

# **RUBEK BALLOONS PVT LTD**

**Rubber Park, Valayanchirangara P.O Ernakulam Dist. 683 556,**

**TENDER FOR THE CIVIL MODIFICATION WORKS TO THE  
EXISTING FACTORY BUILDING**

## **TENDER DOCUMENT**

### **Consultants :**

**BAKER ASSOCIATES & CONSULTANTS**

**Engineering Consultancy house**

Metro pillar 362, Near Pathadippallam Metro Station,  
Edappally, Kochi, Kerala 682024

**TENDER SUBMITTED BY**

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**APPENDIX**

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## FORM OF TENDER

Date :

From (full address).....

.....  
.....  
.....

Dear Sir,

Having examined the drawings, specifications, designs and schedules of quantities relating to the works specified in the Memorandum hereinafter setout and having examined the site of the works specified in the said Memorandum and having acquired the requisite information relating there to as affecting the tender, I/We hereby offer to execute the works specified in the said Memorandum mentioned within the time specified in the said memorandum at the rates mentioned in the attached schedule of quantities and in accordance in all respects with the specifications, designs, drawings and instructions in writing referred to in conditions of tender, the Articles of Agreement, Special conditions, Schedule of Quantities and conditions of Contract and with such materials as are provided for , by and in all other respects in accordance with such conditions so far as they may be applicable.

## MEMORANDUM

1) Description of work : Construction of Road at Rubek Balloons Private Limited.

2) Estimated probable Amount of

Contract .....

3) Earnest Money Deposit Rs. 1 Lakh

4) Security Deposit Nil

5) Percentage to be deducted

From Bills towards Retention : 10 %

6) Time allowed for completion of : Two months from the date of award of contract.

7) We have gone through the detailed GENERAL INSTRUCTIONS TO THE TENDER, other conditions and details etc. attached to the tender and Should this tender be accepted, I/We hereby agree to abide by and fulfill the said terms and provisions of the said Conditions of contract, including any amendment /alteration which the Company may fix at the time of finalization of contract..

8) We enclose herewith the Tender schedule quoting our rates for the different items mentioned therein.

I/We have attached a DD for Rs 1 lakh as Earnest Money Deposit along with the tender form, which amount is not to bear any interest. Should I/We fail to execute the contract agreements when called upon to do so, I /We do hereby agree that this sum shall be forfeited by the company. .

9) It is also hereby specifically agreed that this tender will remain firm for a period of two months from the the date of opening of Tender and that if the tender is withdrawn before that date the Earnest Money Deposit given shall be forfeited by the company..

10) Lists showing particulars of large work, carried out, equipments, programme of work etc are enclosed with format.

11. Our Bankers are: (with full address)

1

2

The names of partners of our firm are:

1

2

Name of partner of the firm are:

Authorized to sign

Or

Name of person having Power of

Attorney to sign the contract

(Certified true copy of the Power of Attorney should be attached)

Yours Faithfully,

Name and Signature of Contractor

Encl: 1. Schedule of Rates quoted by us

2. EMD for Rs 1 lakhs by DD

3. Tender form duly signed.

### **3.GENERAL INSTRUCTIONS TO THE TENDERES**

3.1 Intending **contractors** shall visit the site and get themselves acquainted with the site condition and no claims what so ever which may arise due to site conditions will not be entertained and accordingly should quote the rates.

3.2 If Cement and steel are supplied by the Employer – The cost of materials supplied shall be recovered from the **contractor's** bills at the base rates of these materials quoted by the **contractors**. For this purpose **the contractors shall quote the base rates of cement and steel in the tender.**

3.3 Contractor shall be responsible for the safe custody of all the materials issued to him for the work and all surplus items shall be returned to the Employers store. Cost of materials which may found short will be recovered from the **contractor**.

**Contractor** must provide safety device and equipments to all his workers/ employees engaged at the site of work, especially those who are working at heights & dangerous spots.

3.4 In the event of the tender being submitted by a firm, it must be signed separately by each member there off, or in the event of the absence of any partner, it must be signed on his behalf by a person holding a power of attorney authorizing him to do so; such

power of attorney shall be produced with the tender and it must disclose whether the firm is registered under the Indian Partnership Act.

- Each and every signature shall be separately witnessed. A **contractor** or **contractors** who himself/themselves has/have tendered over who may tender for the same work shall not witness the tender of another person for the work. Failure to observe this condition would render tenders of the **contractors** tendering as well as witnessing the tenders liable for summary rejection.

3.5 The tenderer must quote his rates only on the proper form of the tender, both in figures and words and both in decimal coinage in the respective spaces provided therefore. If the rates are not quoted in words also the tender is liable to rejection, The amount for each item should be worked out in figures and words for the probable quantities specified in the bills of quantities but the requisite totals given, both in figures and words, taking into account the figures already entered for lump sum items and contingencies, if any, at the percentage specified.

Special care is to be taken to write the rates in figures and words in such a way that no interpolation is possible. Erasures and alterations must be avoided, but if errors are made unavoidably while pricing the bills of quantities, the wrong figures and words must be neatly scored out under the initials of the tenderer and the correct figures and words neatly rewritten but not overwritten. **Overwriting is not permitted** and may entail rejection of the tender.

3.6 Each tender should be accompanied by a Earnest Money Deposit of Rs. 1 lakh in the form of crossed Demand Draft drawn in favor of M/s RUBEK BALLOONS PVT LTD from any Nationalized Bank. No other Form of Earnest Money Deposit is acceptable. Tenders without the prescribed E.M.D. in the prescribed form will be summarily rejected.

3.7 In the case of figures, the word 'Rs' should be written before the figure of rupees and the word 'P' written after the decimal figures, e.g. Rs.2 = 15p; in the case of words the word 'Rupees' should similarly precede and the words "Paise Only" should be written at the end, closely following each rate and each amount. The word "only" should not be written in the next line unless the rate quoted is in

whole rupees closely followed by the word "only"; the amount should invariably be upto two decimal places.

3.8 Errors in the bills of quantities shall be dealt with in the following manner:

- i) In the event of a discrepancy between the rates quoted in words and the rates in figures the former shall prevail.
- ii) In the event of an error occurring in the amount column of the bills of quantities as a result of the wrong extension of the unit rate and the quantity, the unit rate shall be regarded as firm and extension shall be amended on the basis of the rates.
- iii) All errors in totaling in the amount column and in carrying forward the totals shall be corrected.

Any omissions to include in the totals or to carry forward the prime cost (P.C) sums and the percentage thereon or the provisional sums shall be corrected.

- iii) Where alternative items are given only the rates in figures and words are to be entered and not the amount thereof. A tender which does not show the rates in figures and words for the alternative items may be rejected. **The Employer** reserves to himself the right to take into account any or all of the alternative items for the purposes of accepting a tender or to operate upon any or all of the said alternative items during the execution of the work, partly or fully as required.

3.9 The quantities furnished in the bills of quantities are only probable quantities liable to alteration by omission, deduction or addition, and it should be clearly understood that the contract is not a lump sum contract and the **employer** do not in any way, assure the tenderer that the said probable quantities are correct or that the work would correspond thereto. Payments will be regulated on the actual quantities of work done at the accepted rates.

The drawings, specifications and the bills of quantities, forming parts of the contract, are explanatory of and are complementary to one another, representing together the works/ installations to be carried out.

If neither the drawings nor the specifications nor the accepted bills of quantities include any part/parts the intention to include which is nevertheless clearly to be inferred and which are obviously necessary for the proper completion of the works/installations, all such parts shall be supplied and executed by the **contractor** at no extra charge.

Anything contained in one or another of (a) the drawings, (b) the specifications and (c) the accepted bills of quantities and not found in the others will be equally binding as if contained in each of them.

3.10 No alterations which are made by the tenderer in the drawings, specifications or probable quantities accompanying the notice will be recognized, and if any such alterations are made the tender is likely to be invalidated. Remarks and explanations should be set out in a covering letter and will become binding only if specifically accepted in writing by the **Employer** at the time of acceptance of the tender.

3.11 The tenderer must obtain for himself on his own responsibility and at his own expense all the information necessary including risks, contingencies and other circumstances to enable him to make a proper tender and to enter into a contract with the **Employer** he must examine the drawings, specifications, conditions and so on and must inspect the site of work, examine the nature of the ground and the subsoil (so far as is practicable), and acquaint himself with local conditions, means of access to the work, the nature of the work, in fact all matters pertaining thereto before he submits his tender.

The tenderer shall also bear all expenses in connection with the preparation and submission of his tender.

3.12 Omission, neglect or failure on the part of the tenderer to so obtain requisite and reliable information on any matter affecting his tender, the contract and the construction, completion and maintenance (during defect liability period) of the work shall not relieve the tenderer whose tender is accepted from any liability in respect of the contract.

The tenderer whose tender is accepted shall not be entitled to make any claim for increase in the rates quoted and accepted excepting in pursuance of any specific



provision in the contract for such and then only in terms of that specific provision, or to make any representation on the ground that he was supplied with any information or given any promise or guarantee of any sort, by the employer, his agents and servants, the consultants or their representatives or any other persons, unless such information, promise or guarantee is furnished to the tenderer in advance of the date of receipt of tenders and in writing under proper authority.

