

D.GENERAL CONDITIONS OF CONTRACT (GCC)

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CLAUSE 1
PERFORMANCE GUARANTEE

- (i) The contractor shall submit an irrevocable Performance Guarantee of 3% (Three Percent) (as per Ministry of Finance, Deptt. of Expenditure, OM No.F.9/4/2020-PPD Dated 12th November, 2020) of the 'tendered amount' in addition to other deposits mentioned elsewhere in the contract for his proper performance of the contract agreement, (not withstanding and/or without prejudice to any other provisions in the contract) within period of 15 days from the date of issue of letter of acceptance. This period can be further extended by the Engineer-in-charge upto a maximum period of 15 days on written request of the contractor stating the reason for delays in furnishing the Guarantee, to the satisfaction of the Engineer-in-charge. This guarantee shall be in the form of Cash (in case guarantee amount is less than Rs.10,000/-) or Deposit at Call receipt of any scheduled bank/ Banker's Cheque of any scheduled bank/ Demand Draft of any scheduled/ Pay Order of any scheduled bank (in case guarantee amount is less than Rs.1,00,000/-) or Government Securities or Fixed Deposit Receipts or Guarantee Bonds of any Scheduled Bank or the State Bank of India in accordance with the form annexed hereto. In case a fixed deposit receipt of any Bank is furnished by the contractor to the Government as part of the performance guarantee and the Bank is unable to make payment against the said fixed deposit/receipt, the loss caused thereby shall fall on the contractor and the contractor shall forthwith on demand furnish additional security to the Government to make good the deficit.
- (ii) The Performance Guarantee shall be initially valid upto the stipulated date of completion plus 60 days beyond that. In case the time for completion of work gets enlarged, the contractor shall get the validity of Performance Guarantee extended to cover such enlarged time for completion of work. After satisfactory taking over the building/facility, with no defects, the performance guarantee shall be returned to the contractor without any interest within 14 days.
- (iii) In case of works where high value equipments under AC/ Electrical/ Mechanical are involved and wherever explicitly mentioned in this contract, for such works, the Performance Guarantee shall be refunded only after the defect liability period of one year from the date of completion.
- (iv) The Engineer-in-Charge shall not make a claim under the performance guarantee except for amounts to which the President of India/Director, NIT Meghalaya is entitled under the contract (not withstanding and/or without prejudice to any other provisions in the contract agreement) in the event of :
- a) Failure by the contractor to extend the validity of the Performance Guarantee as described herein above, in which event the Engineer-in-Charge may claim the full amount of the Performance Guarantee.
- b) Failure by the contractor to pay President of India/Director, NIT Meghalaya any amount due, either as agreed by the Contractor or determined under any of the Clauses/Conditions of the agreement, within 30 days of the service of notice to this effect by Engineer-in-Charge.
- (v) In the event of the contract being determined or rescinded under provision of any of the Clause/Condition of the agreement, the performance guarantee shall stand forfeited in full and shall be absolutely at the disposal of the President of India/Director, NIT Meghalaya.

**CLAUSE 1A
SECURITY DEPOSIT**

1. The contractor, immediately on completion of the work, has to furnish a security deposit of 3% of the 'tendered value' of work in the form of bank guarantee from a scheduled bank in the prescribed form. The bank guarantee shall be valid for the entire defect liability period mentioned in Clause 17A and for an additional period of three months. In the event of contractor failing to furnish the security deposit on completion of the work, the performance guarantee already submitted will be converted into security deposit.

All compensations or the other sums of money payable by the contractor under the terms of this contract shall be deducted from this security deposit.

**CLAUSE 2A
COMPENSATION FOR DELAY**

If the contractor fails to maintain the required progress in terms of clause 5 or to complete the work and clear the site on or before the contract or extended date of completion, he shall, without prejudice to any other right or remedy available under the law to the Government on account of such breach, pay as agreed compensation, the amount calculated as stipulated below for every completed day/ month (as applicable) that the progress remains below that specified in Clause 5 or that the work remains incomplete. This will also apply to items or group of items for which a separate period of completion has been specified.

Compensation for delay of work	@ 1.5% per month of delay to be computed on per day basis, on value of the incomplete work.
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Provided always that the total amount of compensation for delay to be paid under this Condition shall not exceed 10% of the total tendered value of work or of the tendered value of the item or group of items of work for which a separate period of completion is originally given. The amount of compensation may be adjusted or set-off against any sum payable to the contractor under this or any other contract with the Government.

**CLAUSE 2B
MILESTONES**

In case the contractor does not achieve a particular milestone mentioned in schedule 'F', or the re-scheduled milestone(s) in terms of Clause 5.4, the amount shown against that milestone shall be withheld, to be adjusted against the compensation levied at the final grant of Extension of time. Withholding of this amount on failure to achieve a milestone shall be automatic without any notice to the contractor. However, if the contractor catches up with the progress of work on the subsequent milestone(s), the withheld amount shall be released. In case the contractor fails to make up for the delay in subsequent milestone(s), amount mentioned against each milestone missed subsequently also shall be withheld. However, no interest, whatsoever, shall be payable on such withheld amount.

**CLAUSE 3
DETERMINATION OF CONTRACT**

Subject to other provisions contained in this clause, the Engineer-in-charge may, without prejudice to his any other rights or remedy against the contractor in respect of any delay, inferior workmanship, any claims for damages and/or any other provisions of this 1

contract or otherwise, and whether the date of completion has or has not elapsed, by notice in writing absolutely determine the contract in any of the following cases:

- i) If the contractor having been given by the Engineer-in-Charge a notice in writing to rectify, reconstruct or replace any defective work or that the work is being performed in an inefficient or otherwise improper or un-workman like manner shall omit to comply with the requirement of such notice for a period of seven days thereafter.
- ii) If the contractor has, without reasonable cause, suspended the progress of the work or has failed to proceed with the work with due diligence so that in the opinion of the Engineer-in-Charge (which shall be final and binding), he will be unable to secure completion of the work by the date for completion and continues to do so after a notice in writing of seven days from the Engineer-in-Charge.
- iii) If the contractor fails to complete the work within the stipulated date or items of work with individual date of completion, if any stipulated, on or before such date(s) of completion and does not complete them within the period specified in a notice given in writing in that behalf by the Engineer-in-Charge.
- iv) If the contractor persistently neglects to carry out his obligations under the contract and/or commits default in complying with any of the terms and conditions of the contract and does not remedy it or take effective steps to remedy it within 7 days after a notice in writing is given to him in that behalf by the Engineer-in-Charge.
- v) If the contractor shall offer or give or agree to give to any person in Government service or to any other person on his behalf any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of this or any other contract for Government.
- vi) If the contractor shall enter into a contract with Government in connection with which commission has been paid or agreed to be paid by him or to his knowledge, unless the particulars of any such commission and the terms of payment thereof have been previously disclosed in writing to the Engineer-in-Charge.
- vii) If the contractor had secured the contract with Government as a result of wrong tendering or other non-bonafide methods of competitive tendering or commits breach of Contract or Integrity Agreement.
- viii) If the contractor being an individual, or if a firm, any partner thereof shall at any time be adjudged insolvent or have a receiving order or order for administration of his estate made against him or shall take any proceedings for liquidation or composition (other than a voluntary liquidation for the purpose of amalgamation or reconstruction) under any Insolvency Act for the time, being in force or make any conveyance or assignment of his effects or composition or arrangement for the benefit of his creditors or purport so to do, or if any application be made under any Insolvency Act for the time being in force for the sequestration of his estate or if a trust deed be executed by him for benefit of his creditors.
- ix) If the contractor being a company shall pass a resolution or the court shall make an order that the company shall be wound up or if a receiver or a manager on behalf of a creditor shall be appointed or if circumstances shall arise which entitle the court or the creditor to appoint a receiver or a manager or which entitle the court to make a winding up order.
- x) If the contractor shall suffer an execution being levied on his goods and allow it to be continued for a period of 21 days.
- xi) If the contractor assigns, transfers, sublets (engagement of labour on a piece-work basis or of labour with materials not to be incorporated in the work, shall not be deemed to be subletting) or otherwise parts with or attempts to assign, transfer, sublet or otherwise parts

with the entire works or any portion thereof without prior written approval of the Engineer-in-charge.

When the contractor has made himself liable for action under any of the cases aforesaid, the Engineer-in-charge on behalf of the President of India/Director, NIT Meghalaya shall have powers:

- a) To determine the contract as aforesaid (of which termination notice in writing to the contractor under the hand of the Engineer-in-charge shall be conclusive evidence). Upon such determination, Performance Guarantee under the contract shall be liable to be forfeited and shall be absolutely at the disposal of the Government.
- b) After giving notice to the contractor to measure up the work of the contractor and to take such whole, or the balance or part thereof, as shall be un-executed out of his hands and to give it to another contractor to complete the work. The contractor, whose contract is determined as above, shall not be allowed to participate in the tendering process for the balance work.

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

CLAUSE 3A CLOSING OF CONTRACT BY EITHER PARTY

In case the work cannot be started due to reasons not within the control of the contractor within 1/8th of the stipulated time for completion of work or one month whichever is higher, either party may close the contract. In case contractor wants to close the contract, he shall give notice to the department stating the failure on the part of department. In such eventuality, the Performance Guarantee of the contractor shall be refunded within following time limits, without any interest. The contractor will not be eligible for any compensation for any damages what so ever caused due to closing of contract.

