

request made by the contractor to the Engineer-in-charge in this behalf. The second and subsequent instalments shall be released by the Engineer-in-charge only after the contractor furnishes a proof of the satisfactory utilization of the earlier instalment to the entire satisfaction of the Engineer-in-charge. Before any instalment of advance is released, the contractor shall execute a Bank Guarantee Bond from scheduled bank for the amount of advance and valid for the contract period. This shall be kept renewed from time to time to cover the balance amount and likely period of complete recovery, together with interest.

Provided always that provision of Clause 10B (ii) shall be applicable only when so provided in 'Schedule F'.

#### **Plant & Machinery and shuttering material Advance --- DELETED**

- (iii) An advance for plant, machinery and shuttering material required for the work and brought to site by the contractor may be given if requested by the contractor in writing within one month of bringing such plant and machinery to site. Such advance shall be given on such plant and machinery, which in the opinion of the Engineer-in-Charge will add to the expeditious execution of work and improve the quality of work. The amount of advance shall be restricted to 5% of tendered value, in the case of new plant and equipment to be purchased for the work, the advance shall be restricted to 90% of the price of such new plant and equipment paid by the contractor for which the contractor shall produce evidence satisfactory to the Engineer-in-Charge. In the case of second hand and used plant and equipment, the amount of such advance shall be limited to 50% of the depreciated value of plant and equipment as may be decided by the Engineer-in-Charge. The contractor shall if so required by the Engineer-in-Charge, submit the statement of value of such old plant and equipment duly approved by a Registered Valuer recognized by the Central Board of Direct Taxes under the Income Tax Act, 1961. No. such advance shall be paid on any plant and equipment of perishable nature and on any plant and equipment of a value less than Rs. 50,000/-, 75% of such amount of advance shall be paid after the plant & equipment is brought to site and balance 25% on successfully commissioning the same.

Leasing of equipment shall be considered at par with purchase of equipment and shall be covered by tripartite agreement with the following

1. Leasing company which gives certificate of agreeing of lease equipment to the contractor
2. Engineer-in-Charge
3. Contractor

This advance shall further be subject to the condition that such plant and equipment (a) are considered by the Engineer-in-Charge to be necessary for the works; (b) and are in and are maintained in working order; (c) hypothecated to the NDMC as specified by the Engineer-in-Charge before the payment of advance is released. The contractor shall not be permitted to remove from site such hypothecated plant and equipment without the prior written permission of the Engineer-in-Charge. The contractor shall be responsible for maintaining such plant and equipment in good working order during the entire period of hypothecation failing which such advance shall be entirely recovered in lump sum. For this purpose steel scaffolding and from work shall be treated as plant and equipment.

The contractor shall insure the plant and machinery, for which mobilization advance is sought and given, for a sum sufficient to provide for their replacement at site. Any amount not recovered from the insurer will be borne by the contractor.

#### **Interest and recovery**

- (iv) The Mobilization advance and plant and machinery advance and in (ii) & (iii) above bear simple interest at the rate of 10 per cent per annum and shall be calculated from the date of payment to the date of recovery, both days inclusive, on the outstanding amount of advance. Recovery of such sums advanced shall be made by deduction from the contractor's bill commencing after first ten percent of gross value of the work is executed and paid and pro-rata percentage basic to the gross value of the work billed beyond 10% in such a way that the entire advance is recovered by the time eighty percent of the gross value of the contract is executed and paid, together with interest due on the entire outstanding amount upto the date of recovery of the instalment.
- (v) If the circumstances are considered reasonable by the Engineer-in-Charge the period mentioned in (ii) and (iii) for request by the contractor in writing for grant of mobilization advance and plant and equipment advance may be extended in the discretion of the Engineer-in-Charge.

- (vi) The said bank Guarantee for advances shall initially be made for the full amount and valid for the contract period and be kept renewed from time to time to cover the balance amount and likely period to complete recovery together with interest

#### **CLAUSE 10 C (Deleted)**

##### **Payment on account of increase in Prices/Wages due to Statutory Order(s)**

~~If after submission of the tender, the price of any material incorporated in the work (excluding the materials covered under 10CA and not being a material supplied from the NDMC stores in accordance with Clause 10 hereof) and/or wages of labour increases as a direct result of the coming in- to force of any fresh law, or statutory rule or order (but not due to any charge in sales tax/GST) beyond the prices/wages prevailing at the time of the last stipulated date of receipt of tenders including extensions, if any, for the work during contract period including the justified period extended under the provisions of Clause 5 of the contract without any action under Clause 2, the amount of the contract shall accordingly be varied and provided further that any such increase shall be limited to the price/wages prevailing at the time of stipulated date of completion or as prevailing for the period under consideration, whichever is less.~~