**3.13 The tenderer shall furnish the following details while submitting his tender:**

i) The details of similar works done by him which shall include the PAC of the work and the time taken to complete the work. The addresses and phone nos. of the Owners shall also be noted.

ii) The details of the materials and equipments available with the **contractor**.

iii) The details of Technical personal supervising the work.

**3.14** The rates quoted in the schedule of quantities shall, unless specified otherwise, be deemed to be for finished work in-situ item, by item as provided for, and shall include cost for all necessary material and labour, all necessary incidental charges.

The rates shall be firm and not be subject to any variations in exchange rates, in taxes, duties, etc. in railway freight and the like, labour rates, etc. The rates are not subject to escalation otherwise than as specifically provided for in the contract.

All the materials agreed to be supplied will be supplied by the **Employer** at the request of the **Contractor** in writing at least ten days in advance, the requirements being confirmed by the Consultant as genuine. The materials so supplied by the **employer**, shall remain the property of the **Employer**, but in the custody of the **Contractor**. The **Contractor** shall be responsible for the proper storage and safety of the materials.

**3.15** The tenders submitted shall remain open for acceptance for a period of 60 DAYS from the date of their opening. Should any tenderer withdraw his tender before the expiry of the said period or makes any modifications to his tender which are not acceptable to the **Employer** the tender will be treated as having been rejected or abandoned, and his Earnest Money Deposit will be forfeited.

- 3.16 The **Employer** does not bind himself to accept the lowest tender and reserves to himself the right to reject any or all of the tenders received without the assignment of a reason therefore.
- Further, the **Employer** reserves the right to award any components to different tenderers or to award the entire work to one tenderer.
- 3.17 The **Employer** further reserves the right to delete or reduce any item or section of the bills of quantities without any reason whatsoever therefore and no claim will be entertained in this regard.
- 3.18 The tenderer whose tender is accepted is bound to execute a formal agreement with the **Employer** in accordance with the draft agreement which will include the notice inviting tender, if any, the drawings and specifications tender conditions, other papers herein and special conditions, etc. but his liability under the contract shall commence from the date of written order to commence work whether the formal agreement is drawn or not. The **contractor** shall bear all expenses in connection with execution of the said agreement. If he fails to execute the said agreement within the time stipulated by the **Employer**, then his Earnest Money Deposit will be forfeited and the work will be arranged otherwise at his risk and cost.
- 3.19. Deductions from the running bills at 10% of the value of work done as certified by the Consultants from time to time till such time when together with the Earnest Money Deposited, and initial Security Deposit, if any, such deductions, aggregate to 10 % of the total value of contract, such moneys deducted as cash from bills shall be termed retention money.
- 3.20. The Security Deposit will be refunded on satisfactory completion of the work. The Retention Money will be refunded to the **contractor** on expiry of the Defects Liability Period specified in the contract, or if not so specified at the expiry of 12 months from the date of virtual completion of work.
- 3.21. Earnest Money/Security Deposit/Retention amount will bear no interest whatsoever until the date of their release.
- 3.22. All compensation or other sums of money payable by the **contractor** to the **Employer** under the terms of contract may be deducted from his Earnest Money

or/and the Security Deposit if the amount so permits and the **contractor** shall, unless such deposit has become otherwise payable, within ten days after deduction make good in cash the amount so deducted.

3.23. Any tender which purports to alter, vary or omit any of the conditions herein is likely to be rejected.

3.24. The successful tenderer, within two weeks of award of the work to him shall submit to the consultants an illustrative and suitably colored work-time chart, in the form of bars or other effective means, showing the item wise/locations/ floor wise progress with he (the **contractor**) intends to make to enable him to conveniently and practicably complete the work in all respects within the agreed time as per contract. The chart will be scrutinized and approved by the consultants with suitable modifications, as and it necessary, and approved chart will then form part of the agreement, being the basis for assessment of progress under the relevant conditions of contract.

The chart may from time to time during the progress of the work be reviewed and modified with the approval of the consultants keeping in view the agreed date of completion.

3.25 The work is to be carried out generally in accordance with M.D.S.S. (Madras Detailed Standard Specification), the Local P.W.D, KWA or CPWD Specifications as the case may be in addition to the consultants' specifications, if any, forming part of the tender documents.

3.26 The **contractor** shall go through all necessary formalities including preparation of drawings, applications, etc. and follow up with the concerned authorities, to obtain the approval of the central or other appropriate state authority to do electrical installations if and where necessary and the service connection in the installations as quickly as possible. The work will not be deemed to have been completed unless and until such formalities are also completed.

3.27. On completion of the work the **contractor** shall furnish three sets of as built drawings.

- 3.28. Water supply and sanitary installations shall be executed in conforming the rules, regulations and bye-laws of Local Municipal Authorities, K.W.A and the CPWD & I.S. specifications for water supply and sanitary installation works.
- 3.29 In the case of any class of work for which there is no specification in the said M.D.S.S. or Local PWD specifications, the said Highways annuals/specifications the said Regulations and Rules, CPWD specifications and the B.I.S or in the said consultants specifications forming part of the tender documents or in case there is variation, such work shall be carried out in all respects in accordance with the instructions and requirements of the consultants.
- 3.30 The work shall be carried out under the directions and supervision of and subject to the approval in all respects by the consultants / **Employer**.
- 3.31 On acceptance of the tender the **contractor** shall in writing and at once inform the **Employer** and the names of his accredited representative(s) who will be responsible to take instructions from the consultants / **Employer**.
- 3.32. The work or any part of it shall not be transferred, assigned or sublet without the written consent of the **Employer**.
- 3.33. The **contractor** shall be required to co-operate and work in co-ordination with and afford reasonable facilities for such other agencies / specialists as may be employed by the **Employer** on other works / sub-works in connection with the project scheme of which this work forms part.
- 3.34. The **contractor** will be required to insure the work and keep it insured until one month after the date of taking over the works / installations by the **Employer**, or otherwise in terms of the contract, against loss or damage by fire and other usual risks other than the risks excepted in terms of the contract, with an insurer whose name is to be approved by the Consultant / **Employer**.
- 3.35 The **contractor** is required to comply with all Acts of Government relating to labour and the Rules and Regulations made there under from time to time and to submit at the proper times all particulars and statements required to be furnished to the Labour Authorities.
- 3.36. In carrying out the work the contractor shall comply with the provisions of the safety code, annexed to these papers.

Signature of Tenderer:

Address :

Date:

#### **4.CONDITIONS OF CONTRACT**

##### **4.1.Interpretation Clauses:**

In construing these conditions, the specifications schedule of quantities, and Contract agreement, the following words shall have the meanings herein assigned to them except where the subject or context otherwise requires.

- ii. Headings and marginal notes to the conditions of contract shall not be deemed to form part thereof or be taken into consideration in the interpretation or construction thereof of the contract.
- iii. Where the context so requires (i) words importing persons include time firms and corporations and (ii) words importing the singular only also include the plural and vice versa.
  - a. **EMPLOYER/OWNER** shall mean Managing Director, Rubek balloons Pvt Ltd
  - b. **CONSULTANT** shall mean **M/s Baker Associates & Consultants**, metro pillar 362, near Pathadippalam Metro station, Edapally P.O, Kochi. In the event of their ceasing to be consultants for the purposes of this contract such other person or persons as shall be nominated for that purpose by the Employer subject to such qualifying provisions as may be agreed upon.
  - c) **CONTRACTOR** shall mean -----
  - d) **Site** shall mean the land and/or other places, on into or through which work is to be executed under the contract or any adjacent land, path or street through which work is to be executed under the contract or any adjacent land, path or street which may be allotted for use for the purpose of the carrying out the contract,

- e) **The Contract or this contract** shall mean the tender documents comprising the notice inviting tender, form of tender, the tender conditions, the drawings, and priced bills of quantities with their preambles, the acceptance thereof, and the articles of agreement, together with the conditions of contract with its appendix and special conditions, if any, the specifications referred to in the conditions, designs, drawing and instructions issued from time to time by the Architects and all these documents taken together are deemed to form one contract and shall be complementary to one another
- f) **Schedule of Quantities** variously also termed priced bills of quantities, 'bill of quantities', 'schedule of rates', shall mean the schedule of quantities originally furnished with the notice inviting tender, duly priced in by the tenderer and accepted by the **Employer** for inclusion as a part of the contract for determining the consideration payable to the **contractor** for executing the work and as part of the contract agreement it is also referred to as the contract schedule,
- g) **Notice in writing** or written notice shall mean a notice in written, typed or printed characters sent (unless delivered personally or otherwise proved to have been received) by registered post to the last known private or business address or to the registered office of the addressee and shall be deemed to have been received when in the ordinary course of post it would have been delivered.
- h) **Act of Insolvency** shall mean any Act of Insolvency as defined by the Presidency Towns Insolvency Act, or the Provisional Insolvency Act or any act amending such original.
- i) **Net prices** : If in arriving at the contract amount the **contractor** shall have added to or deducted from the total of the items in the Tender any sum, either as a percentage or otherwise, then the net price of any item in the tender shall be the sum arrived at by adding to or deducting from the actual figure appearing in the tender the price of that item a similar percentage or proportionate sum provided always that in determining the percentage or proportion of the sum so added or deducted by the **contractor**, the total amount of any prime cost items and provisional sum of money shall be deducted from the total amount of the tender\* The expression "net rates" or "net prices" when

used with reference to the contract or accounts shall be held to mean rates or prices so arrived at.