If the Tendered value of work is,
upto Rs. 45 lac : 15 days.
more than Rs.45 lac & upto Rs.2.5 Cr : 21 days.
exceeds Rs. 2.5 Cr : 30 days.

CLAUSE 4 CONTRACTORS REMAIN LIABLE TO PAY COMPENSATION, EVEN IF ACTION NOT TAKEN UNDER CLAUSE 3

In any case in which any of the power conferred upon the Engineer-in-charge by clause-3 thereof shall have become exercisable and the same shall not be exercised, the non-exercise hereof shall not construe a waiver of any of the conditions hereof and such powers shall not be withstanding exercisable in the event of any future case of default by the contractor and the liability of the Contractor for compensation shall remain unaffected (for which by any clause or clause hereof, he is declared liable to pay compensation amounting to the extent of his security deposit and the liability of the Contractor for past and future compensations shall remain unaffected). In the event of the Engineer-in-charge putting in force all or any of the powers vested in him under the preceding clauses he may, if he so desires after giving a notice in writing to the Contractor, take possession of (or at the sole discretion of Engineer-in-charge which shall be final) use as on hire (the amount of

the hire money being also in the final determination of the Engineer-in-charge) all or any tools, plant, materials and stores in or upon the works or the site then of belongings to the Contractor or procured by the Contractor and intended to be used for the execution of the work or any part thereof paying or allowing for the same in account at the contract rates, or in case of these not being applicable at current market rates to be certified by the Engineer-in-charge whose certificate thereof shall be final, otherwise the Engineer-in-charge may by notice in writing to the Contractor or his clerk of the works, foreman or authorised agents requesting him/them to remove such tools, plant, materials or stores from the premises (within a time to be specified in such notice) and in the event of the

Contractor failing to comply with any such requisition, the Engineer-in-charge may remove them at the Contractor's expenses or sell by auction or private sale on account of the Contractor and at his risk in all respects and the certificate of the Engineer-in-charge as to the expenses of any such removal and the amount of the proceeds and expenses of any such sale shall be final and conclusive against the Contractor.

CLAUSE 5

TIME AND EXTENSION FOR DELAY

The time allowed for execution of the Works as specified in the Schedule 'F' or the extended time in accordance with these conditions shall be the essence of the Contract. The execution of the works shall commence from such time period as mentioned in schedule 'F' or from the date of handing over of the site whichever is later. If the Contractor commits default in commencing the execution of the work as aforesaid, Government shall without prejudice to any other right or remedy available in law, be at liberty to forfeit the Performance Guarantee absolutely.

5.1 As soon as possible after the Contract is concluded, the Contractor shall submit a Time and Progress Chart for each mile stone and get it approved by the Department. The Chart shall be prepared in direct relation to the time stated in the Contract documents for completion of items of the works. It shall indicate the forecast of the dates of commencement and completion of various trades or sections of the work and may be amended as necessary by agreement between the Engineer-in-Charge and the Contractor within the limitations of time imposed in the Contract documents, and further to ensure good progress during the execution of the work, the contractor shall in all cases in which the time allowed for any work, exceeds one month (save for special jobs for which a separate programme has been agreed upon) complete the work as per mile stones given in Schedule 'F'.

- a) Project Management shall be done by using project management software for works costing more than Rs.5 Crore.
- b) The project management shall be done using MS Project software for works costing more than Rs. 5 Crore and up to Rs. 20 Cr.

For works costing more than Rs. 20 Crore, project management shall be done using Primavera Software.

Programme Chart

- (i) The Contractor shall prepare an integrated programme chart in MS Project/Primavera software for the execution of work, showing clearly all activities from the start of work to completion, with details of manpower, equipment & machinery required for the fulfillment of the programme within the stipulated period or earlier and submit the same for approval to the Engineer-in-Charge within ten days of award of the contract. A recovery of Rs. 2500/- (for works costing upto Rs.20 Crores)/ Rs. 5000/- (for works costing more than Rs. 20 Crores) shall be made on per day basis in case of delay in submission of the above programme.

- (ii) The programme chart should include the following:
- a) Descriptive note explaining sequence of the various activities.
 - b) Network (PERT/CPM/BAR CHART).
 - c) Programme of procurement of machinery/equipments having adequate capacity, commensurate with the quantum of work to be done within the stipulated period, by the contractor. In addition to above to achieve the progress of Work as per programme, the contractor must bring at site adequate shuttering material required for cement, Concrete and R.C.C. works etc. for three floors within one month from the date of start of work till the completion of RCC work as per requirement of work. The contractor shall submit shuttering schedule adequate to complete structure work within laid down physical milestone.
- (iii) If at any time, it appears to the Engineer-in-Charge that the actual progress of work does not conform to the approved programme referred above or after rescheduling of milestones, the contractor shall produce a revised programme within 7 (seven) days, showing the modifications to the approved programme to ensure timely completion of the work. The modified schedule of programme shall be approved by the Engineer in Charge. A recovery of Rs. 2500/- (for works costing upto Rs. 20 Crores)/Rs. 5000/- (for works costing more than Rs. 20 Crores) shall be made on per day basis in case of delay in submission of the modified programme.
- (iv) The submission for approval by the Engineer-in-Charge of such programme or such particulars shall not relieve the contractor of any of the duties or responsibilities under the contract. This is without prejudice to the right of Engineer-in-Charge to take action against the contractor as per terms and conditions of the agreement.
- (v) The contractor shall submit the progress report using MS Project/Primavera software with base line programme referred above for the work done during previous month to the Engineer-In-charge on or before 5th day of each month failing which a recovery Rs. 2500/- (for works costing upto Rs. 20 Crores)/Rs. 5000/- (for works costing more than Rs. 20 Crores) shall be made on per day basis in case of delay in submission of the monthly progress report.

5.2 If the work(s) be delayed by:

- i) force majeure, or
- ii) abnormally bad weather, or
- iii) serious loss or damage by fire, or
- iv) civil commotion, local commotion of workmen, strike or lockout, affecting any of the trades employed on the work, or
- v) delay on the part of other contractors or tradesmen engaged by Engineer-in-Charge in executing work not forming part of the Contract, or
- (vi) non-availability of stores, which are the responsibility of Government to supply or
- (vii) non-availability or break down of tools and Plant to be supplied or supplied by Government or

- (viii) Any other cause which, in the absolute discretion of the Engineer-in-Charge is beyond the Contractor's control.

Then upon the happening of any such event causing delay, the contractor shall immediately give notice thereof in writing to the authority as indicated in schedule 'F' but shall nevertheless use constantly his best endeavors to prevent or make good the delay and shall do all that may be reasonably required to the satisfaction of the Engineer-in-charge to proceed with the works.

5.3 Request for rescheduling of milestones and extension of time, to be eligible for consideration, shall be made by the Contractor in writing within fourteen days of the happening of the event causing delay on the prescribed form Engineer-in-charge. The Contractor may also, if practicable, indicate in such a request the period for which extension is desired.

5.4 In any such case, Engineer-in-charge may give a fair and reasonable extension of time and reschedule the mile stones for completion of work. Such extension or rescheduling of the milestones shall be communicated to the Contractor by Engineer-in-charge in writing, within 3 months or 4 weeks of the date of receipt of such request respectively. Non application by the contractor for extension of time/ rescheduling of the milestones shall not be a bar for giving a fair and reasonable extension/rescheduling of the milestones by Engineer-in-charge and this shall be binding on the contractor.

CLAUSE 6 MEASUREMENT OF WORK DONE

Engineer-in-charge shall, except as other wise provided, ascertain and determine by measurement, the value in accordance with the contract of work done. All measurement of all items having financial value shall be entered in Measurement Book and / or level fieldbook so that a complete record is obtained of all works performed under the contract.

All measurements and levels shall be taken jointly by the Engineer-in-charge or his authorized representative and by the contractor or his authorized representative from time to time during the progress of the work and such measurements shall be signed and dated by the Engineer-in-charge and the contractor or their representatives in token of their acceptance. If the contractor objects to any of the measurements recorded, a note shall be made to that effect with reason and signed by both the parties. If for any reason the contractor or his authorized representative is not available and the work of recording measurements is suspended by the Engineer-in-charge or his representative, the Engineer-in-charge and the Department shall not entertain any claim from contractor for any loss or damages on this account. If the contractor or his authorized representative does not remain present at the time of such measurements after the contractor or his authorized representative has been given a notice in writing three (3) days in advance or fails to countersign or to record objection within a week from the date of the measurement, then such measurements recorded in his absence by the Engineer-in-charge or his representative shall be deemed to be accepted by the contractor.

The contractor shall, without extra charge, provide all assistance with every appliance, labour and other things necessary for measurements and recording levels. Except where any general or detailed description of the work expressly shows to the contrary, measurements shall be taken in accordance with the procedure set forth in the specifications notwithstanding any provisions in the relevant Standard Method of measurement or any general or local custom. In the case of items which are not covered by specifications, measurements shall be taken in accordance with the relevant standard method of measurement issued by the Bureau of Indian Standards and if for any item no such standard is available, then a mutually agreed method shall be followed.