~~If after submission of the tender, the price of any material incorporated in the work (excluding the materials covered under Clause 10CA and not being a material supplied from the NDMC stores in accordance with Clause 10 thereof) and/or wages of labour as prevailing at the time of last stipulated date of receipt of tender including extensions, if any, is decreased as a direct result of the coming into force of any fresh law, or statutory rule or order (but not due to any changes in sales tax / GST) Government shall in respect of materials incorporated in the works (excluding the materials covered under Clause 10CA and not being materials supplied from the NDMC stores in accordance with Clause 10 hereof) and/or labour engaged on the execution of the work after the date of coming into force of such law, statutory rule or order be entitled to deduct from the dues of the contractor, such amount as shall be equivalent to the difference between the prices of the material and/or wages as prevailed at the time of the last stipulated date for receipt of tenders including extension if any for the work and the prices of materials and/or wages of labour on the coming in- to force of such law, statutory rule or order. This will be applicable for the contract period including the justified period extended under the provisions of Clause 5 of the contract without any action under Clause 2.~~

~~Engineer-in-Charge may call books of account and other relevant documents from the contractor to satisfy himself about reasonability of increase in prices of materials and wages.~~

~~The contractor shall within a reasonable time of his becoming aware of any alteration in the price of any such material(s) 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 thereof which he may be in position to supply.~~

~~For this purpose, the labour component of the work executed during any period shall be the percentage as specified in Schedule F, of the value of work done during that period and increase/decrease in labour shall be considered on the minimum daily wages in Rupees of any unskilled adult male mazdoor, fixed under any law, statutory rule or order.~~

#### **CLAUSE 10 CA (Deleted)**

##### **Payment due to Variation in prices of materials after receipt of tender.**

~~If after submission of the tender, the price of material specified in schedule "F" increases / decreases beyond the price(s) prevailing at the time of the last stipulated date of receipt of tenders (Including extensions, if any) for the work, then the amount of the contract shall accordingly be varied and provided further that any such variations shall be effected for stipulated period of contract including the justified period extended under the provision of clause 5 of the contract without any action under clause 2.~~

However for work done during the justified period extended as above, it will be limited to prevailing at the time of stipulated date of completion or as prevailing for the period under consideration, whichever is less.

The increase/decrease in prices of cement, steel reinforcement and structural steel shall be determined by the Prices Indices issued by the Chief Engineer (Civil), NDMC. For other items provided in Schedule 'F', this shall be determined by the All India Wholesale Price Indices of materials as published by Economic Advisor to Government of India, Ministry of Commerce and Industry and base price for cement, steel reinforcement and structural steel as issued under the authority of Chief Engineer (Civil), NDMC as indicated in Schedule 'F' as valid on the last stipulated date of receipt of tender, including extensions if any and for the period under consideration, in case, price index of a particular material is not issued by the Ministry of Commerce and Industry, then the price index of nearest similar material as indicated in Schedule 'F' shall be followed.

The amount of the contract shall accordingly be varied for all such materials and will be worked out as per the formula given below for individual material :-

$$V = P \times Q \times \frac{CI - CI_o}{CI_o}$$

Where,

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

P= Base Price of material as issued under the authority of Chief Engineer (Civil), NDMC as indicated in Schedule 'F' valid at the time of the last stipulated date of receipt of tender including extensions, if any,

Q= Quantity of material brought at site for bonafide use in the works since previous bill.

CI<sub>o</sub>= Price Index for cement, steel reinforcement bars and structural steel as issued by the Chief Engineer (Civil), NDMC as valid on the last stipulated date of receipt of tenders including extensions, if any. For other items, if any, provided in Schedule 'F', All India Wholesale Price Index for the material as published by the Economic Advisor to Government of India, Ministry of Industry and Commerce as valid on the last stipulated date of receipt of tenders including extensions, if any.

CI = Price Index for cement, steel reinforcement bars and structural steel as issued under the authority of Chief Engineer (Civil), NDMC for period under consideration. For other items, if any, provided in Schedule 'F', All India Wholesale Price Index for the material for period under consideration as published by Economic Advisor to Government of India, Ministry of Industry and Commerce.