j) **The works** (or the work) shall unless there by something either in the subject or context repugnant to such construction be considered and taken to mean the works by or by virtue of the contract contracted to be executed whether temporary or permanent, and whether original, altered substituted or additional. Wherever the word "works" is used it shall cover "installation" also under the same definition.

k) **Excepted risks** are risks due to riots (otherwise than among contractor's Employees) and civil commotion (in so far as both these are uninsurable) war (whether declared or not), invasion, act of foreign enemies, civil war, rebellion, revolution, insurrection, military or usurped power, any acts of Government, damage from air craft, acts of God such as earthquake, lightning and unprecedented floods and other causes over which the **contractor** has no control and accepted as such by the **Employer** or causes solely due to use or occupation in a manner for which the works/installations were not designed, by **Employer** of the said works/installations in respect of which a certificate of completion has been issued or a cause solely due to faulty design of works,

k) **Provisional items** shall mean items for which only very approximate quantities have been included in the tender documents

1) Virtual completion of works/installations shall mean the substantial completion of the works/installations in accordance with the contract enabling the **employer** to take over the same

#### **4.2 Consultants instructions:**

The **contractor** shall execute the whole and every part of the work in the most substantial and workman like manner and both as regard materials and otherwise in every respect in strict accordance with the specifications, conforming exactly, fully and faithfully, to the designs drawings and instructions in respect of the work given by the consultant and under the directions of and under the supervision of and subject to the approval in all respect by the consultants who may in their discretion and from time to time issue further drawings, and/or written collectively referred to as "Consultants" Instructions in regard to:

a) Variation or modification of the design including

Structural design, quality or quantity of works or the addition or omission or substitution of any work.

- b) Any discrepancy in the drawings or between the schedule of quantities and/or drawings and/or specifications,
- c) The removal from the site of any materials brought there on by the **contractor** and the substitution of any other materials therefore,
- d) The dismissal from the works of any persons employed thereupon.
- e) The opening up for inspection of any work covered up,
- f) The amending and making good of any defects under clause 19.
- g) The removal and/or re-execution of any works executed by the **contractors**, on account of defects, under Cl.20 The **contractor** shall forthwith comply with and duly execute and work comprised in such consultant's Instructions provided always that verbal instructions, directions and explanations given to the **contractor** or his representative upon the works by the consultant shall if involving a variation, be confirmed in writing by the **contractor** within seven days and if not dissented from in writing within a further seven days by the consultant such shall be deemed to be consultant instructions within the scope of the contract.

#### **4.3 Manner of execution of work :**

The **consultant/Employer** shall be entitled to direct at what point or points and in what manner the works are to be commenced, and from time to time carried on.

#### **4.4 Variation to be approved by Employer:**

Notwithstanding anything herein contained, the Consultant or his representatives shall not, without the prior concurrence in writing of the **Employer** issue any instructions verbal or in writing which will result in **the Employer** having to pay the **contractor** an additional sum and all such instructions issued to the contractor should forthwith be brought to the notice of the **Employer**. The **contractor** shall submit through the consultant a statement of variation giving quantities and rates duly supported by analysis of rates, vouchers, etc. The rates on security and final acceptance of the **Employer** under the terms of Clause 17 here of shall form a supplementary schedule of quantities,



#### 4.5 Agreement copies to be supplied :

The contract shall remain in the custody of the **Employer** and shall be produced by him at his office as and when required by the **Employer** or the **contractor**. The **contractor** on the signing hereof shall be furnished by the **Employer** free of cost with a certified copy of the agreement and one copy of each of the said drawings issued during the progress of the works. Any further copies of such drawings required by the **contractor** shall be paid for by him. The **contractor** shall keep one copy each of all drawings on the works and the consultants or his representative shall at all reasonable times have access to the same. Before the issue of the final certificate to the **contractor** he shall, if so required, forthwith return to the consultant all drawings and specifications.

#### 4.6 The contractor to provide everything necessary:

The **contractor** shall be deemed to have satisfied himself before tendering as to the correctness and sufficiency of his tender for the works and of the rates and amounts stated in the schedule of quantities and/or the schedule of rates and amounts which rates and amounts shall except as otherwise provided cover all his obligations under the contract, and all matters and things necessary for the proper completion of the works.

The **contractor** shall provide at his own cost all materials (except such materials, if any, as may in accordance with the contract be supplied by the **Employer**), machinery, plant, tools, appliances, implements, ladders, cordage, tackle scaffolding, temporary works including access road, etc. together with carriage therefore to and from the site, in fact everything necessary for the proper execution of the work, whether original, altered or substituted according to the true intent and meaning of the drawings, schedule of quantities and specifications, original or substituted taken together whether the same may or may not be particularly shown or described therein provided that the same may be reasonably inferred there from, and if the **contractor** finds any discrepancy in the drawings, or between the drawings, schedule of quantities and the specifications, he shall immediately and in writing refer to the **Employer** who shall decide which is to be followed, subject to:

- i) Anything shown or contained in any one or other of (a) the drawings, (b) specifications and (c) the contract schedule, and not shown in the others shall be equally binding as if it were contained in each of them.
- ii) Figures dimensions are to be followed in preference to the scale, and large scale details in preference to small scale diagrams.
- iii) The following order of preference shall apply
  - a) The drawings, (b) specifications, covered by bills of quantities, c) Consultant's specifications, d) the CPWD/ MDSS/Local PWD/KWA/Specification Highways Manual/Specifications.

**4.7 Contractor to conform to legal regulations:**

**The contractor** shall conform to the provisions of any Act of the Legislature relating to the works and to the Regulations and Bye-laws of any Authority and of any water, lighting and other Companies and/or Authorities with whose systems the structure is proposed to be connected, and shall before making any variations from the drawings or specifications that may be necessitated by so conforming, give the **Employer** written notice, specifying the variations proposed to be made and the reason for it, and apply for instructions thereon. In case the **Contractor** shall not within ten days receive such instructions he shall proceed with the work, conforming to the provisions. Regulations, or bye-laws in question and any variation so necessitated shall be dealt with under Clause Nose 13 and 17, The **contractor** shall bring to the attention of the **Employer** all notices required by the said Acts, regulations or bye-laws to be given to any authority and pay to such Authority or to any Public Office all fees that may be properly chargeable in respect of the works and lodge the receipts with the **Employer**. The **contractor** shall indentify the **Employer** against all claims in respect of patent rights and shall defend all actions arising from such claims and shall himself pay all royalties, license fees, damages, cost and charges of all and every sort that may legitimately be incurred in respect thereof.

- 4.7 A. The **Employer** is entitled to deduct all taxes and rates as per existing laws and rules, from any moneys due or that may become due to the **contractor**.

4.7 B. "The **contractor** shall identify the **Employer** from and against all claims, demands, proceedings, damages, costs and expenses which may be brought or made against the **Employer** or to which it may be put by reason of the **contractor** not conforming to or complying with any of the provisions or requirements of any Act or Statute, Central or State, Rules, Regulations, Bye-laws of Local Authorities, Panchayat, Collector or any other Companies relating to or in connection with the works or to Labour or for supply of water, light or other amenities at the site".

**4.8 Contractor responsible for setting out work :**

The **contractor** shall on the basis of dimensioned drawings and information necessary for the purpose, furnished by the **Employer**, set out the works on site at his own expense and be responsible for the correctness of the positions, levels, dimensions and alignment of all parts thereof. The checking of any setting out by the representative of the **Consultants** or of the **Employer** shall not in any way relieve the **contractor** of the responsibility for the correctness thereof and he shall amend at his own cost and to the satisfaction of the consultant any error in the setting out, found at any stage during the progress of the work or during the defects liability period after completion of the work.

**4.9. Materials to conform to specifications, Tests on Materials, work, etc:**

- i) All materials and workmanship shall so far as procurable conform strictly to requirements in accordance with the drawings as described in the schedule of quantities and/or specifications and in accordance with the consultants' instructions, and the **contractor** shall upon the request of the consultant furnish proof to his satisfaction that they so conform and if required shall also furnish all invoices, accounts, receipts and other vouchers for the purpose
- ii) In the case of all products which are in the approved lists of the I.S.I., no materials will be collected at site which does not bear the I.S.I, mark unless the Institution does not affix its mark on those materials,
- iii) The **contractor** shall place orders for all materials required in time and in any case not later than the dates fixed in the approved program. Where in the matter of procurement of such materials as are collected or the distribution of which is regulated by Government Central or Local, or by any other Central or Local

Authority. **The Employer** is obliged to issue any certificate or sign applications for license or permit, by virtue of such Government or Authority or by Custom or practice, it shall be the sole responsibility of the **contractor** to arrange for all the formalities to be completed in time and follow up the matter with the concerned Authorities and to procure the materials in time for incorporation in the works/ installations according to the approved program, and the **Employer** will not assume any responsibility for delays in this regard nor for the payment of fines, penalties demurrage and so forth due to the **contractor** not taking timely action in the process of procurement. The **contractor** shall not raise any plea quoting delays in the completion of the formalities or of delays by the Authorities concerned for any compensation whatsoever.