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

Engineer-in-charge or his authorized representative may cause either themselves or through another officer of the Department to check the measurements recorded jointly or otherwise as aforesaid and all provisions stipulated herein above shall be applicable to such checking of measurements or levels. It is also a term of this contract that recording of measurements of any item of work in the measurement book and /or its payment in the interim, on account or final bill shall not be considered as conclusive evidence as to the sufficiency of any work or material to which it relates nor shall it relieve the contractor from liabilities from any over measurement or defects noticed till completion of the defects liability period.

CLAUSE 6A COMPUTERIZED MEASUREMENT BOOK

Engineer-in-charge shall, except as otherwise provided, ascertain and determine by measurement the value of work done in accordance with the contract. All measurements of all items having financial value shall be entered by the contractor and compiled in the shape of the Computerized Measurement Book having pages of A04 size as per the format of the Department so that a complete record is obtained of all the items of works performed under the contract.

All such measurements and levels recorded by the contractor or his authorized representative from time to time, during the progress of the work shall be got checked by the contractor from the Engineer-in-charge or his authorized representative as per interval or programme fixed in consultation with Engineer-in-charge or his authorized representative. After the necessary corrections made by the Engineer-in-charge, the measurement sheets shall be returned to the contractor for incorporating the corrections and for resubmission to the Engineer-in-charge for the dated signature by the Engineer-in-charge and the contractor or their representatives in token of their acceptance.

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

The final, fair, computerized measurement book given by the contractor, duly bound, with its pages machine numbered, should be 100% correct, and no cutting or over writing in the measurements would thereafter be allowed. If at all any error is noticed, the contractor shall have to submit a fresh computerized MB with its pages duly machine numbered and bound after getting the earlier MB

cancelled by the Institute. Thereafter, the MB shall be taken in the Engineering Section Office records, and allotted a number as per the Register of Computerized MBs. This should be done before the corresponding bill is submitted to the Accounts Section for payment. The contractor shall submit two spare copies of such computerized MBs for the purpose of reference and record by the various officers of the Institute.

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

The contractor shall, without extra charge, provide all assistance with every appliance, labour and other things necessary for checking of measurements/levels by the Engineer-in-charge or his representative. Except where any general or detailed description of the work expressly shows to the contrary, measurements shall be taken in accordance with the procedure set forth in the specifications notwithstanding any provision in the relevant Standard Method of measurement or any general or local custom. In the case of items which are not covered by specifications, measurement shall be taken in accordance with the relevant standard method of measurement issued by the Bureau of Indian Standards and if for any item no such standard is available, then a mutually agreed method shall be followed.

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

Engineer-in-charge or his authorized representative may cause either themselves or through another officer of the Institute to check the measurements recorded by contractor and all provisions stipulated herein above shall be applicable to such checking of measurements or levels. It is also a term of this contract that checking and/or test checking the measurements of any item of work in the measurement book and/or its payment in the interim, on account of final bill shall not be considered as conclusive evidence as to the sufficiency of any work or material to which it relates nor shall it relieve the contractor from liabilities from any overmeasurement or defects noticed till completion of the defects liability period.

CLAUSE 7 PAYMENT

Payments will be made through monthly running account bills based on the work executed on the basis of recorded measurements. The running account bills shall be submitted by the contractor for the works executed on the basis of recorded measurements on the format of the Institute in triplicate on or before the date of every month fixed by Engineer-In-Charge.

Engineer-In-Charge shall arrange to have the bills verified by taking or causing to be taken wherever required the requisite measurement of the work. Payments on account of the amounts admissible shall be made by the Engineer-In-Charge certifying the sum to which contractor is considered entitled by way of running account bill at such rates decided by the Engineer-In-Charge.

The amount admissible shall be paid by tenth working day after the day of presentation of the bill by the contractor, together with all details. In the event of failure of the contractor to submit the bill, Engineer-In-Charge shall prepare or cause to be prepared such bill in which event no claim or what so ever on delay in payments shall be entertained.

However in respect of i) AC works and ii) Mechanical works viz., cranes, Monorail, special conveyor system, sliding doors, platforms, passenger/service lifts, compressed air facility, hot water guarantors, rotors, flash mixers and agitators etc., a) 76.5% pro-rata payment will be made on delivery of equipment and subject to acceptance by conducting necessary tests. b) 13.5% pro-rata payment on completion of installation and c) 10.0% on completion of testing, commissioning and handing over.

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

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

Engineer-in-Charge in his sole discretion to the effect that the work has been completed upto the level in question make interim advance payments without detailed measurements for work done (other than foundations, items to be covered under finishing items) up to lintel level (including sunshade etc.) and slab level, for each floor working out at 75% of the assessed value. The advance payments so allowed shall be adjusted in the subsequent interim bill by taking detailed measurements thereof.

CLAUSE 8 COMPLETION CERTIFICATE

Within ten days of the completion of work, the Contractor shall give notice of such completion to the Engineer-in-charge and within ten days of receipt of such notice the Engineer-in-charge shall inspect the work and if there is no defect in the work, shall furnish the Contractor with a certificate of completion, otherwise a provisional certificate of completion indicating the 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 such certificate of completion provisional or otherwise shall be issued nor shall the work be considered to be complete until the Contractor shall have removed from the premises on which the work shall be executed all scaffolding surplus material and rubbish and all huts and

sanitary arrangements required for this or their work people on the site in connection with execution of works shall have been erected or constructed by the Contractor and cleaned off the dirt from all the wood works, doors, windows, walls, floors or which other parts of any building in upon or about the work is to be executed or any of which he may had possession for the purpose of execution thereof and not until the work shall have been measured by the Engineer-in-charge. If the Contractor shall fail to comply with requirements of this clause as to removal of scaffoldings, surplus materials and rubbish and all huts and sanitary arrangements as aforesaid and cleaning of dirt on or before the date fixed for the completion of the work, the Engineer-in-charge may, at the expense of the Contractor remove such scaffolding, surplus materials and rubbish etc., and dispose off the same as he thinks fit clean of such dirt as aforesaid, and the Contractor shall forthwith pay the amount of all expense so incurred and shall have no claim in respect of any such scaffolding or surplus materials as aforesaid except for any sum actually realized by the sale thereof.

**CLAUSE 8A
CONTRACTOR TO KEEP SITE CLEAN**

When the annual repair and maintenance work is carried out, the splashes and droppings from whitewashing, color washing, painting etc., on walls, floors, doors, windows etc., shall be removed and the surface cleared simultaneously with the completion of these items of work in the individual rooms, quarters or premises etc., where the work is done without waiting for the actual completion of all the other items or work in the contract. In case the Contractor fails to comply with requirement of this clause, the Engineer-in-charge shall have the right to get this work done at the cost of the Contractor either Departmentally or through another agency. Before taking such action, the Engineer-in-charge shall give ten days notice in writing to the Contractor.

**CLAUSE 8B
COMPLETION PLAN**

The contractor shall submit completion plan for all services viz., water, sewerage, drainage, Electrical, A/c works etc., within thirty days of the completion of the work.

In case, the contractor fails to submit the completion plan as aforesaid, she/ he shall be liable to pay a sum equivalent to 2.5% of the value of the work subject to a ceiling of Rs.15,000 (Rs. Fifteen Thousand only) as may be fixed by the EIC concerned and in this respect the decision of the EIC shall be final and binding on the contractor.

**CLAUSE 9
PAYMENT OF FINAL BILL**

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

If the Tendered value of work is,

upto Rs. 45 lac	: 2 months.
more than Rs.45 lac & upto Rs.2.5 Cr	: 3 months.

exceeds Rs. 2.5 Cr

: 6 months.

CLAUSE 9A

PAYMENT OF CONTRACTOR'S BILL TO BANKS

Payments due to the Contractor may, if so desired by him, be made to his bank instead of direct to him provided that Contractor furnishes to the Engineer-in-charge;

- 1) an authorization in the form of legally valid documents such as a power of attorney conferring authority on the bank to receive payment and
- 2) his own acceptance of the correctness of the account made out as being due to him by Government or his signature on the bill or other claims preferred against Government before settlement by the Engineer-in-charge of the account or claim by payment to the Bank. While the receipt given by such bank shall constitute a full and sufficient discharge for the payment, the Contractor should whenever possible present his bills duly receipted and discharged through his bankers.

Nothing herein contained shall operate to create in favour of the bank any rights or equities vis-à-vis the President of India/Director, NIT Meghalaya.

CLAUSE 10

MATERIALS SUPPLIED BY THE INSTITUTE

If the specification or schedule of items provided for the use any special description of materials to be supplied from Engineer-in-charge's stores, or if it is required that the Contractor shall use certain stores to be provided by the Engineer-in-charge as shown in schedule of materials hereto annexed (Schedule-B), the Contractor shall be bound to procure and shall be supplied such materials and stores as are from time to time required to be used by him for the purpose of the Contract only and the value of the quantity of materials so supplied at the rates specified in the said schedule of materials may be set off or deducted from any sum then due, or thereafter to become due to the Contractor under the Contract, or otherwise or the proceeds of sale thereof if the same is held in Government securities, the same or a sufficient portion thereof being in this case sold for the purpose. All materials so supplied to the Contractor shall remain absolute property of Government, and shall not be removed on any account from the site of work, and shall be all times open to inspection by the Engineer-in-charge. Any such materials remaining unused and in perfectly good condition at the time of the completion or determination of the contract shall be returned to the Engineer-in-charge at a place directed by him, if by a notice in writing under his hand he shall so required, but the Contractor shall not be entitled to return any such materials unless with such consent and shall have no claim for compensation of any such materials so supplied to him as aforesaid not being used by him or for any wastage in or damage to any such material. Provided that the Contractor shall in no case be entitled to any compensation or damages on account of any delay in supply or non-supply thereof all any such materials and stores provided further that the Contractor shall be bound to execute the entire work if the materials are supplied by the Government within the scheduled time for completion of work plus 50% thereof (scheduled time plus 6 months if time of completion of the work exceeds 12 months) but if a part only of the materials has been supplied within the aforesaid period then the Contractor shall be bound to do so much of the work as may be possible with the materials and stores supplied in the aforesaid period. For the completion of the rest of the work, the Contractor shall be entitled to such extension of time as may be determined by EIC whose decision in this regard shall be final.