Note :-

- (i) In respect of the justified period extended under the provisions of clause 5 of the contract without any action under clause 5 of the contract without any action under clause 2, the index prevailing at the time of stipulated date of completion or the prevailing at the time of stipulated date of completion or the prevailing index of the period under consideration, whichever is less, shall be considered.  
Provided always that provisions of the preceding Clause 10C shall not be applicable in respect of materials covered in this Clause.
- (ii) If during progress of work or at the time of completion of work, it is noticed that any material brought at site is in excess of requirement, then amount of escalation if paid earlier on such excess quantity of material shall be recovered on the basis of cost indices as applied at the time of payment of escalation or as prevailing at the time of effecting recovery, whichever is higher.

**CLAUSE 10 CC (Deleted)****Payment due to increase/decrease Prices/Wages after receipt of tender for works.**

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

- (i) The base data 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 the escalation will be payable shall be reckoned as below:

Gross value of work done upto this quarter : (A)

- a) Gross value of work done upto the last quarter : (B)
- b) Gross value of work done since previous quarter (A-B): (C)
- c) Full assessed value of Secured Advance fresh paid in this Quarter : (D)
- d) Full assessed value of Secured Advance recovered in this quarter : (E)
- e) Full assessed value of Secured Advance for which escalation is Payable in this quarter (D-E) : (F)
- f) Advance payment made during this quarter : (G)
- g) Advance payment recovered during this quarter : (H)
- h) Advance payment for which escalation is payable in this quarter (G-H) : (I)
- i) Extra item paid as per Clause 12 based on prevailing market rates during this quarter : (J)

Then  $Q = C + F + I - J$

$R = 0.85M$

- j) Less cost of material supplied by the Department as per Clause 10 and recovered during the quarter: (K)
- k) Less cost of services rendered at fixed charges as per Clause 34 and recovered during the quarter: (L)
- l) Less cost of Cement – Quantity of cement brought at site for bonafide use in the work during the quarter X Base Price of Cement : (M)
- m) Less cost of reinforcement bars - Quantity of reinforcement bars brought at site for bonafide use in the work during the quarter X Base Price of reinforcement bars : (N)
- n) Less cost of structural steel – Quantity of structural steel brought at site for bonafide use in the work during the quarter X Base Price of Structural Steel : (O)
- o) Less cost of other material covered under clause 10 CA – Quantity of such Material/Materials brought at site for bonafide use in the work during the quarter covered under clause 10CA X Base Price of such Material/Materials : (P)

Cost of work for which escalation is application:

$W = R - (K + L) - (M + N + O + P)$

- (iii) Components for materials (except cement, reinforcement bars, structural steel or others materials covered under Clause 10 CA), Labour P.O.L. etc. shall be pre-determined for every work and incorporated in the conditions of contract attached to the tender papers included in Schedule 'E'.

The decision of the Engineer-in-Charge in working out such percentage shall be binding on the contractors.

- (iv) The compensation for escalation for other materials (excluding cement, reinforcement bars, structural steel or other materials covered under clause 10 CA) and P.O.L shall be worked as per the formula given below:-

(a) Deleted

(b) Deleted

(c) Adjustment for civil component

(except cement, Structural steel, reinforcement bars and other materials covered under clause 10CA) / electrical component of construction 'Materials'

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

V<sub>m</sub> = Variation in material cost i.e. increase or decrease in the amount in rupees to be paid or recovered.

W = Cost of work done worked out as indicated in sub-para (ii) of Clause 10CC.

X<sub>m</sub> = Component of 'materials' (except cement, Structural steel, reinforcement bars and other materials covered under clause 10CA)

expressed as percent of the total value of work.

MI = All India Wholesale Price Index for civil component/electrical component\* of construction material as worked out on the basis of All India Wholesale Price Index for individual Commodities/Group items for the period under consideration as published by Economic Advisor to Govt. of India, Ministry of Industry & Commerce and applying weight ages to the individual Commodities/ Group Items. (In respect of the justified period extended under the provisions of clause 5 of the contract without any action under clause 2, the index prevailing at the time of stipulated date of completion or the prevailing index of the period under consideration, which ever is less shall be considered).

MI<sub>o</sub> = All India Wholesale Price Index for civil component/electrical component \* of construction material as worked out on the basis of All India Wholesale Price Index for individual Commodities/Group items valid on the last stipulated date of receipt of tender, including extension, if any, as published by the Economic Advisor to Govt. of India, Ministry of Industry & Commerce and applying weightages to the individual Commodities/Group items.

\*Note : relevant component only will be applicable.