- iv) However, the **contractor** shall before he places orders for supply, furnish and produce to the **Employer** at his own expense, samples of materials including patented produce and those under specific makes, proposed to be used in the works, well in time, notwithstanding prior approval by **Employer** of such products and makes; such prior approval shall not constitute a waiver of the rule regarding approval of samples. In all cases when makers/manufacturers have test certificates for their goods/articles/products/processes/ equipment, Photostat copies of such test certificates shall be produced by the **contractor** along with the samples.
- v) The **Employer** will within two weeks of the date of supply of samples or within such further period as it may, depending upon each case required to intimate the **contractor**, whether the samples are approved by him or not. If samples are not approved the **contractor** shall forthwith arrange to supply to the **Employer** for his approval fresh samples complying with the specifications.
- vi) The approved samples, bearing distinct marks or identification of such approval shall be displayed by the **contractor**, at his own expense, prominently at the site, during the entire construction period, of the work for inspection/verification by the **Employer** and their representatives and concerned authorized officials/organization of Govt: Thereafter the **Contractor** shall hand over the said approved samples to the **Employer** without any charge accruing to him (contractor) the approved samples

**remaining in the safe custody of the contractor till they are so handed over to the Employer.**

- vii) The **contractor** shall indentify the **Employer** or any agent, “servant or employee of the **Employer** against any action claim or processing relating to infringement or use of any patent or design or any alleged patent or design rights and shall pay any royalties or other charges which may be payable in respect of any article or material or part thereof included in the contract” .In the event of any claims being made on or action being brought against **the Employer** or any agent, servant or employee of the **Employer**, in respect or any such matter as aforesaid, the **contractor** shall immediately be notified there off. Provided that such indemnity shall not apply when such infringement has taken place in complying with specific direction issued by the **Employer** or the Architects in connection with the contract, but the **contractor** shall pay any royalties or other charges payable in respect of any such use, the amount so paid being reimbursed to the **contractor** only if the use was the result of any drawings and/or specifications issued after conclusion of the contract.
- viii) All charges on account of octroi, terminal or sales tax and other duties on materials obtained for the works from any source (other than materials supplied by the **Employer**) shall be borne by the **contractor**,
- ix) The **Employer** shall be entitled to have tests carried out on the work or its parts or accessories, either during its progress or on completion, where and when demand deemed necessary or on any materials to be incorporated in the work/ installation supplied by the **contractor** or otherwise **not** withstanding that the work or its parts or accessories or the said materials have been accepted and passed/passed for incorporated and **contractor** shall on being directed to do so promptly arrange for the tests to be carried out excepting in the case of "Mandatory tests " listed under "Consultants' Specifications" which he (the **contractor**) shall regularly carry out in routine fashion without having to be given any further directions.
- x) The scope of the Clause regarding tests will cover not only materials/articles of every day use and of ordinary description but also patented products and those under specific makes, not withstanding that satisfactory test certificates from makers/manufacturers have been produced in accordance with sub-clause (iv) above.

- xi) **The contractor** shall also arrange for necessary field tests to be carried out in the case of materials/articles of everyday use and of ordinary description regularly under the directions and in the presence of the **Employer's** representative to determine the suitability of such items for use in the work.
- xii) In the case of works individually costing more than Rs.100 lakhs the contractor shall set up his own laboratory at site with all necessary equipment, accessories, personnel, etc. and regularly test cubes of cement concrete used in RCC work in the presence of **Employer's** representative.
- xiii) The **contractor** shall maintain at the site comprehensive registers, posted up to-date, showing the nature of the materials/articles/goods/cubes tested, their identification marks, dates and the results of all tests. Such registers shall be got counter signed by the representative of the **Employer** at site and extracts from the registers shall regularly be posted to the **Employer**. The form of the registers shall be mutually settled.
- xiv) The costs of the tests and of the materials and labour and equipment, if any, involved in the testing operations shall be borne by the **contractor** in all Cades except as otherwise provided for in the contract.
- xv) The methods of sampling, the nature and extent of the tests to be carried out and their interpretation shall be in accordance with the relevant ISS unless otherwise provided in this contract. The names of laboratories or test houses (where tests are to be done outside the site) in which the tests are to be carried out shall be got approved by the consultants.

#### 4.10 **Supervision by contractor:**

The **contractor** shall give all necessary personal superintendence during the execution of the works, and as long thereafter as the consultant may consider necessary until the expiration of the "**Defects Liability Period**" stated in. The **contractor** shall also during the whole time the works are in progress employ a competent and qualified representative whose name shall be approved by the Consultant and who shall be constantly in attendance at the works while the men are at work. Any directions, explanations, instructions, or notices given by the

consultant **Employer** to such representative shall be held to have been given to the **contractor**.

If the **contractor** fails to appoint and keep on the works a competent and qualified representative as aforesaid the **Employer** shall have powers to suspend the works till such time a competent qualified representative as aforesaid is posed and the **contractor** shall not be entitled to claim extension of time on the plea of such suspension of the works.

4.11 **Dismissal of Workmen:**

The **contractor** shall on the request of the **Employer** immediately dismiss from the works any person employed thereon by him who may, in the opinion of the **Employer** be incompetent or misconduct himself, and such persons shall not be again employed on the works without the permission of the **Employer**.

4.12. **Access to works:**

The **Employer**, the consultants and his respective representative shall at all reasonable times have free access to the works and/or to the workshops, factories or other places where materials are lying or from which they are being obtained and the **contractor** shall give **the Employer**, the consultant and his respective representative, all reasonable facilities necessary for inspection and examination and tests of the materials and workmanship. No person unauthorized by the **Employer** or the Consultants except the representative of Public Authorities shall be allowed on the works at any time,

4.13. **Site Engineer/ Asst.Engineer/ Clerk of Works:**

The terms "Site Engineer/Asst, Engineer/Clerk of works" shall mean the person appointed, and acting under the orders of the **Employer** to inspect the works in the absence of the **Employer/ the contractor** shall afford the Site Engineer/ Asst, Engineer/Clerk of Works every facility and assistance for inspecting the works and materials and for checking and measuring the work and materials. Such person/persons shall be considered to act solely as Inspectors.

If any work or material is not approved by the Site Engineer/Asst.Engineer/Clerk of Works or any such representative, such work shall be suspended or the use of such material shall be discontinued until the decision of the **Employer** is obtained. The

work will from time to time be examined by the **Employer**, the Site Engineer/Asst. Engineer/ Clerk of Works or the Employer representatives, but such examination shall not in any way exonerate the **contractor** from the obligation to remedy any defects which may be found to exist at any stage of the works or after the same is completed. Subject to the limitation of this Clause the **contractor** shall take instructions only from the **Employer/Consultants**.

4.14. **Work not to be sublet:**

The whole of the works included in the contract shall be executed by the **contractor** who shall not directly or indirectly transfer, assign or underlet the **contractor** any part share thereof or interest therein without the written consent of the **Employer**; and no undertaking shall relieve the contractor from the full and entire responsibility of the contract or from act of superintendence of the works during their progress.

4.15. **Variation not to vitiate the contract:**

No alteration, omission or variation shall vitiate this contract but in case the consultant thinks proper at any time during the progress of the works to make any alterations in or additions to or omissions from or substitutions for the original drawings, specifications, design and instructions, or any alterations in the kind or quality of the materials to be used in the work and shall give notice thereof to the **contractor**, in writing, the **contractor** shall alter, and to or omit from or substitute for as the case may require, in accordance with such notice and carry out the amended work on the same conditions in all respects on which he agreed to do the main work, but the **contractor** shall not do any work extra to or make any alterations or additions to or omissions from or substitutions in the works or any deviation from any of the provisions of the contract stipulations specifications or contract drawings without the previous consent in writing of the consultant and the value of such extras, alterations , additions or omissions or substitutions shall in all cases be determined by the consultant with the prior approval in writing of **the Employer** in accordance with the provisions of Clause 17 hereof, and shall be added to or deducted from the contract amount accordingly.



4.16 The supply and execution of any part or the carrying out of any work incidental to the execution of any item or class of work shown in the schedule of quantities shall not constitute a variation entitling the **contractor** to extra payment provided that the said item or class of work cannot be executed satisfactorily accordance to the true intent and meaning of the drawings and specifications without the said part thereof or the said work incidental thereto whether the same may or may not be particularly shown or described in the drawings, specifications and schedule of quantities and provided the same may be reasonably inferred there from.

4.17 Similarly the changing of the position of the work from one to another or to a more difficult position than that shown in the drawings or described in the specifications or the contract schedule , shall not constitute a variation entitling the **contractor** to extra payment.

