer shall not be liable for any loss of securities of any description, nor for any depreciation in the value of securities while in its charge nor for any loss of interest thereon.

The Employer shall not be liable to the Contractor for any matter or thing arising out of or in connection with the contract or the execution of the works unless the contractor shall have made a claim in writing in respect thereof before the giving of the Maintenance Certificate under this clause.

13.0 Remedies and Powers

13.01 *Forfeiture* : If the Contractor shall become bankrupt or have an order for appointment of any receiver made against him or shall present any petition in bankruptcy or shall make an arrangement with or assignment in favour of his creditors or shall agree to carry out the Contract under a committee of inspection of his creditors or if the Contractor shall assign the Contract within the consent in writing of the Employer first obtained or shall have an execution levied on his goods or if the Engineer shall certify in writing to the Employer that in his option the Contractor :-

- (a) has abandoned the Contract, or
- (b) without reasonable excuse has failed to commence the works or has suspended the progress of the works for 28 days after receiving from the Engineer written notice to proceed, or
- (c) has failed to remove materials from the Site or to pull down and replace work for 28 days after receiving from the Engineer written notice that the said materials or work had been condemned and rejected by the Engineer under these conditions, or
- (d) is not executing the works in accordance with Contract or is persistently or flagrantly neglecting to carry out his obligations under the Contract, or
- (e) has to the detriment of good workmanship or in defiance of the Engineer's instructions to the contrary sub-let any part of the contract, or
- (f) otherwise failed to perform his part of the contract according to the true intent & meaning thereof then the Employer may after giving 14 day's notice in writing to the Contractor, enter upon the site and the works and expel the Contractor there from without thereby avoiding the contract or releasing the Contractor from any of his obligations or liberties under the Contractor or effecting the rights & powers conferred on the Employer or the Engineer by the Contract or otherwise available under the law and may himself complete the works or may employ any other Contractor to complete the works.

- 13.02 *Valuation at Date of Forfeiture* : The Engineer shall as soon as may be practicable after any such entry and expulsion by the Employer fix and determine ex-parte or by or after reference to the parties or after such investigation or enquiries as he may think fit to make or institute and shall certify what amount (if any) had at the time of such entry and expulsion been reasonable earned by or would reasonable accrue to the Contractor in respect of work then actually done by him under the Contract.
- 13.03 *Payment after Forfeiture* : If the Employer shall enter and expel the Contractor under this clause he shall not be liable to pay to the Contractor any money on account of the Contract until the expiration of the Period of Maintenance and there after until the costs of completion and maintenance damages for delay in completion (if any) and all other expenses incurred by the Employer have been ascertained and the amount thereof certified by the Engineer. The Contractor shall then be entitled to receive only such sum or sums (if any), as the Engineer may certify would have been due to him upon due completion by him after deducting the said amount.
- 13.04 *Illegal Gratification and breach the terms of Contract* : The Contract may also be rescinded and the Contractor shall be liable to make good any loss or damage resulting from such cancellation.
- (a) 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, any of his servants or agents to any public office or person in the employment of the Employer 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, or
- (b) If the Contractor has committed a breach of any of the terms of the contract and in particular fair wages clause and labour regulations.
- 13.05 *Urgent Repairs* : If by reason of any accident or failure or other event accruing to or in connection with the works or any part thereof either during the execution of the works or during the period of Maintenances, any remedial or other work or repair shall in the opinion of the Engineer or the Engineer's representative be urgently necessary for security and the Contractor is unable or unwilling at once to do such work or repair the Employer may be his own or other workmen do such work or repair as the Engineer or the Engineer's representative may consider necessary. If the work or repair so done by the Employer is work which in the opinion of the Engineer, the Contractor was liable to do at his own expense under the Contract, all the cost and charges properly incurred by the Employer in so doing shall on demand be paid by the Contractor to the Employer or may be deducted by the Employer from any money due or which may become due to the Contractor provided always that the Engineer or the Engineer's representative (as the case may be) shall as soon after the occurrence of any such emergency as may be reasonable practicable notify the Contractor thereof in writing.
- 10.06 *Employer Will have full Liberty to retain and set off sums due or to Become due to Contractor* : The Employer will have full liberty to retain and set off all sums due or to become due to the Contractor (including Security Deposits and Earnest money) whether under this contract or under any other transaction or claim whatsoever, against any sum due or to the Employer under this contract or under any other transaction or claim whatsoever.

14.0 Notice

- 14.01 *Service of Notice on Contractor* : Any notice to be give to the Contractor under the terms of the Contract shall be served by sending the same by post to or leaving the same at the Contractor's principal place of business.
- 14.02 *Service of Notice on Employer* : Any notice to be given to the Employer under the terms of the contract shall be served by sending the same by post to or leaving the same at the Employer's last known address.
- 14.03 *Importance of Special Conditions* : The Special Conditions attached hereto where they differ from the General Condition and Specifications shall over- ride them similarly the description of work in the tender schedule where it differs from the specifications or drawings shall over-ride them.