- (d) Adjustment for component of 'POL' .....tender including extension, if any.
- (v) The following principles..... falling within that period.
- (vi) The component for escalation .....receipt of tender including extension, if any.
- (vii) The following principles.....on the labour component.
- (viii) In the event of the price .....binding on the contractor.
- (ix) Provided always that:-

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

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

**CLAUSE 10 D****Dismantled Material-NDMC Property**

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

**CLAUSE 11****Work to be executed in accordance with Specifications, Drawings, Orders etc.**

The contractor shall execute the whole and every part of the work in the most substantial and workman like manner both as regards materials and otherwise in every respect in strict accordance with Central Public Works Department Specifications 1996 Vol. I to VI with amendments thereto, issued upto the date of receipt of the tender. The contractor shall also conform exactly, fully and faithfully to the designs, 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 care and diligence execute and maintain the works and provide all labour and materials, tools and plants including for measurements and supervision of all works, structural plans and other things of temporary or permanent nature required for such execution and maintenance in so far as the necessity for providing these is specified or is reasonably inferred from the contract. The contractor shall take full responsibility for adequacy, suitability and safety of all the works and methods of construction.

**CLAUSE 12****Deviations/Variations-extent and pricing**

The Engineer-in-charge shall have power (i) to make alterations 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 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 work in accordance with any instructions given to him in writing signed by the Engineer-in-charge and such alterations, omission, 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 work, 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 work 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.

**Deviation, Extra items and pricing****12.2 A) For Project & Original Work**

In the case of extra items (s) the contractor may be within fifteen days of receipt of order of occurrence of the item(s) claim rates, supported by proper analysis, for the work and Engineer-in-Charge shall within one month of the receipt of the claim supported by analysis after giving consideration to the analysis of the rates submitted by the contractor, determine the rates on the basis of the market rates and the contractor shall be paid in accordance with the rates so determined.

## 12.2 B) Deviation, Substituted Items, Pricing

In the case of substitute items, the rate for the agreement items (to be substituted) and substituted item shall also be determined in the manner as follows;

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

## C) Deviation, Deviated Quantities, Pricing

In the case of contract items substituted items, contract cum substituted item which exceed the percentage set out in the tender documents (referred to as deviation limit), the contractor may within fifteen days of receipt of order or occurrence of the excess, claim revision of the rates, supported by proper analysis, for the work in excess of the above mentioned limits provided that if the rates so claimed are in excess of the rates specified in the schedule of quantities the Engineer-in-Charge shall within one month of receipt of the claim supported by analysis, after giving consideration to the analysis of the rates submitted by the contractor, determine the rates on the basis of the market rates and the contractor shall be paid in accordance with the rates so determined. **(Deviations in quantities of individual items up to  $\pm 10\%$  of agreement quantity will no need any prior approval of TS authority and sanction of deviations is also not required).**

- 12.3 The provisions of the preceding paragraph shall also apply to the decrease in the rates of items for the work in excess of the percentage set out in the tender documents (referred to as deviation limit), 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 fifteen days having regard to the market rates.
- 12.4 The contractor shall send to the Engineer-in-Charge once every three months an upto date account giving complete details of all claim for additional payments to which the contractor may consider himself entitled and all of 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 Chief Engineer may authorize consideration of such claims on merits.
- 12.5 For the purpose of operation of Clause 12.2 & 12.3, the following works shall be treated as works relating to foundations for which deviation limits shall be 100 per cent.
  - i) For buildings, compound walls; plinth level or 1.2 meters above ground level whichever is lower excluding items of flooring and D.P.C but including base concrete below the floors
  - ii) For abutment, piers, retaining walls of culverts and bridges, walls of water reservoirs; the bed floor level.
  - iii) For retaining walls where floor level is not determinate; 1.2 meters above the average ground level or bed level.
  - iv) For roads; all items of excavation and filling including treatment of sub-base.
  - v) For water supply lines, sewer lines, underground storm water drains and similar works; all items of work below ground level except items of pipe work, masonry work.
  - vi) For open storm water drains; all items of work except lining of drains.
- 12.6 Any operation incidental to or necessarily has to be in contemplation of tenderer while filling tender, or necessary for proper execution of the item included in the Schedule of Quantities or in the schedule of rates mentioned above, whether or not specifically indicated in the description of the item and the relevant specifications, shall be deemed to be included in the rates quoted by the tenderer or the rate given in the said schedule of rates, as the case may be. Nothing extra shall be admissible for such operations.