**4.17-A No Compensation for alteration in or restriction of Work:**

If at any time after the commencement of the work the **Employer** for any reason whatsoever does not require the whole or part or parts thereof as specified in the tender to be carried out, then he shall give notice in writing of the fact to the **Contractor** who shall have not claim for any compensation whatsoever on account of any profit which he might have derived from the execution of the work in full, but which he did not derive in consequence of the full amount of the work not having been carried out. Nor shall he have any claim for compensation by reason of any alterations having been made in the original specifications, drawings, design and instructions which shall involve curtailment of the work originally contemplated.

**4.18. Schedule of Quantities on Standard Method of Measurement:**

The schedule of quantities unless otherwise stated shall be deemed to have been prepared in accordance with the Indian Standard Method of Measurement.

**4.19. Errors in bills of quantities :**

No error in description or in quantity or by way of omission of items from the schedule of quantities shall vitiate this contract but shall be rectified and the value thereof as ascertained under Clause 17 herein shall be added to or deducted (as the case may be) from the contract amount provided that there shall be no rectification of errors in the **contractor**'s schedule of rates.

#### **4.20. Measurement of works:**

The **Employer** may from time to time intimate to the **contractor** that he requires the works to be measured and the **contractor** shall forthwith attend or send a qualified Agent to assist the **Employer** or his representative in taking such measurements and calculations and to furnish all particulars or to give all assistance required by either of them. Provided that the **contractor** shall give notice of not less than ten clear days to the **Employer** or his representative in charge of the work before covering up or placing beyond the reach of measurement any work in order that the same may be measured and correct dimensions there off be taken before the same is covered up or placed beyond reach of measurement and shall not cover up and place beyond reach of measurement any work without the consent of the **Employer** and his representative in charge of the work who shall with on the aforesaid period of ten days inspect the work and cause the measurements to be made, if, any work be so covered up without the consent of the **Employer** or his representative in charge of the work, the same shall be uncovered at the **contractor's** expense, or in default there off no payment or allowance shall be made for such work or materials with which the same was executed.

Should the **contractor** not attend or omit to send such agent then the measurements taken by the **Employer** or a person approved by him shall be taken to be correct measurement of the works. Such measurements shall be taken in accordance with the Indian Standard Method of Measurement, unless otherwise provided for elsewhere in this contract.

The **contractor** or his agent may at the time of measurement take such notes and details as he may require.

All authorized extra works, omission and all variations made without the Architect's knowledge, if subsequently sanctioned by him in writing (with the prior approval in writing of the **Employer**) shall be included in such measurements.

#### **4.21. Price of Variation :**

The rates for additional, altered, substitutes work shall be in accordance with the following rules:

- i) The net rates or prices in the contract schedule shall determine the valuation of (the rates for) the extra work (items) where such extra work is of similar character and is executed under similar conditions as the work priced therein.
- ii) If the rates for the extra, altered or substituted (deviated) work are not provided for (available) in the contract schedule, they shall to the extent possible be derived out of the rates given in that schedule for similar or near similar items. For the purpose of such derivation, where necessary and when so directed, the **contractor** shall furnish detailed analysis for the said similar or near similar items in the contract schedule. For such portions of the analysis for the extra, altered or substituted (deviated) work for which prices cannot be abstracted from the corresponding analysis of rates for the said similar or near similar items in the contract schedule, market rates substantiated by purchase bills/vouchers shall be adopted, using factors and constants for quantum of materials , labour T & P and sundries from CPWD/Standard PWD/KWA data/analysis, in the order thus written adding 10% over towards profits and overheads. When called upon to do so the **contractor** shall submit the required purchase bills/vouchers.
- iii) In respect of a contract which incorporates more than one schedule the rate applicable in case (1) above if not provided for in the schedule pertaining to the work in which the addition, alternation or substitution (deviation) occurs, shall be taken as the lowest applicable rate in the other schedule, similarly, in case (ii) above, if similar or near similar items cannot be found in the schedule pertaining to the work in which the addition, alterations or substitution (deviation) occurs, similar or near similar items from the other schedule shall be adopted.
- (iv) In the case of additional, altered or substituted (deviated) work for which rates cannot reasonably be derived as at (ii) and (iii) above, the rates shall be worked out adopting market prices, substantiated by purchase bills/ vouchers, using factors and constants for quantum of materials, labour, T & P and sundries from CPWD/ Standard/PWD/KWA Data Analysis in the order thus written, adding 10% towards profits and overheads. When called upon to do so the **contractor** shall submit his purchase bills/vouchers, to the **Employer**.

(v) The provisions in sub-clauses (i) to (iv) will not apply to contract schedule items or altered or substituted (deviated) items (the quantities of) which individually exceed the corresponding provision in the contract schedule by more than 20% when the deviation limit as defined below and as referred to in the tender is exceeded and when the said deviation limit is not exceeded (a) by more than 50% in the case of items of work above plinth level and (b) by more than 100% in the case of items below plinth level.

In such case, only for such items where, and for such quantities only as are in excess of the quantities provided in the contract schedule for original items or items which stand altered or substituted (deviated) by more than the percentage specified in sub-clause (b) above and for items for which the rates cannot reasonably be derived as/at sub-clause (ii) and (iii) above, market rates shall be applied.

(vi) The questions as to what particular items, being similar or near similar to the additional, altered or substituted (deviated) work in the contract schedule are to be adopted for derivation of rates for the additional, altered or substituted (deviated) work and whether the said rates cannot be derived from similar or near similar items in the contract schedule will be decided by the consultants,

(vii) In case (ii) to (iv) the **contractor** is required to submit his analysis of rates adopting the principles enunciated and the consultants, after scrutinizing the analysis and other papers furnished will allow such rates as he considers reasonable.

(viii) Where extra work is of such a nature that it cannot be properly measured or valued the **contractor** shall be allowed day work prices at the net rates stated in the tender or the priced schedule of quantities, or if not so stated, than in accordance with the minimum local day work rates and wages for the district, notified by the concerned authority, provided that in either case if required by the **Employer**, vouchers, muster rolls and other documents required for proper verification of the labour employed and the materials deployed on the said work and the costs thereof be delivered to the **Employer** or his representative at or before the end of the week following that in which the work has been executed.

The question as to whether extra work is of such nature that it cannot be properly measured or valued will be decided by the **Employer**. The margin to be allowed on actual costs to the **contractor** towards profits and overheads shall be 10%.

- (ix) Deviation Limit is the value the total executed contract value including authorized variation is in excess to the- original contract value, expressed as a percentage and shall be adjudged on the sum total of all additions, omissions, reductions, alternations or substitutions (deviations) covered by' authorized variation under Clauses 2 and 13 of the Conditions of Contract. The values of prime cost sums shall not be included in calculating the above percentages.

**4.22. Unfixed materials :**

Where in any certificate (of which the **contractor** has received payment) the consultant has included the value of any unfixed materials intended for and/or placed on or adjacent to the works such materials shall become the property of the **Employer** and they shall not be removed except for use upon the works, without the written authority of the **Employer**. The **contractor** shall be liable for any loss or damage to such materials.

**4.23. Removal of improper work, material, etc.**

The **Employer**/consultants shall, during the progress of the work, have full powers to order in writing from time to time, removal from the works within such reasonable time or times as may be specified in the order, of any materials which in their/opinion are not in accordance with the specifications or the instructions or do not conform the approved samples, the substitution of the rejected materials by proper other materials, and the removal and proper re-execution of any work executed with unsound, imperfect or unskilled workmanship or with materials not in accordance with the contract, notwithstanding that the same may have been passed or/and certified or/and paid for and the **contractor** shall forthwith carry out such order at his own cost. In case of default on the part of the **contractor** to carry out such order, the **Employer** shall have the power to employ and pay other persons to carry out the same without being answerable or accountable for any loss or damage that may happen or arise to such materials, removed and all expenses consequent on or incidental thereto as certified by the consultant shall be borne by

the **contractor**, or may be deducted by the **Employer** from any moneys due or that may become due to the **contractor**.

In lieu of re-execution of any work not in accordance with the contract the consultant may in their option allow it to remain but will allow for such work reduced rates The decision of the consultant to exercise his option in this regard and the quantum of reduction to be made in the rate for the item in question shall be final and binding- on the **contractor**.