CLAUSE 10A

MATERIALS TO BE PROVIDED BY THE CONTRACTOR

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

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

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

The contractor shall, at his risk and cost, make all arrangements and shall provide all facilities that the Engineer-in-charge may require for collecting, and preparing the required number of samples of such tests at such time and to such place or places as may be directed by the Engineer-in-charge and bear all charges and cost of testing unless specifically provided for otherwise elsewhere in the contract or specifications. The Engineer-in-charge or his authorized representative shall at all times have access to the works and to all workshops and places where work is being prepared or from where materials, manufactured articles or machinery are being obtained for the works and the contractor shall afford every facility and every assistance in obtaining the right to such access.

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

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

CLAUSE 10B (i)

SECURED ADVANCE

The contractor, on signing an indenture in the form to be specified by the Engineer-in-charge, shall be entitled to be paid during the progress of the execution of the work up to 90% of the assessed value of any materials which are in the opinion of the Engineer-in-charge non-perishable, non-fragile

and non-combustible and are in accordance with the contract and which have been brought on the site in connection therewith and are adequately stored and/ or protected against damage by weather or other causes but which have not at the time of advance been incorporated in the works. When materials on account of which an advance has been made under this sub-clause are incorporated in the work, the amount of such advance shall be recovered/ deducted from the next payment made under any of the clause or clauses of this contract.

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

CLAUSE 10B (ii)

MOBILIZATION ADVANCE, INTEREST & RECOVERY

- a) **Mobilization advance** at the rate of 10% of the tendered value, if requested by the contractor in writing within one month of the order to commence the work or if considered reasonable by the Engineer-in-charge. If circumstances are considered reasonable by the Engineer-In-charge, this period for request by the contractor in writing for grant of mobilization advance may be extended in the discretion of Engineer-In-Charge.

Such advance shall be made in two or more installments to be determined by the Engineer-in-charge at his sole discretion. The first installment of such advance shall be released by the Engineer-in-Charge to the contractor, on a request made by the contractor to the Engineer-In-Charge in this behalf. The second and subsequent installments shall be released by the Engineer-In-Charge only after the contractor furnishes a proof of the satisfactory utilization of the earlier installment to the entire satisfaction of the Engineer-In-Charge.

Before any installment of advance is released, the contractor shall execute a Bank Guarantee Bond from Scheduled Bank for the amount equal to 110% of the amount of advance and valid for the contract period. The above bank guarantee shall be kept renewed from time to time to cover the balance amount and likely period of complete recovery. Provided always that provision of Clause 10 B (ii) shall be applicable only when so explicitly provided in Schedule 'F'.

- b) **Interest and recovery:** The mobilization advance at (a) above bear a simple interest at the rate of 10% per annum and shall be calculated from the date of payment to the date of recovery, both dates inclusive, on the outstanding amount of advance. Recovery of such sums advance shall be made by deduction from the contractor's bills commencing after first ten percent of the gross value of work is executed and paid on pro-rata percentage basis to the gross value of work billed beyond ten percent in such a way that the entire advance is recovered by the time eighty percent of the gross value of the contractor is executed and paid together with interest due on the entire outstanding amount upto the date of recovery of the installment.

CLAUSE 10C (i)

REIMBURSEMENT OF ESCALATION CAUSED AS A DIRECT RESULT OF COMING INTO FORCE ANY FRESH LAW OR STATUTORY RULE OR ORDER

All tendered rates shall be inclusive of all taxes, duties, royalties and levies payable under respective statutes.

If the prices of any materials incorporated in the works (not being a material supplied from the Engineer-in-charge stores in accordance with clause 10 thereof) and/or wages of labour increases/decreases as a direct result of the coming into force of any fresh law or statutory rules or order and such increase/ decrease exceeds 10% of the price and/or wages prevailing at the time of receipt of the tender for the work and the Contractor there upon necessarily and properly pays in respect of the materials (incorporated in the work) such increased/ decreased price and/or in respect of labour engaged on the execution of the work at such increased/ decreased wages then the amount of the contract shall accordingly be varied provided always that any increase/ decrease so payable/ deduction is not in the opinion of the Engineer-in-charge (whose decision is final and binding) attributable to delay in the execution of the contract within the control of the Contractor.

Provided however no reimbursement/ deduction shall be made if the increase/ decrease is not more than 10% of the said prices/ wages and if so the reimbursement/ deduction shall be made only on the excess over 10% and provided further that any such increase/decrease shall not be payable/ deduction, if such increase/ decrease has become operative after the contract or extended date of completion of the works in question.

The Contractor shall for the purpose of this condition keep such books of accounts and other documents as are necessary to show the amount increased claim or reduction available and shall allow inspection of the same by a duly authorized representative of the Government and further shall at the request of Engineer-in-charge, furnish any documents so kept and such other information as the Engineer-in-charge may require.

The Contractor shall within a reasonable time of his becoming aware of any alteration in the price of any such materials and or wages of labour give notice thereof to the Engineer-in-charge stating that the same is given pursuant to this condition together with all information relating there to which he may be in a position to supply.

CLAUSE 10C (ii)

PAYMENT DUE TO INCREASE/ DECREASE IN PRICES/ WAGES AFTER RECEIPT OF TENDER FOR WORKS (APPLICABLE ONLY FOR WORKS WITH STIPULATED PERIOD OF COMPLETION MORE THAN 12 MONTHS)

If the prices of materials (not being materials supplied at fixed prices by the Institute in accordance with clause 10) and/ or wages of labour required for execution of the work increase, the contractor shall be compensated for such increase as per provisions detailed below and the amount of the contract shall accordingly be varied, subject to the condition that such compensation for escalation in prices shall be available only for the work done during the stipulated period of the contract including the justified period extended under the provisions of clause 5 of the contract without any action under clause 2A.

No such compensation shall be payable for a work for which the stipulated period of completion is equal to or less than **12 (twelve) months**. Such compensation for escalation in the prices of materials and labour, when due, shall be worked out based on the following provisions.

- (i) The base date for working out such escalation shall be the last stipulated date of receipt of tenders including extension, if any,
- (ii) The cost of work on which escalation will be payable shall be reckoned as below :-

Gross value of work done upto this quarter	[A]
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Gross value of work done upto the last quarter	[B]
Gross value of work done since previous quarter (A-B)	[C]
Full assessed value of Secured Advance, fresh paid in this quarter	[D]
Full assessed value of Secured Advance, recovered in this quarter	[E]
Full assessed value of Secured Advance for which escalation payable in this quarter [D-E]	[F]
Advance payment made during this quarter	[G]
Advance payment recovered during this quarter	[H]
Advance payment for which escalation is payable in this quarter [G-H]	[I]
Extra items /deviated quantities of items paid as per Clause 12 based on prevailing market rates during this quarter.	[J]
Then, M = C + F + I – J N = 0.85 M	
Less cost of material supplied by the Department as per Clause 10 and recovered during the quarter	[K]
Cost of work for which escalation is applicable : W = N – (K)	

- (iii) Components of materials and labour shall be predetermined for every work and incorporated in the condition of contract attached to the tender papers included in schedule 'F'. The decision of the Engineer-in-charge in working out such percentages shall be binding on the contractors.
- (iv) The compensation for **materials** shall be worked as per the formula given below :-

(a) *Adjustment for Materials*

$$V_m = \frac{W \times X_m \times MI - MI}{100}$$

Where,

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

W = Cost of Work done worked out as indicated in sub-para (ii)

X_m = Component of materials expressed as percent to the total value of work as specified in Schedule F.

MI = All India Wholesale Price Index for all commodities *for the period under consideration* published by Economic Advisor to Govt. of India, Ministry of Industry & Commerce.

MI_0 = All India Wholesale Price Index for all commodities *valid on the last stipulated date of receipt of tender including extension, if any*, as published by the Economic Advisor to Govt. of India, Ministry of Industry & Commerce.

- (v) The following principles shall be followed while working out the indices mentioned in Para (iv) above
- (a) The compensation for escalation shall be worked out at quarterly intervals and shall be with respect to the cost of work done as per bills paid during the three calendar months of the said quarter. The first such payment shall be made at the end of three months after the month (excluding) in which the tender was accepted and thereafter at three months interval. At the time of completion of the work, the last period for payment might become less than 3 months, depending on the actual date of completion.
 - (b) The index (MI) relevant to any quarter/ period for which such compensation is paid shall be the arithmetical average of the indices relevant to the three calendar months. If the period upto date of completion after the quarter covered by the last such installment of payment is less than three months, the index MI shall be the average of the indices for the months falling within the period.
- (vi) The compensation for escalation for **labour** shall be worked out as per the formula given below :-

$$V_L = \frac{W * Y_L * (LI - LI_0)}{100 * LI}$$

Where,

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

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

Y_L = Component of labour expressed as a percentage of the total value of the work as specified in Schedule F.