15.0 Miscellaneous

- 15.01 *Provision of Adequate Shoring* : The Contractor shall at his own cost, provide the material for and execute all such shoring, timbering and strutting as is necessary during the execution of work for the stability and safety of all structures, excavations and works such that no damage, injury or loss is caused or likely to be caused to any person or property.
- 15.02 *Provision of Shed, Store, Houses etc.* : The Contractor shall, at his own cost, provide such sheds or damp proof store houses as the Employer may consider necessary for storage of materials and shall also at his own cost provide Concrete Mixer, Soaking vats etc.
- 15.03 *Payment of Wages act* : The Contractor shall comply with the provisions of the Payment of Wages Act, and the Rules made there under in respect of all employees employed by him in carrying out this contract as he himself and not the Employer, is responsible under the said act for the compliance thereof.
- 15.04 *Safety* : The Contractor shall be responsible for the safety of his workmen and employees. All serious accidents to them on construction site are to be immediately reported. The Contractor shall be responsible that all such accidents, however and wherever occurring on his works, are reported with out delay to the Engineer and he should make every arrangement to give all possible assistance.
- 15.05 *Laws, Bye Laws etc. relating Works* : The Contractor shall strictly conform to the provisions, for the time being in force of any law relating to works of any regulations and byelaws made by any local authority or any water and lighting companies or any undertakings, within the limits of the jurisdiction of which it is proposed to execute the work.
- 15.06 *Change in Partnership Firm* : In the case of contract by partnership firm, any change in the constitution of the firm shall forthwith be notified by the Contractor to the Engineer.

15.07 *Provision for settlement of disputes* : All questions, disputes or difference of any kind whatsoever, arising out of or in connection with the contract at any time, whether during the progress of the work or after its completion or whether before or after the determination of the contract, other than questions, disputes or differences for the decision of which specific provision have been made in the foregoing clause of these conditions (hereinafter referred to as “excepted matters” and decisions on such “except matters” according to the said specific provisions shall be final and binding on the Contractor and shall not be re-opened or attempted to be re-opened on the ground of any informality; omission, delay or error in the proceeding in or about the same or on any other ground whatsoever) shall be submitted in writing by the Contractor to the Employer and the Employer shall within a reasonable time, after the submission of the same, make and notify its decision thereon in writing.

If the Contractor be dissatisfied with the decision of the Employer on any matter in question, dispute or difference on any ground in connection with this contract or as to the withholding by the Employer of any certificate to which the contractor may claim to be entitled to, or if the Employer fails to make a decision within a reasonable time, then and in any such case but not including any of the excepted matters, or matters for which the Contractor has given no claim certificates, the Contractor may within ten days of the receipt of such decision or after the expiry of the reasonable period of time, as the case may be, demand in writing that such matter in question, dispute or difference in connection with this contract be referred to arbitration. Such demand for arbitration shall be delivered to the Employer by the Contractor shall specify the matters which are in question, dispute or difference and only such question, dispute or difference, other than any of the excepted matters, in respect of the contract of which the demand has been made and no other shall be referred to arbitration.

The further progress of any work under the contract shall, unless otherwise directed by the Engineer, continue during the arbitration proceeding, and no payment due or payable by the Employer shall be withheld on account of such proceeding, provided, however, that it shall also be opened to the arbitrator to consider and decide whether or not such work shall continue during the arbitration proceeding.

Matters in question, dispute or difference other than the excepted matters, in respect of this contract to be submitted to arbitration as foresaid shall be referred for decision to a Sole Arbitrator, who shall be the Director, NIT, Rourkela, or any person nominated by him in his behalf.

In case an arbitrator nominated by Director, NIT, Rourkela fails or neglects to arbitrate or is removed, dies or become incapable or withdraw from arbitration for any reason whatsoever, the Director, NIT, Rourkela, as the case may be, shall have the authority to nominate any other person afresh and / or supply the vacancy for the arbitration.

Such submission shall deemed to be submission to arbitration and the decision of such arbitration shall be final and conclusive and the provision of the Indian Arbitration Act of the rules there under and all statutory modifications thereof shall govern all such arbitration proceeding and shall be deemed to apply to and be incorporated in this contract.

- 15.08 *Wages to be Paid in time* : The contractor shall ensure that their employees are paid the wage in time and can only make such deductions which are authorized under the payment of wages act and rules framed there under, that relevant records and registers required to be maintained under the said Act & Rules to be maintained by the Contractors and produced before the officers of the Institute and such other authorities under the Act for scrutiny as & when required. In case the Contractors default in making statutory payments under payment of wages Act or any other labour Act, which the Contractor is obliged to make to their employees, the Employer reserves the right to deduct any amount from the bills of the Contractors towards payment to their employees on demand from the Govt. Labour Directorate. This amount shall be made available to such authorities of the Govt. for disbursement to the employees of the contractor. They, however, will be kept informed about the same.
- 15.09 *Malpractice* : Any unauthorized removal or possession of any of the Employer's properties by the Contractor, its agents, servants and / or employees shall be deemed to be a malpractice. If the Contractor is found guilty of Malpractice in the course of carrying out the contract resulting from the acceptance of his tender, the contract will be liable to the cancelled and the security deposit forfeited without prejudice to and other action which the employer may take under law.
- 15.10 *Black Listing* : Any Contractor found guilty of theft or in unauthorized possession of Institute's properties, is liable to be debarred from allotment of further work and the work in hand is also liable to be terminated without any notice. Further such contractors are liable to be blacklisted form allotment of work in NIT. The above action will be taken in addition to the other penal action under the relevant provisions of law which the employer may take.