**4.24. Defects Liability Period:**

Any defect, shrinkage, settlement or other faults which may appear within the 'Defects Liability Period' stated in the appendix hereto, or if none so stated, then within 12 months after the virtual completion of the works, arising in the opinion of the Consultant from materials or workmanship not in accordance with the contract, shall on demand which shall be made within the defects liability period, in writing by the **Employer** and within such reasonable time as shall be stated therein specifying the work, materials or articles complained notwithstanding that the same may have been passed or/and certified, paid for, be amended and made good by the **contractor**, at his own proper charges and cost and in case of default the **employer** may employ and pay other person or persons to amend and make good such defects, shrinkage, settlements or other faults and all damages, loss and expenses consequent thereon or incidental thereto shall be made good and borne by the **contractor** and such damages, loss and expenses shall upon the Consultant's certificate in writing, be recoverable from the **contractor** by the **Employer** or may be deducted by the **Employer** from any moneys due or that may become due to the **contractor** or the **Employer** may in lieu of such amending and making good by the **contractor** deduct from any moneys due or that may become due to the **contractor** a sum to be determined by the Consultant equivalent to the cost of amending and making good such work and in the event of the amount retained under clause 33 being insufficient, recover the balance from the **contractor**, together with any expenses the **Employer** may have incurred in connection therewith. Should any defective work have been done or material supplied by any subcontractor employed on the works who has been nominated or approved by **the Employer** as provided in

Clause 12 and 22 the **contractor** shall be liable to make good in the same manner as if such work or material had been done or supplied by the **contractor** himself and been subject to the provisions of Clause 2 thereof. The **contractor** shall remain liable under the provisions of this Clause notwithstanding the signing by the Consultant of any certificate including the final certificate, or the passing of any accounts.

#### **4.25. Completion Certificate**

The works shall not be considered as completed until the Consultant has certified in writing that they have been virtually completed and the defects liability period shall commence from such certified date of virtual completion of work.

Within ten days of the completion of the work, the **contractor** shall give notice of such completion to the Consultant and within two days of the receipt of such notice the Consultant shall inspect the work and if there is no defect in the work shall furnish the **contractor** with a certificate of completion, otherwise a provisional certificate of completion indicating defects (a) to be rectified by the **contractor** and/or (b) for which payment will be made at reduced rates, shall be issued but no certificate of completion, provisional or otherwise, shall be issued, nor shall the work be considered to be completed until the **contractor** shall have removed from the premises on which the work was executed, all scaffolding, surplus material, rubbish and all huts and sanitary arrangements required for their work people on the site in connection with the execution of the works and as shall have been erected or constructed by the **contractor** (s) and cleaned of the dirt from all woodwork, doors, windows, walls, floors or other parts of any building, in upon or about which the work was executed, or of which he may have had possession for the purpose of the execution thereof, and not until the work shall have been measured by the **Employer**. If the **contractor** shall fail to comply with the requirements of this clause as to removal of scaffolding , surplus materials and rubbish and all huts and sanitary arrangements as aforesaid and cleaning off of dirt on or before the date fixed for the completion of the work, original or extended in terms of Clause 28 herein, the **Employer** after issuing due notice, may at the expense of the **contractor** remove such scaffolding, surplus materials and rubbish, etc. and dispose of the

same as he thinks fit and clean off such dirt as aforesaid, and the **contractor** shall have no claim in respect of any such scaffolding or surplus material as aforesaid except for any sum actually realized may be recovered from any money due or that may become due to the **contractor** by the **Employer**. If several sub-works covered by separate schedule are included in the contract, and if at any time before the completion of the entire work, the **Employer** takes possession of any of the separate sub-works that may have been duly completed in accordance with the contract and so certified by the Consultants notwithstanding any other provision in this contract in this regard, a completion certificate may be issued in respect of that sub-work subject to the provisions in the previous sub-clauses (regarding completion certificate) having been complied with in respect of the said duly completed sub-work, the defects liability period for such sub-work may be reckoned from the separate date of virtual completion so certified and that part of the full security deposit that may by proportion (contract value of this sub-work to the whole contract value) attributed to this sub-work may be refunded in accordance with and subject to the provisions of clause 20. The same principles will apply where different dates are specified in the contract for different sub-works.

The previous sub-clause is not applicable where there is a single schedule only for the whole work.

#### **4.26. Specialists:**

All specialists, merchants, tradesmen and others executing any work or supplying and fixing any goods for which prime cost prices or provisional sums are included in the schedule of quantities and/or specification who may be nominated or selected by the Consultants shall be deemed to be sub-contractors employed by the **contractor** and are herein referred to as nominated sub-contractor.

No nominated sub-contractors shall be employed on or in connection with the works against whom the **contractor** shall make reasonable objection or (save where the Consultant and contractor shall otherwise agree) who will not enter into a contract providing!



a) That the nominated sub-contractor shall indemnify the contractor against the same obligations in respect of the sub-contract as the contractor is under in respect of this contract.

b) That the nominated sub-contractor shall indemnify the contractor against claims in respect of any negligence by the **sub-contractor**, his servants or agents or any misuse by him/them of scaffolding or other plant, the property of the **contractor** or under any Workmen's Compensation Act in force.

c) Payment shall be made to the nominated subcontractor within fourteen days of his receipt of the Consultant's certificate provided that before any certificate is issued the contractor shall upon request furnish to the Consultant proof that all nominated sub-contractors' accounts<sup>1</sup> included in previous certificates have been duly discharged, in default whereof the **employer** may pay the same upon a certificate of the Consultant and deduct the amount thereof from any sums that may then be due or may become due to the **contractor**.

**4.27. Employer may use premises :**

The **Employer** with the concurrence of the Consultant reserves the right to use the premises and any portion of the site for the execution of any work not included in this contract which he may desire to have carried out by other persons and the contractor is to allow all reasonable facilities for the execution of such work but is not required to provide any plant or materials for the execution of such work except by special arrangements with the Employer. Such work shall be carried out in such manner as not to impede the progress of the works included in this contract and the contractor is not to be held responsible for any damage or delay which may happen to or be occasioned by such work.

**4.28. Contractor Liable for Damage done:**

i. The **contractor** shall be responsible for all injury to persons, animals, or things and for all structural and decorative damage to property which may arise from the operation or neglect of himself or of any nominated **Sub-contractor's** employee whether such injury or damage arises from carelessness, accident or any other cause whatever in any way connected with the carrying out of the contract. This clause shall be held to include, inter-alia, any damage to buildings, whether

immediately adjacent or otherwise, and any damage to roads, streets, foot-paths bridges, or ways as well as all damages caused to the buildings and works forming the subject of this contract by frost or other inclemency of weather. The **contractor** shall indemnify the **Employer** and hold him harmless in respect of all and any expenses arising from any such injury or damage under any Act of Government or otherwise and also in respect of any award of compensation or damages consequent upon such claims.

ii, The contractor shall reinstate all damages of every sort mentioned in this clause, so as to deliver up the whole of the contract works complete and perfect in every respect and so as to make good or otherwise satisfy all claims for damage to the property of third party.

iii. The **contractor** shall protect the **Employer** against all claims which may be made against the **Employer** by any member of the public or other third party in respect of anything which may arise in respect of the works or in consequence thereof and shall at his own expense arrange to effect and maintain, until the virtual completion of the contract, with an approved insurer a Policy of insurance in the Joint names of the **employer** and **contractor** against such risks and deposit such Policy or Policies with the Architect from time to time during the currency of this contract. The contractor shall also similarly protect the **Employer** against all claims which may be made upon the **Employer** whether under the Workmen's Compensation Act or any other statute in force during the currency of this contract or at common Law in respect of any employee of the **contractor** and shall at his own expenses effect and maintain until the virtual completion of the contract, with an approved insurer a Policy of insurance in the Joint names of the **Employer** and the contractor against such risks and deposit such policy, or policies with the Architect from time to time during the currency of the contract.

The **contractor** shall be responsible for anything which may be excluded from the Insurance Policies above referred to and also for all other damages to any property arising out of and incidental to the negligent or defective carrying out of this contract\* He shall also indemnify the **Employer** in respect any costs, charges or

expenses arising out of claim or proceedings and also in respect of award of compensation for damage arising there from.

The **Employer** with the concurrence of the Consultant shall be at liberty and is hereby empowered to deduct the amount of any damage, compensation, costs, charges and expense arising or accruing from or in respect of any such claims or damage from any or all sums due or to become due to the **contractor**.

**4.29. Responsibility for safety of buildings:**

The **contractor** shall be responsible for the safety of the works (including the materials, temporary buildings and plant) until they are taken over by the **Employer** and they shall stand at the risk, and be in the sole charge of the **contractor**, who shall be responsible for and must with all possible speed make good all damage from whatever cause.

**4.29 A. Insurance of the works:**

The **contractor** shall within 14 days from the date of commencement of the work insure the works at his cost and keep them insured until one month after the works are taken over by the **Employer** or three months after the date of completion whichever is earlier, against loss or damage by fire and usual risks other than fire against which insurers generally provide cover in a **CONTRACTOR'S** all risk policy, with an insurer to be approved by the **Employer** in the joint names of the **Employer** and **contractor** (the name of the former being placed first in the policy), progressively for the full amount of the contract, in three stages, beginning with 1/3 of the contract value, and for any further sum as called upon to do so by the **Employer**, the premium of such further sum being allowed to the **contractor** as an authorized extra. Such policy shall cover the property of the **Employer** only and Consultant's and surveyor's fees for assessing the claim and in connection with this services generally in re-instatement and shall not cover any property of the **contractor** or of any subcontractor or employee. The contractor shall deposit the policy and receipts for the premiums paid with the **Employer** within twenty-one days of the date of commencement of the work unless otherwise instructed by the **Employer**. In default of the **contractor** insuring as provided above, the **Employer** or on his behalf may insure and may deduct the premium paid from any money that

may be due or that may become due to the **contractor**. The **contractor** shall as soon as the claim under the policy is settled, or the work reinstated by the insurers should they elect to do so, proceed with all due diligence with the completion of the works in the same manner as though the fire or other such risk had not occurred and in all respects under the same conditions of contract. The **contractor** in case of rebuilding or reinstatement after fire or other such usual risk shall be entitled to such extension of time for completion as per the **Employer's** decision.