LI = Minimum daily Wage in rupees of an unskilled adult male mazdoor, fixed under any law, statutory rule or order as applicable *on the last date of the quarter previous to the one under consideration.*

LI_0 = Minimum daily wage in rupees of an unskilled adult male mazdoor fixed under any law, statutory rule or order as applicable *on the last stipulated date of receipt of tender including extension, if any.*

- (vii) The following principles will be followed while working out the compensation as per sub-para (vi) above.
- (a) The minimum wage of an unskilled male mazdoor mentioned in sub-para (vi) above shall be the higher of the wage notified by Government of India, Ministry of Labour and that notified by the local administration both relevant to the place of work and the period of reckoning.
 - (b) The escalation for labour also shall be paid at the same quarterly intervals when escalation due to increase in cost of materials is paid under this clause. If such revision of minimum wages takes place during any such quarterly intervals, the escalation compensation shall be payable at revised rates only for work done in subsequent quarters.

- (c) Irrespective of variations in minimum wages of any category of labour, for the purpose of this clause, the variation in the rate for an unskilled adult male mazdoor alone shall form the basis for working out the escalation compensation payable on the labour component.
- (viii) In the event, the price of materials and/ or wages of labour required for execution of the work decrease/s, there shall be a downward adjustment of the cost of work so that such price of materials and/or wages of labour shall be deductible from the cost of work under this contract and in this regard the formula herein before stated under this Clause 10C (ii) shall mutatis mutandis apply.

**CLAUSE 10D
DISMANTLED MATERIALS ARE GOVERNMENT PROPERTY**

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

CLAUSE 10E - DELETED

**CLAUSE 11
WORK TO BE EXECUTED IN ACCORDANCE WITH SPECIFICATIONS, DRAWINGS, ORDERS, ETC.,**

The contractor shall execute the whole and every part of the work in the most substantial and workmanlike manner both as regards materials and otherwise in every respect in strict accordance with the specifications. The contractor shall also conform exactly, fully and faithfully to the design, drawings and instructions in writing in respect of the work signed by the Engineer-in-Charge and the contractor shall be furnished free of charge one copy of the contract documents together with specifications, designs, drawings and instructions as are not included in the standard specifications of Central Public Works Department or in any Bureau of Indian Standard or any other, published standard or code or, Schedule of Rates or any other printed publication referred to elsewhere in the contract. The contractor shall comply with the provisions of the contract and with the care and diligence execute and maintain the works and provide all labour and materials, tools and plants including for measurements and supervision of all works, structural plans and other things of temporary or permanent nature required for such execution and maintenance in so far as the necessity for providing these, is specified or is reasonably inferred from the contract. The Contractor shall take full responsibility for adequacy, suitability and safety of all the works and methods of construction.

**CLAUSE 11A
ACTION WHERE NO SPECIFICATION**

In the case of any class of work for which there is no standard specifications such work shall be carried out generally in accordance with CPWD specification and if there is no details of CPWD specification book then it shall be executed as per Bureau of Indian Standard specification. In case there is no such specification in Bureau of Indian Standards the work shall be carried out in all respects in accordance with the instruction and requirement of the Engineer-in-charge.

**CLAUSE 12
DEVIATIONS/ VARIATIONS EXTENT AND PRICING**

The Engineer-in-charge shall have power (i) to make alteration in, omissions from, additions to, or substitutions for the original specifications, drawings, designs and instructions that may appear to

him to be necessary or advisable during the progress of the work, and (ii) to omit a part of the work(s) in case of non-availability of a portion of the site or for any other reasons and the contractor shall be bound to carry out the works in accordance with any instructions given to him in writing signed by the Engineer-in-charge and such alterations, omissions, additions or substitutions shall form part of the contract as if originally provided therein and any altered, additional or substituted work which the contractor may be directed to do in the manner specified above as part of the works, shall be carried out by the contractor on the same conditions in all respects including price on which he agreed to do the main work except as hereafter provided :

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

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

12.2: Extra items and pricing

A. For major works:

In the case of Extra items (items that are completely new, and are in addition to the items contained in the contract) , the contractor may within 15 days of receipt of order or occurrence of the item(s), claim rate supported by proper analysis, for the work and the Engineer-in-charge shall within prescribed time limit of the receipt of the claims supported by analysis after giving consideration to the analysis of the rates submitted by the contractor, determine the rates on the basis of market rates and the contractor shall be paid in accordance with the rates so determined.

B. For Maintenance works including works of up-gradation, aesthetic, special repair, addition/ alteration:

In the case of Extra item(s) being the schedule items (SOR as mentioned in schedule 'E'), these shall be paid as per the schedule rate plus/ minus percentage above/ below quoted contract amount. Payment of Extra items in case of nonscheduled items (Non-SOR items) shall be made as per the prevailing market rate.

12.3: Substituted item, pricing

A. For major/ capital works:

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

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

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

B. For Maintenance works including works of up-gradation, aesthetic, special repair, addition/ alteration:

In the case of Substituted item(s) being the schedule items (SOR as mentioned in Schedule 'E'), these shall be paid as per the schedule rate plus, plus/minus percentage above/ below quoted contract amount. Payment of Substituted items in case of non-scheduled items (Non – SOR as mentioned in Schedule 'E') shall be made as per the prevailing market rate.

12.4: Deviated quantities, pricing

A. For major/ capital works:

In the case of contract items, substituted items, contract cum substituted items, which exceed the limits as below, the contractor may within fifteen days of receipt of order of occurrence of the excess, claim revision of the rates, supported by proper analysis for the work in excess of the above mentioned limits, provided that if the rates so claimed are in excess of the rates specified in the schedule of quantities, the Engineer-in-charge shall within prescribed time limit of receipt of the claims supported by analysis, after giving consideration to the analysis of the rates submitted by the contractor, determine the rates on the basis of market rates and the contractor shall be paid in accordance with the rates so determined.

Prescribed time limits are as under:

If the Tendered value of work is	
upto Rs.45 lac	: 30 days.
more than Rs.45 lac and up to Rs. 2.5 Cr	: 45 days.
exceeds Rs. 2.5 Cr	: 60 days.

B. For Maintenance works including works of up-gradation, aesthetic, special repair, addition/ alteration:

In the case of contract items, which exceed the deviation limits as specified in Schedule 'E', the contractor shall be paid with rates specified in the schedule of quantities.

12.5:

A. For major/ capital works:

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

B. For Maintenance works including works of up-gradation, aesthetic, special repair, addition/ alteration:

In case of decrease in the rates prevailing in the market of items for the work in excess of the limits laid down in Schedule E, the Engineer-in-Charge shall after giving notice to the contractor within one month of occurrence of the excess and after taking into consideration any reply received from him within fifteen days of the receipt of the notice, revise the rates for the work in question within one month of the expiry of the said period of fifteen days having regard to the market rates

For the purpose of operation of deviation limit, the following works shall be treated as works relating to foundation unless & otherwise defined in the contract:

- i) For Buildings: All works upto 1.2 metres above ground level or upto floor 1 level whichever is lower.

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

12.6:

The contractor shall send to the Engineer-in-charge once every three months, an up-to date account giving complete details of all claims for additional payments to which the contractor may consider himself entitled and of all additional work ordered by the Engineer-in-charge which he has executed during the preceding quarter failing which the contractor shall be deemed to have waived his right. However, the Director, NIT Meghalaya may authorize consideration of such claims on merits.

12.7:

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

CLAUSE 13

FORE CLOSURE OF CONTRACT DUE TO ABANDONMENT OR REDUCTION IN SCOPE OF WORK

If at any time after acceptance of the tender, Engineer-in-Charge shall decide to abandon or reduce the scope of the works for any reason whatsoever and hence not require the whole or any part of the works to be carried out, the Engineer-in-Charge shall give notice in writing to that effect to the contractor and the contractor shall act accordingly in the matter. The contractor shall have no claim to any payment of compensation or otherwise whatsoever, on account of any profit or advantage which he might have derived from the execution of the works in full but which he did not derive in consequence of the foreclosure of the whole or part of the works.

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

(i) Any expenditure incurred on preliminary site work, e.g. temporary access roads, temporary labour huts, staff quarters and site office, storage accommodation and water storage tanks.

(ii) Government/Institute shall have the option to take over contractor's materials or any part thereof either brought to site or of which the contractor is legally bound to accept delivery from suppliers (for incorporation in or incidental to the work) provided, however Government/ Institute shall be bound to take over the materials or such portions thereof as the contractor does not desire to retain. For materials taken over or to be taken over by Government/ Department, cost of such materials as detailed by Engineer-in-Charge shall be paid. The cost shall, however, take into account purchase price, cost of transportation and deterioration or damage which may have been caused to materials whilst in the custody of the contractor.