**4.30. Day of commencement and day of completion:**

The **contractor** shall be allowed admittance on the site on the "date of commencement\*" stated in the Appendix\* and he shall thereupon and forthwith begin the works and shall regularly proceed with and complete the same (except such painting or other decorative work) on or before the "Date of completion\*" stated in the Appendix subject nevertheless to the provision for extension of time hereinafter contained.

**4.31. Liquidated damages:**

If the **contractor** fails to complete the works by the date stated in the Appendix or within any extended time under clause 28 here in below the contractor shall pay or allow to the **Employer** the sum named in the Appendix as 'Liquidated Damages'<sup>1</sup> for the period during which the said works shall so remain incomplete by the date of completion of the work as defined in the contract, and the **Employer** may deduct such damages from any moneys due or that may become due to the **contractor**.

**4.32. Failure of contractor to comply with Employer's instructions:**

If the **contractor**, after receipt of written notice from the **Employer** requiring compliance within ten days fails .to comply with such further drawings/and/or instructions, the **Employer** may employ and pay other persons to execute any such work whatsoever that may be necessary to give effect thereto, and all costs incurred in connection therewith shall be recoverable from the contractor by the Employer on the Certificate of the Consultant as a debt or may be deducted by him from any moneys due or to become due to the **contractor**.

**4.33. Termination of Contract by Employer:**

If the **contractor** being an individual or a firm commits any "Act of Insolvency", or shall be adjudged an insolvent or being an incorporated Company shall have an order for compulsory winding up made against it or pass an effective resolution for winding up voluntarily or be subject to the supervision of the court and of official assignee or the Liquidator in such acts of insolvency or winding up, as the case may be, and shall be unable within 7 days after notice to him requiring him to do so, to show to the reasonable satisfaction of the **Employer** that he is able to carry out and fulfill the contract and to give security therefore if so required by the Employer.

OR if **the contractor** (whether an individual, firm or incorporated company) shall suffer execution to be issued;

OR shall suffer any payment under this contract to be attached by or on behalf of any of the creditors of the **contractor**;

OR shall assign or sublet this contract without the consent in writing of the **Employer** first obtained;

OR shall charge or encumber this contract or any payments due or which may become due to the **contractors** there under;

OR if the Consultant shall certify in writing to the **Employer** that the **contractor**:

- i) Has abandoned the contract, or
- ii) Has failed to commence the works, or has without any lawful excuse under these conditions suspended the progress of the works for 14 days after receiving the **Employer's** notice to proceed, or
- iii) Has failed to proceed with the works with such due diligence and failed to make such due progress as would enable the works to be completed within the time agreed upon, or
- iv) Has failed to remove the materials from the site or to pull down and replace work for seven days after receiving from the **Employer** written notice that the said materials or work were condemned and rejected by the **Employer** under these conditions,
- v) Has neglected or failed persistently to observe and perform all or any of the acts, matters or things by this contract to be observed and performed by the **contractor** for

seven days after written notice shall have been given to the **contractor** requiring the **contractor** to the observe or perform the same, or  
vi) has to the detriment of good workmanship or without the consent in writing of the **Employer** sublet any part of the contract.

Then and in any of the said cases the **employer** may notwithstanding any previous waiver, after giving seven day's notice in writing to the **contractor**, determine the contract, but without thereby affecting the powers of the Consultants or the obligations and liabilities of the **contractor** the whole of which shall continue in force as fully as if the contract had not been so determined and as if the works subsequently executed had been executed by or on behalf of the **contractor**. And further the **Employer** by his agents or servants may enter upon and take possession of the works and all plant, tools, scaffoldings, sheds, machinery, steam, or other power utensils and materials lying upon the premises or the adjoining lands or roads, and use the same as his own property or may deploy the same by means of his own servants and workmen in carrying on and completing the works or by employing other **contractor** or person or persons to complete the work and the **contractor** shall not in any way interrupt or do any act, matter, or thing to prevent or hinder such other **contractor**/s or other person or persons employed for completing and finishing or using the materials and plant for the works. When the work shall be completed or as soon thereafter as convenient the b shall give notice in writing to the **contractor** to remove his surplus materials and plant, and should be **contractor** fail to do so within a period of 14 days after receipt thereof by him, the **Employer** shall be entitled to sell the same by public auction and give credit to the **contractor** for the amount released.

The **contractor**'s account shall also be credited with the amount that would have been payable to him, for the uncompleted work (completed by the **Employer** through other contractor/s or person or persons as aforesaid) in terms of his agreement as if the contract had not been determined and he (the **contractor**) had Continued to execute the work to its completion. The actual gross expense to the **Employer** including incidental charges in completing the uncompleted work through other **contractor**/s or person or persons shall be debited to the **contractor**'s account if it be not less than the credit for the uncompleted work as above referred; if however, the

said debit to be made be less than the credit, then the amount to be debited shall be equal to the value of the credit given as above referred.

The Consultant shall thereafter ascertain and certify in writing what (if anything) in the final accounting is due to or payable to the **contractor** by the **Employer** or to the **Employer** by the **contractor** for the sale of the surplus materials and plant and loss the **Employer** shall have been put to in procuring the works to be completed. The amount, if any owing to the **contractor** and which shall be so certified shall thereupon be paid by the **Employer** to the **contractor** and vice versa; and the certificate of the Consultant in this regard shall be final and conclusive between the parties.

**4.34. Termination of contract by contractor:**

If payment of the amount payable by the **employer** under any certificate of the Consultants shall be in arrears and unpaid for thirty days after notice in writing requiring payment of the amount as aforesaid shall have been given by the **contractor** to the **Employer**, or if the **Employer** interferes with or obstructs the issue of any such certificate, or the **Employer**, commits any act of insolvency or if the **Employer** (being an individual or Firm) shall be adjudged an insolvent, or (being an incorporated Company) shall have an order made against him or pass an effective Resolution for winding up, either compulsorily, or subject to the supervision of the Court or Voluntarily, or if the official assignee or the **Employer** shall repudiate the contract, or if the official Assignee or the Liquidator in any such winding up shall be unable within fifteen days after notice to him requiring him to do so to show to the reasonable satisfaction of the **contractor** that he is able to carry out and fulfill the contract and to make all payments due, and to become due there under , and if required by the **contractor**, to give security for the same, or if the works be stopped for three months under the order of the Consultant or the **Employer** or by any injunction or other order of any Court of Law, then and in any of the said cases the **contractor** shall be at liberty to determine in the contract by notice in writing to the **Employer**, and he shall be entitled to recover from the **Employer**, payment for all works executed in terms of the contract and for any loss he may sustain upon any plant or materials supplied or purchased or prepared for the purpose of the contract.

In arriving at the amount of such payment the net rates contained in the **contractor's** original tender shall be followed or where the same may not apply, valuation shall be made in accordance with Clause 17 hereof.

**4.35. Prime Costs, Provisional sums:**

- a) Where 'Prime Costs' (P.C) prices or provisional sums of money are provided for any goods or work in the specification or Schedule of quantities the same are exclusive of any trade discounts, rebate or allowance, discount for cash, or profit which the **contractor** may require and of fixing, but are inclusive of all proper charges for packing, carriage and delivery at site.
- b) All goods or work for which prime cost or provisional sums of money are provided may be selected or ordered from any manufacturers or firms by the **Employer** who reserves to himself the right of paying direct for any such goods or work and deducting the said prices or sums from the amount of contract. Should any goods or work for which prime cost prices or provisional sums are provided or portions of same, be not required, such prices or sums, together with the profits allowed for same and such additional amounts as the contract may have allowed for carriage and fixing will be deducted in full from the amount of the contract. Whether the goods be ordered by the **contractor** or otherwise, the **contractor** shall receive and sign for goods and be responsible for their safe custody as and from the date of their delivery upon the works, and shall be paid for fixing, where applicable, in terms of the contract, and in the absence of special provision for such payment for fixing, in the contract, shall fix the same, if called upon to do so, at his own cost. Fixing shall cover unloading, getting in, unpacking and return of empties and other incidental works.
- c) In cases in which provisional quantities of material are contained in the contract the **contractor** shall provide such material to such amounts or to greater or lesser amounts as the **Employer** shall direct in writing at the net rates at which he shall have priced such items in his schedule of quantities. Should however any such items be entirely omitted, which omissions shall be at the **Employer's** discretion no profit on such items shall be allowed to the **contractor**.
- d) No prime cost sum or sums (or any portion thereof) shall be included in any certificate for payment to the **contractor** until the receipted accounts relating to them



have been produced by the **contractor** to the **Employer**, such account shall show all discounts and any sum or sums in respect of such discounts shall be treated as a trade discount provided always that should the contractor in lieu of producing such receipted accounts request the **Employer** for such sum or sums due either on account or in settlement to a sub-contractor direct, the **Employer** shall upon satisfying himself that the subcontractor is entitled to the same, so issue the certificate, and sum or sums shall be deducted from the amount of the contract at the settlement of accounts and any profit or further sum to which the **contractor** is properly entitled in respect of such sub-contractor, and which is in conformity with the terms of the contract, shall be allowed to the **contractor** at the settlement of accounts as though the amount of such certificate to the subcontractor had been included in a certificate drawn in favour of the **contractor**.