(iii) If any materials supplied by Government/ Institute are rendered surplus, the same except normal wastage shall be returned by the contractor to Government/Institute at rates not exceeding those at which these were originally issued, less allowance for any deterioration or damage which may have been caused whilst the materials were in the custody of the contractor. In addition, cost of transporting such materials from site to Government/ Institute stores, if so required by Government/ Institutet, shall be paid.

(iv) Reasonable compensation for transfer of T & P from site to contractor's permanent stores or to his other works, whichever is less. If T & P are not transported to either of the said places, no cost of transportation shall be payable.

(v) Reasonable compensation for repatriation of contractor's site staff and imported labour to the extent necessary.

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

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

CLAUSE 14 RISK AND COST

If contractor:

- (i) At any time makes default during currency of work or does not execute any part of the work with due diligence and continues to do so even after 7 days of notice in writing, in this respect from the Engineer-in-Charge; or
- (ii) Commits default in complying with any of the terms and conditions of the contract and does not remedy it or takes effective steps to remedy it within 7 days even after a notice in writing is given in that behalf by the Engineer-in-Charge; or
- (iii) Fails to complete the work(s) or items of work with individual dates of completion, on or before the date(s) so determined, and does not complete them within the period specified in the notice given in writing in that behalf by EIC.

Engineer- in-Charge without invoking action under clause 3 may, without prejudice to any other right or remedy against the contractor which have either accrued or accrue thereafter to Government/ Institute, by a notice in writing to take the part work/part incomplete work of any item(s) out of his hands and shall have powers to:

- (a) Take possession of the site and any materials, constructional plant, implements, stores, etc., thereon; and/or
- (b) Carry out the part work / part incomplete work of any item(s) by any means at the risk and cost of the contractor.

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

In determining the amount, credit shall be given to the contractor with the value of work done in all respect in the same manner and at the same rate as if it had been carried out by the original contractor under the terms of his contract, the value of contractor's materials taken over and incorporated in the work and use of plant and machinery belonging to the contractor. The certificate of the Engineer-in-Charge as to the value of work done shall be final and conclusive against the contractor provided always that action under this clause shall only be taken after giving notice in writing to the contractor. Provided also that if the expenses incurred by the department are less than the amount payable to the contractor at his agreement rates, the difference shall not be payable to the contractor.

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

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

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

CLAUSE 15
SUSPENSION OF WORK

The Contractor shall suspend the execution of work or any part or parts thereof, wherever called upon in writing by the Engineer-in-charge to do so and shall not resume work thereon until so directed in writing by him. The Contractor will be allowed an extension of time for completion not less than the period of suspension but no other claims in this respect for compensation or otherwise, however will be admissible.

CLAUSE 16
ACTION IN CASE WORK NOT DONE AS PER SPECIFICATIONS

All works under or in course of execution or executed in pursuance of the contract, shall at all times be open and accessible to the inspection and supervision of the Engineer-in-charge, his authorized subordinates in charge of the work and all the superior officers, officer of the Quality Assurance unit

of the Government or any organization engaged by the Institute for Quality Assurance and of the Chief Technical Examiner's office and the contractor shall, at all times, during the usual working hours and at all other times at which reasonable notice of the visit of such officers has been given to the contractor, either himself be present to receive orders and instructions or have a responsible agent duly accredited in writing, present for that purpose. Orders given to the contractor's agent shall be considered to have the same force as if they had been given to the contractor himself.

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

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

CLAUSE 16A

NOTICE TO BE GIVEN BEFORE COVERING UP

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

CLAUSE 17A

CONTRACTOR LIABLE FOR DAMAGES, DEFECTS DURING MAINTENANCE PERIOD

If the Contractor or his working people shall break, deface, injure or destroy any part of a building in which they may be working or any buildings, road, kerbs, fence, enclosure, water pipes, cables, drains, electric and telephone posts or wire, trees, grass or grass land or cultivated ground

contiguous to the premises on which the work or any part of it is being executed, or if any damage shall happen to the work while in progress from any cause whatever or if any defects shrinkage or other faults appear in the work within **twelve months** after a certificate of final or otherwise of its completion shall have been given by the Engineer-in-charge as aforesaid arising out of defective or improper materials or workmanship, the Contractor shall after receipt of notice in writing in that behalf make the same good at his own expense, or in default the Engineer-in-charge may cause the same to be made good by other workmen and deduct the expense (of which the certificate of the Engineer-in-charge shall be final) from any sums that may then, or at any time thereafter become due to the Contractor, or from his Security Deposit or the proceeds of sale thereof, or of a sufficient portion thereof the Security Deposit of the Contractor shall not be refunded before the expiry of twelve calendar months after the issue of the certificate of final or otherwise of completion of work, or till the final bill has been prepared and passed whichever is later.

Engineer-in-Charge shall give notice to the contractor of any defects before the end of the Defect Liability Period, which begins on the date of completion. The Defect Liability Period shall stand automatically extended for as long as defects remain to be rectified. Every time notice of defect is given, the contractor shall correct the notified defects within the period specified by Engineer-in-charge.

However, for contract exclusively for earth work or jungle clearance where defect liability period is not relevant, Security Deposit if any paid may be refunded along with payment of final bill subject to labour clearance vide Clause 45.

Further in case where the contract provides for completion in phases, the Engineer-in-charge at his discretion may allow part refund of Security Deposit after expiry of 12 months (6 months in case of any works other than road work costing Rs.10,00,000 and below) from the date of completion for each phase but not before the payment of final bill for the entire contract.

CLAUSE 17B

SPECIAL CONDITION ON TAKING INSURANCE POLICY FOR THE WHOLE WORK ORDER VALUE BY THE CONTRACTORS'

As per Clause 17A of the Conditions of Contract, the Contractors' have to make good at their own expense the damages occurred due to any accident from any cause during the work in progress or nearing completion of the work. In order to fulfill this clause and also to take the responsibility of handing over the site to the full satisfaction of the Engineer-in-Charge and till the contractor gets the certificate or a letter of taking over the site facility/building/works, the contractor shall be responsible to re-do the works damaged from any cause. For this purpose, the contractor shall insure the whole work the moment the work order is received and before agreement is signed for the entire work order value under contractor's all risk insurance policy [CAR]. The third party liability and Cross-liability shall also be covered under the policy. The Contractors' shall consult the insurance companies and also the principal employer i.e. the Engineer-in-Charge and take the insurance policy for CAR. In case of any accidents during the work or nearing completion of the work [other than during the defect liability period for which Clause-17A is applicable], the Contractors' are totally responsible to re-do the damages and hand over site in acceptable condition to the Engineer-in-Charge and await a letter from the Department that the site has been taken over. Till such time, the Contractors' are responsible for all the damages from any cause.

Note: Contractor should also obtain insurance policy to cover all the laborers engaged in the work. In the event of contractor failing to keep insurance alive, Institute reserves right to take appropriate action including withholding the payments due to the Contractor.

CLAUSE 18

CONTRACTOR TO SUPPLY TOOLS AND PLANTS ETC.,

The Contractor shall supply and provide at his own cost all materials (except such special materials, if any as may in accordance with the contract be supplied from the Engineer-in-charge's stores) plant, tools, appliances, implements, ladders, cartage, tackle, scaffolding and temporary works requisite for the proper execution of the work, whether original, altered or substituted and whether included in the specification or other documents forming part of the contract or referred to in these conditions or not or which may be necessary for the purpose of satisfying or complying with the requirements of the Engineer-in-charge as to any matters as to which under these conditions he is entitled to be satisfied or which he is entitled to require together with carriage thereof to and from the work.

The Contractor shall also supply without charge the requisite number of persons with the means and materials necessary for the purpose of setting out works and counting, weighing and assisting in the measurement or examination at any time and from time to time of the work or materials failing his so doing the same may be provided by the Engineer-in-charge at the expenses of the Contractor and the expense may be deducted from any money due to the Contractor under the contract or the proceeds of sale thereof or of a sufficient portion thereof.

CLAUSE 18A

RECOVERY OF COMPENSATION PAID TO WORKMEN

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

CLAUSE 18B

ENSURING PAYMENT AND AMENITIES TO WORKERS IF CONTRACTOR FAILS

In every case in which by virtue of the provisions of the contract Labour (Regulation and Abolition Act 1970) and of the Contract Labour Regulation and Abolition Central Rules, 1971, Government/Institute is obliged to pay any amounts of wages to workman employed by the Contractor in execution of the works, or to incur any expenditure in providing welfare and health amenities required to be provided under the above said act and the rules under clause 19 or under the rules framed by Government/Institute from time to time for the protection of health and sanitary arrangements for workers employed by Government Contractor, Government/Institute will recover from the Contractor the amount of wages so paid or the amount of expenditure so incurred and without prejudice to the right of the Government/ Institute under section 20 subsection (2) and section 21 sub-section (4) of the Contract Labour (R&A) act 1970

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

CLAUSE 19

LABOUR LAWS/ SAFETY PROVISIONS TO BE COMPLIED BY THE CONTRACTOR

Contractor shall follow all laws, regulations and acts of Central/ State Government and other statutory bodies relating to engaging labourers in work, wages and all related provisions and indemnify Government/Institute against payment to be made under and for the observance of the said labour laws.

Engineer-in-Charge concerned shall have the right to deduct from the money due to the contractor, any sum required or estimated to be required for making good the loss suffered by a worker or workers by reason of non-fulfillment of any of the conditions of the contract for the benefit of the workers, non-payment of wages or of deductions made from his or their wages which are not justified by their terms of the contract or non-observance of the Regulations.