- e) If the **contractor** neither produces the receipt nor gives authority to the **Employer** to issue a certificate in favour of such sub-contractor direct, the **Employer** may upon giving the **contractor** seven days notice in writing of his intention to do so issue to the sub-contractor such certificate direct and obtain the receipt from the sub-contractor which receipt shall be deemed as discharge for the amount of such certificate as though given by the **contractor**. In the event of such default on the part of the **contractor**, he shall not be allowed any profit he may have added in the schedule of quantities upon such sub-contract.
- f) The exercise of the option herein by the **contractor** and the issue of certificate before described to sub-contractor upon the **contractor's** request or the issue to the sub-contractor direct of the certificate by the **Employer**, all hereinbefore referred, shall not however, relieve the **contractor** from any of the liabilities in respect of insufficient, faulty or incomplete work of the sub-contractor for which he may be liable under the terms of the contract.
- g) If any provisional items are provided for work of a nature- usually carried out by the **contractor** in the ordinary course of his business the **Employer** shall give the **contractor** an opportunity for tendering for the same without prejudice to the **Employer's** right to accept any or reject any or all of the tenders received.

#### 4.36 Certificate and payment

A bill in triplicate shall be submitted by the contractor, periodically when 25% of total value of work is completed before the date fixed by the **Employer's** or if no date be so fixed, by the 15th of the month, along with detailed measurements, also in triplicate for the work executed in the previous month, and the **Employer** shall, consistent with the stipulation in the appendix to these conditions of contract regarding "value of work for Interim Certificates" get it checked by the authorities of the **Employer** at site and certified by consultants and countersigned by the Project Engineer (site) for the purpose of having the same to be verified and to the extent work has been executed in accordance with the contract, and the **Employer** shall make payment to the **contractor** on the basis of such certificates within the period specified for honoring interim certificates (in the Appendix to the conditions of contract), subject to retention of such sums at the percentage marked in the said Appendix till the whole of the retention money (part of security deposit) is connected where after the installments (interim payments) shall be upon the full value of the work subsequently so executed and fixed.

And when the works have been virtually completed and the **Employer** shall have certified in writing that they have been so completed, the **contractor** shall submit the final bill in respect of the contract work within one month thereafter and in accordance with the certificate to be issued, payment shall be made by the **Employer** within the time named in the Appendix as "Installment after virtual completion" . And the **Contractor** shall be entitled to the payment of the final balance in accordance with the final certificate to be issued in writing by the **Employer** after the expiration of the period referred to as "the Defects Liability period" in the Appendix hereto from the date of virtual completion or as soon after the expiration of such period as the works shall have been finally completed and all defects made good according to the true intent and meaning thereof whichever shall last happen.

34. The **contractor** shall indemnify the employer against any liability that may arise due to the non-compliance of any provision under the said contract Labour (Abolition and Regulation) Act, 1970 or any enactment affecting the work contemplated under the contract.

#### **4.37 Apprentice Act:**

The **contractor** shall comply with the provisions of the Apprentice Act 1961 and the Rules and Orders issued there under from time to time. Failure to do so will amount to a breach of contract and the **employer** may In his discretion terminate the contract. The **contractor** shall also be liable for any liability arising on account of any violation by him of the provisions of the Act.

**4.38. When contractor dies:**

Without prejudice to any rights or remedies under this contract, if the **contractor** dies, the **employer** shall have the option .of terminating the contract without compensation to the **contractor**.

**4.39. Theoretical check: (if supply is made by Employer to contractor partially or wholly)**

After the completion of the work the quantity of materials used on the work shall be calculated on the basis of data, if any herein contained/CPWD/Local PWD/KWA data in the order thus written by taking actual **as built** measurements at site.

The difference in the quantity of materials actually supplied to the **contractor** and the quantity used if not returned by the **contractor** at the place that may be specified, shall be recovered for at twice the market cost without prejudice to the provisions of the relevant condition regarding the return of surplus materials. However, for pipes a wastage allowance 2.5% the quantity used will be reckoned while computing the quantity unused. For Materials other than pipes, no such wastage allowance shall be given.

In the event, of it being discovered that the quantity of materials used is less than the quantity required as hereinbefore provided cost of the quantity not so used shall be recovered from the **contractor** on the basis of the supply rate

**4.40. Return of surplus materials :**

Notwithstanding anything contained in any or all of the clauses of this contract, where materials for the execution of the work have been supplied by the **Employer** in whatever\* manner, the contractor shall hold the said materials economically and solely for the purposes of this contract and not dispose of them without the permission of the **Employer** and return if required what may be left with him after the completion of the

contract or at its termination for any reason whatsoever, on being paid or credited costs at such prices as the consultant shall determine having due regard to the condition of the materials. The decision of the Consultant in this regard will be final. Provided that the **contractor** shall not be entitled to return any such material unless with such consent and if the **Employer** does not so require the material to be returned the **contractor** may at his risk and expense dispose of the materials and he shall not be entitled to any compensation whatsoever in this regard and provided that steel & pipes in lengths of less than 2metres shall be deemed to be steel in good condition.

#### **MISCELLANEOUS:**

##### **4.41. Site Drainage:**

All water which may accumulate on the site during the progress of the works, or in trenches and excavations, from other than the excepted risks (as defined in this contract) shall be removed from the site to the satisfaction of the **Employer's** at the **contractors'** expense.

##### **4.42. Nuisance:**

The **contractor** shall not at any time do, cause or permit any nuisance on the site or do anything which shall cause unnecessary disturbance or inconvenience to owners, tenants or occupiers of other properties in and near the site and to the public generally.

##### **4.42. Watching and Lighting:**

The **contractor** shall provide and maintain at his own expenses all lights, guards, fencing and watching when and where necessary as required by the **Employer's** for the protection of the works or for the safety and convenience of those employed on the works or the public.

##### **4.43. Taxes and rates:**

The **Employer** is entitled to deduct all taxes and rates as per existing laws and rules, from any moneys due or that may become due to the **contractor**.

##### **4.44. General Indemnity:**

"The **contractor** shall Indemnify the employer from and against all claims, demands, proceedings, damages, costs and expenses which may be brought or made against the employer or to which It may be put by reason of the **contractor** not conforming to or

complying with any of the provisions of requirements of any Act or Statute, Central or State, Rules, Regulations, Bye-laws of Local Authorities, Panchayat, Collector or any Companies relating to or In connection with the works or to labour or for supply of water, light or other amenities at the site".

#### **4.45 Summary of conditions referred to earlier**

##### **Clause No.**

20. Defects Liability period	:	18 Months from date of completion
26. Date of commencement	:	01 week after signing the work order.
26. Date of completion	:	Two Months from date of commencement.
27. Liquidated Damages at the rate of:		Rs.1000/day subject to the maximum of Rs.5.0Lakhs.
33. Value of works for interim certificate	:	10% of agreed value of work.
33. Retention amount	:	10% on running bills
33. Earnest Money Deposit	:	Rs. 1,00,000/-
33. Security Deposit	:	NIL

#### **6. SAFETY CODE**

6.1 First aid appliances including adequate supply of sterilized and cotton wool shall be kept in a readily accessible place.

6.2 An injured shall be taken to a public Hospital without loss of time, in cases where the injury necessitates hospitalization.

6.3 Suitable and strong scaffolds should be provided for workmen for all works.

6.4 No Portable single ladder shall be over 8 meters in length . The width between the side rails shall not be less than 30 cm (clear) and the distance between two adjacent rungs shall not be more than 30 cm . When a ladder is used an extra mazdoor shall be engaged for holding the ladder.

- 6.5 The excavated material shall not be placed within 1.5 meters of the edge of the trench of half of the depth of trench whichever is more. All trenches and excavations shall be provided with necessary fencing and lighting.
- 6.6 Every opening in the floor of a building or in a working platform be provided with suitable means to prevent the fall of persons or materials by providing suitable fencing or railing whose minimum height shall be one meter.
- 6.7 No floor, roof or rather part of the structure shall be so over loaded with debris or materials as to render it unsafe.
- 6.8 Workers employed on mixing and handling material such as Asphalt, cement mortar or concrete and lime mortar shall be provided with protective footwear and rubber hand-gloves.
- 6.9 Those engaged in welding works shall be provided with welder's protective eye-shields and gloves.
- 6.10 No paint containing lead or lead products shall be used except in the form of paste or readymade paint.
- 6.11. Hoisting machines and tackle used in the works, including their attachments, anchorage and supports shall be in perfect conditions.
- 6.12. The ropes used in hoisting or lowering material or as a means of suspension shall be of durable quality and adequate strength and free from defects.