Further, contractor at his own expense shall arrange and comply with the safety provisions as per Standard safety manual and health & sanitary arrangements for the workers as per the extant rules.

CLAUSE 20

MINIMUM WAGES ACT

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

CLAUSE 21

WORK NOT TO BE SUBLET - ACTION IN CASE OF INSOLVENCY

The contract shall not be assigned or sublet without the written approval of the Engineer-in-charge and if the Contractor shall assign or sublet this contract or attempt to do so or become insolvent or commence any insolvency proceedings or make any composition with his creditors or attempt to do so or if any bribe gratuity, gift, loan, perquisite reward or advantage, pecuniary or otherwise shall either directly or indirectly be given, promised or offered by the Contractor or any of his employees or agents to any public officer or person in the employ of the Government/Institute in any way relating to his Officer or Employment, or if any such officer or person shall become in any way directly or indirectly interested in the contract, the Engineer-in-charge may thereupon on behalf of the President of India/Director, NIT Meghalaya shall have power to adopt any of the course specified in Clause 3 as he may best deem suited in the interest of Government/Institute, in the event of any of those courses being adopted the consequences specified in the said clause 3 shall ensure.

CLAUSE 22

COMPENSATION PAYABLE ARE WITHOUT REFERENCE TO ACTUAL LOSS OR DAMAGES

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

CLAUSE 23

CHANGE IN FIRM'S CONSTITUTION TO BE INTIMATED.

Where the Contractor is a partnership firm, the previous approval in writing of the Engineer-in-charge shall be obtained before any change is made in the constitution of the firm. Where the Contractor is an individual or a Hindu undivided family business concern such approval as aforesaid shall like wise be obtained before the Contractor enters into any partnership agreement where under the partnership firm would have the right to carry out the work hereby undertaken by the Contractor. If

previous approval as aforesaid is not obtained, the contractor shall be deemed to have been assigned in contravention of clause 21 hereof and the same action may be taken and the same consequences shall ensue as provided in the said clause 21.

CLAUSE 24 – DELETED

CLAUSE 25

SETTLEMENT OF DISPUTES AND ARBITRATION

- a) If any dispute or differences of any kind whatsoever were to arise between the Engineer-in-charge, Engineering Section and the Contractor regarding the following matters namely.
- i) The meaning of the specifications, designs, drawings and instructions hereinbefore mentioned.
 - ii) The quality of workmanship or materials used on the work and
 - iii) Any other question, claim, right, matters, thing whatsoever in any way arising out of or relating to the contract, designs, drawings, specifications, estimates, instructions or orders, or those conditions or failure to execute the same whether arising during the progress of the work after the completion, termination or abandonment thereof, the dispute shall, in the first place be referred to the Executive Engineer/ Director, NIT Meghalaya who has Jurisdiction over the work specified in the contract with the details of claims, justification for the same with supporting documents such as analysis of rates, cash vouchers and other relevant particulars. The Executive Engineer/ Director, NIT Meghalaya shall within a period of sixty days from the date of being requested by the Contractor to do so or from the date of furnishing of required particulars whichever is later shall give written notice of his decision to the contractor.

If the Engineer-in-Charge/Executive Engineer fails to give notice of his decision within a period of 60 days from the date of receipt of (i) the Contractor's request in writing for settlement of dispute or difference as aforesaid or (ii) relevant particulars from the Contractor in support of his claims whichever is later. (OR)

If the decision of the Engineer-in-Charge/Executive Engineer is not acceptable to the Contractor, he may approach the Director of the Institute within a period of 15 days from the date of expiry of 60 days specified above. The Director of the Institute shall within a period of further 90 days from the date of receipt of request from the contractor or from the date of receipt of relevant particulars from the contractor in support of claims whichever is later give notice of his decision (s) to the Contractor.

- b) Subject to other forms of settlement hereinafter provided the Director of the Institute decision in respect of every dispute or difference so referred shall be final and binding upon the Contractor. The said decision shall forthwith be given effect to and Contractor shall proceed with the execution of the work with all due diligence.
- c) Remedy
1. When Director of the Institute decision is not acceptable to Contractor OR
 2. Director of the Institute fails to give decision within 90 days.

In case the decision of the Director of the Institute is not acceptable to the Contractor or Director of the Institute fails to give decision within 90 days specified above, the Contractor may approach the Law court specified in Schedule 'F' for settlement of dispute after giving due written notice in this regard to the Director of the Institute.

d) Whether the claim is referred to the Engineer-in-Charge/Executive Engineer/ Director of the Institute or to the Law Courts, as the case may be, the Contractor shall proceed to execute and complete the works with all due diligence pending settlement of the said dispute or differences.

Obligations of the Engineer-in-charge and Contractor shall remain unsettled during considerations of dispute.

e) The reference of any dispute or dispute (s) or difference(s) to Engineer-in-Charge/Executive Engineer or the Director of the Institute or the Law Court may proceed notwithstanding that the work shall then be or be alleged to be complete provided always that the obligations of the Engineer-in-charge and the Contractor shall not be altered by reason of the said dispute or difference being referred to Engineer-in-Charge/Executive Engineer / Director of the Institute or the Law Court during the progress of the works.

CLAUSE 25A

SETTLEMENT OF DISPUTES BETWEEN CMG AND CENTRAL GOVERNMENT ENTERPRISES

In the event of the contract being entered into between National Institute of Technology Meghalaya and a Central Government Public Enterprises, supersession of above clause 25 of condition of Contract the following clause shall apply 'In the event of any dispute or difference relating to the interpretation and application of the provisions of the contracts, such dispute or difference shall be referred by either party to the arbitration of one of arbitrators in the Department of Public Enterprises to be nominated by the Secretary to the Government of India, in charge of the Bureau of Public Enterprises. The arbitration Act, 1940 shall not be applicable to the arbitration under this clause. The award of the arbitration shall be binding upon the parties to the dispute provided; however any party aggrieved by such award may make further reference for setting aside or revision of the award to the Law Secretary, Additional Secretary, when so authorized by the Law secretary, Department of Legal Affairs, Ministry of Law and Justice, Government of India. Upon such reference the dispute shall be decided by the Law Secretary or the Secretary, whose decision shall bind the parties finally and conclusively. The parties to the dispute will share equally the cost of Arbitration as intimated by the Arbitrator.

Provisions of clause 25 shall not be applicable to contracts where this clause 25A is applicable and the contracts for which clause 25A is not applicable clause 25 will be applicable.

CLAUSE 26

PATENT RIGHTS

The Contractor shall fully indemnify the President of India/Director, NIT Meghalaya against any action, claim or proceeding relating to infringement or use of any patent or design on any alleged patent or design right and shall pay any royalties which may be payable in respect of any article or part thereof included in the contract. In the event of any claims made under or action brought against Government in respect of such matters as aforesaid the Contractor shall be immediately notified thereof and the Contractor shall be at liberty, at his own expense, to settle any dispute or to conduct any litigation that may arise there from. Provided that the Contractor shall not be liable to indemnify the President of India/Director, NIT Meghalaya if the infringement of the patent or design of any alleged patent or design right is the direct result of an order passed by the Engineer-in-charge in this behalf.

CLAUSE 27 – DELETED

CLAUSE 28 – RENUMBERED AS CLAUSE 11A

CLAUSE 29

WITHHOLDING AND LIEN IN RESPECT OF SUMS DUE FROM CONTRACTOR

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

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

- (ii) Government/Institute shall have the right to cause an audit and Technical Examination of the work and the final bills of the Contractor including all supporting vouchers abstract etc., to be made after payment of the final bill and if as a result of such audit and Technical Examination any sum is found to have been over paid in respect of any work done by the Contractor under the contract or any work claimed by him to have been done by him under contract and found not to have been executed, the Contractor shall be liable to refund the amount of over payment and it shall be lawful for Government/Institute to recover the same from him in the manner prescribed in sub clause (1) of this clause or in any other manner equally permissible and if it is found that the Contractor was paid less than what was due to him under the Contract in respect of any work executed by him under it, the amount of such underpayment shall be duly paid by Government/Institute to the contractor, without any interest thereon whatsoever.

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

CLAUSE 29A

LIEN IN RESPECT OF CLAIMS IN OTHER CONTRACTS

Any sum of money due and payable to the Contractor (including Security Deposit returnable to him) under the contract may be withheld or retained by way of lien by the Engineer-in-charge or the Government/ Institute or any other contracting person or persons through Engineer-in-charge against any claim of the Engineer-in-charge or the Government/ Institute or such other person or persons in respect of payment of a sum of money arising out of or under any other contract made by the Contractor with the Engineer in charge or Government/Institute or with such other person or persons.

It is an agreed term of the contract that the sum of the money so withheld or retained under this clause by the Engineer-in-charge or the Government/ Institute will be kept withheld or retained as such by the Engineer-in-charge or the Government/ Institute or till his claim arising out of the same contract or any other contract is either mutually settled or determined by the competent court, as the case may be and that the contractor shall have no claim for interest or damages whatsoever on this account or on any other ground in respect of any sum of money withheld or retained under this clause and duly notified as such to the contractor.

CLAUSE 30

TERMINATION OF CONTRACT ON DEATH OF THE CONTRACTOR

Without prejudice to any of the rights or remedies under this contract, if the Contractor dies, the Engineer-in-charge on behalf of the President/Director, NIT Meghalaya shall have the option of terminating the contract without compensation to the Contractor.

CLAUSE 31

WATER SUPPLY

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

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

Institute Supply, if available:

Water, if available and sparable, may be supplied to the contractor by Institute only at the single point subject to the following conditions:-

- i) The water charges @1 % shall be recovered on gross amount of the work done.
- ii) The contractor(s) shall make his/their own arrangement of water connection and laying of pipelines from existing main of source of supply.
- iii) The Institute do not guarantee to maintain uninterrupted supply of water and it will be incumbent on the contractor(s) to make alternative arrangements for water at his/their own cost in the event of any temporary break down in the Government/Institute water main so that the progress of his/their work is not held up for want of water. No claim of damage or refund of water charges will be entertained on account of such break down.

Alternative water arrangements:

- i) Where there is no piped water supply arrangement and the water is taken by the Contractor from the wells or hand pump constructed by the Government/Institute no charge shall be recovered from the Contractor on that account. The Contractor shall, however, draw water at such hours of the day that it does not interfere with the normal use for which the hand pump and wells are intended. He will also be responsible for all damage and abnormal repairs arising out of his use, the cost of which shall be recoverable from him. The Engineer-in-charge shall be the final authority to determine the cost recoverable from the Contractor on this account.
- ii) The Contractor shall be allowed to construct temporary wells in Government/Institute land for taking water for construction purposes only after he has got permission of the Engineer-in-charge in writing. No charges shall be recovered from the Contractor on this account, but the Contractor shall be required to provide necessary safety arrangements to avoid any accidents or damage to adjacent buildings, roads and service lines. He shall also be responsible, for any accidents or damage caused due to construction and subsequent maintenance of the wells and shall restore the ground to its original condition after the wells are dismantled on completion of the work.

**CLAUSE 32
ELECTRICITY**

Electricity, if available in the premises and sparable, may be provided to the contractor by the Institute only at the single point subject to the following conditions:-

- i) The Contractor has to make his own arrangement to tap Electricity from a 3 phase/single phase supply from location decided by Engineer-in-charge. Electricity supply will be made available only on metered basis. Electric charges will be recovered at actuals.
- ii) In all cases where/when the energy meter is not installed, defective energy meter is not replaced or not rectified immediately, the consumption charges towards electricity will be recovered on the basis of the total wattage of the load multiplied by the number of hours utilized. In all such cases the Contractor shall maintain a log book indicating wattage of the load and hours of consumption and get the same attested by Engineer-in-charge at appropriate time without fail. The decision of Engineer-in-charge in the matter shall be final.

Note: Please refer Guide lines for temporary power supply at site and general safety procedures, attached.

**CLAUSE 33
RETURN OF GOVERNMENT SURPLUS MATERIALS TO GOVERNMENT**

Notwithstanding anything contained to the contrary in any or all the clauses of this contract where any materials for the execution of the contract are procured with the assistance of Government/Institute either by issue from Government/Institute stocks or purchase under orders made or permits or licenses issued by the Government, the Contractor shall hold the said material as trustee for Government/Institute and use such materials economically and solely for the purpose of the contract and not dispose off them without the permission of the Government/Institute and return, if required by Engineer-in-charge all surplus, serviceable material that may be left with him after the completion of the contract or at its termination for any reason whatsoever on being paid or credited such price as the Engineer-in-charge shall determine having due regard to the condition of the material. The price allowed to the Contractor, however, shall not exceed the amount charged to him excluding the storage charges, if any. The contractor shall also not be entitled to cartage and incidental charges for returning the surplus materials from and to the stores where from they were issued. The decision of Engineer-in-charge shall be final and conclusive.

In the event of breach of aforesaid conditions the contractor shall in addition to throwing himself open to action for contravention of the terms of licenses or permits and/or for criminal breach of trust, be liable to compensate the Government/Institute for all money, advantages or profits resulting or which in the usual course would have resulted to him by reason of such breach.

CLAUSE 34 – DELETED

CLAUSE 35 – DELETED

**CLAUSE 36
EMPLOYMENT OF GRADUATE/ DIPLOMA ENGINEERS**

Contractors Superintendence, Supervision, Technical Staff & Employees

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

The contractor shall immediately after receiving letter of acceptance of the tender and before commencement of the work, intimate in writing to the Engineer-in-Charge, the name(s), qualifications, experience, age, address(s) and other particulars along with certificates, of the

principal technical representative to be in charge of the work and other technical representative(s) who will be supervising the work. Minimum requirement of such technical representative(s) and their qualifications and experience shall not be lower than specified in Schedule 'F'. The Engineer-in-Charge shall within 3 days of receipt of such communication intimate in writing his approval or otherwise of such a representative(s) to the contractor. Any such approval may at any time be withdrawn and in case of such withdrawal, the contractor shall appoint another such representative(s) according to the provisions of this clause. Decision of the tender accepting authority shall be final and binding on the contractor in this respect. Such a principal technical representative and other technical representative(s) shall be appointed by the contractor soon after receipt of the approval from Engineer-in-charge and shall be available at site before start of work.

All the provisions applicable to the principal technical representative under the Clause will also be applicable to other technical representative(s). The principal technical representative and other technical representative (s) shall be present at the site of work for supervision at all times when any construction activity is in progress and also present himself/themselves, as required, to the Engineer-in-Charge and/or his designated representative to take instructions. Instructions given to the principal technical representative or other technical representative(s) shall be deemed to have the same force as if these have been given to the contractor. The principal technical representative and other technical representative(s) shall be actually available the decision of the Engineer-in-Charge as recorded in the site order book and measurement recorded checked/test checked in Measurement Books shall be final and binding on the contractor.

Further if the contractor fails to appoint suitable technical Principal technical representative and/or other technical representative(s) and if such appointed persons are not effectively present or are absent by more than two days without duly approved substitute or do not discharge their responsibilities satisfactorily, the Engineer-in-Charge shall have full power to suspend the execution of the work until such date as suitable other technical representative(s) is/are appointed and the contractor shall be held responsible for the delay so caused to the work. The contractor shall submit a certificate of employment of the technical representative(s) along with every on account bill/ final bill and shall produce evidence if at any time so required by the Engineer-in-Charge at site fully during all stages of execution of work, during recording/checking/ test checking of measurements of works and whenever so required by the Engineer-in-Charge and shall also note down instructions conveyed by the Engineer-in-Charge or his designated representative(s) in the site order book and shall affix his/ their signature in token of noting down the instructions and in token of acceptance of measurements/ checked measurements/test checked measurements. The representative(s) shall not look after any other work. Substitutes, duly approved by Engineer-in-Charge of the work in similar manner as aforesaid shall be provided in event of absence of any of the representative(s) by more than two days.

If the Engineer-in-Charge, whose decision in this respect is final and binding on the contractor, is convinced that no such technical representative(s) is/are effectively appointed or is/are effectively attending or fulfilling the provision of this clause, a recovery (nonrefundable) shall be effected from the contractor as specified in Schedule 'F' and

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

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

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

CLAUSE 37 – DELETED

CLAUSE 38 – DELETED

CLAUSE 38A – DELETED

CLAUSE 39

RELATIVE WORKING WITH INSTITUTE

It is presumed that the Contractor is not related to any of the officers of the National Institute of Technology Meghalaya. If he has any such relatives full particulars of the same should be furnished.

CLAUSE 40

RESTRICTION FOR EMPLOYING RETIRED GOVERNMENT SERVANT

No Engineer of Gazetted rank or other Gazetted officer employed in Engineering or Administrative duties in the Engineering Department of the Government of India shall work as a Contractor or employ of contractor for a period of one year after his retirement from Government service without the previous permission of Government of India in writing. This contract is liable to be cancelled if either the Contractor or any of his employees is found at any time to be such a person who had not obtained the permission of Government of India as aforesaid before submission of the tender or engagement in the Contractor's service as the case may be.

CLAUSE 41

RETURN OF MATERIALS & RECOVERY FOR EXCESS MATERIAL ISSUED

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

ii) Over the theoretical quantities of materials so computed a variation shall be allowed as specified in Schedule 'F'. The difference in the net quantities of material actually issued to the contractor and the theoretical quantities including such authorized variation, if not returned by the contractor or if not fully reconciled to the satisfaction of the Engineer-in-Charge, within fifteen days of the issue of written notice by the Engineer-in-charge to this effect shall be recovered at the rates specified in Schedule 'F', without prejudice to the provision of the relevant conditions regarding return of materials governing the contract. Decision of Engineer-in-Charge in regard to theoretical quantities of materials, which should have been actually used as per the Annexure of the standard schedule of rates and recovery at rates specified in Schedule 'F', shall be final & binding on the contractor.

For non scheduled items, the decision of the Engineer-in-Charge regarding theoretical quantities of materials which should have been actually used, shall be final and binding on the contractor.

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

CLAUSE 42 – DELETED

CLAUSE 43

APPRENTICE ACT TO BE COMPLIED WITH

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

CLAUSE 44 – DELETED

CLAUSE 45

RELEASE OF SECURITY DEPOSIT AFTER LABOUR CLEARANCE

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