## CLAUSE 13

### **Fore closure of contract due to abandonment or reduction in scope of work.**

If at any time after acceptance of the tender the NDMC shall decide to abandon or reduce the scope of the work 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 for enclosure.

- i) Any expenditure incurred on preliminary site work, e.g. temporary access roads, temporary labour huts, staff quarters and site office, storage tanks.
- ii) The NDMC shall have the option to take over contractor's materials or any part thereof either brought to site or which the contractor is legally bound to accept delivery from suppliers (for incorporation in or incidental to the work) provided, however, the NDMC 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 the NDMC, 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 the NDMC are rendered surplus, the same except normal wastage shall be returned by the contractor to the NDMC 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 the NDMC stores, if so required by the NDMC, shall be paid.
- iv) Reasonable compensation for transfer for 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 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 NDMC 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 tools, plants and materials and any other sums which at the date of termination were recoverable by the NDMC from the contractor under the terms of the contract.

## CLAUSE 14

### **Cancellation of contract in full or part**

If contractor:

- i) at any time makes default in proceeding with the works or any part of the work with the due diligence and continue to do so after a notice in writing of 7 days from the Engineer-in-charge; or
- ii) commits default to complying with any of the terms and conditions 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; or



- iii) fails to complete the works or items of work with individual dates of completion, on or before the 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; or
- iv) shall offer or give or agree to give to any person in the NDMC 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 the NDMC; or
- v) shall enter into a contract with the NDMC 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; or
- vi) shall obtain a contract with the NDMC as a result of wrong tendering or other non-bonafide methods of competitive tendering; or
- vii) 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; or
- viii) being a company, shall pass a resolution or the Court shall make an order for the winding up of the company, or a receiver or manager on behalf of the debenture holders or otherwise shall be appointed or circumstances shall arise which entitle the Court or debenture holders to appoint a receiver or manager; or
- ix) shall suffer an execution being levied on his goods and allow it to be continue for a period of 21 days; or
- x) assigns, transfers, sublets (engagement of labour on a piece-work basis or of labour with materials not be incorporated in the work, shall not be deemed to be subletting) or otherwise parts with or attempts to assign, transfer, sublet or otherwise parts with the entire works or any portion thereof without the prior written approval of the Engineer-in-charge. ;
- xi) The NDMC may, without prejudice to any other right or remedy which shall have accrued or shall accrue hereafter to the NDMC, by a notice in writing cancel the contract as a whole or only such items of work in default from the contract. The Engineer-in-charge shall on such cancellation by the NDMC have powers to take possession of the site and any materials, constructional plant, implements, stores, etc., thereon; and/or carry out the incomplete work by any means at the risk and cost of the contractor.
- xii) On cancellation of the contract in full or in part, the Engineer-in-charge shall determine what amount, if any, is recoverable from the contractor for completion of the works or in case the works or part of the works is not to be completed, the loss or damage suffered by the NDMC. In determining the amount, credit shall be given to the contractor for the value of the work executed by him up to the time of cancellation, the value of contractor's materials taken over and incorporated in the work and use of plant and machinery belonging to the contractor.
- xiii) Any excess expenditure incurred or to be incurred by the NDMC in completing the works or part of the works or the excess loss or damages suffered or may be suffered by the NDMC as aforesaid after allowing such credit shall without prejudice to any other right or remedy available to the NDMC in law be recovered from any moneys due to the contractor on any account, and if such moneys are not sufficient, the contractor shall be called upon in writing and shall be liable to pay the same within 30 days.
- xiv) If the contractor shall fail 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 buildings, etc. and apply the proceeds of sale thereof towards the satisfaction of any sums due from the contractor under the contract and if thereafter there be any balance outstanding from the contractor, it shall be recovered in accordance with the provisions of the contract.
- xv) Any sums in excess of the amounts due to the NDMC and unsold materials, constructional plant, etc., shall be returned to the contractor, provided always that if cost or anticipated cost of completion by the NDMC of the works or part of the works is less than the amount which the contractor would have been paid had he completed the works or part of the works, such benefits shall not accrue to the contractor.

## CLAUSE 15

### Suspension of work

- I. The contractor shall, on receipt of the order in writing of the Engineer-in-charge, (whose decision shall be final and binding on the contractor) suspend the progress of the works or any part thereof for such time and in such manner as the Engineer-in charge may consider necessary so as to cause any damage or injury to the work already done or endanger the safety thereof for any of the following reasons :
  - a) on account of any default on the part of the contractor; or
  - b) for proper execution of the works or part thereof for reasons other than the default of the contractor; or
  - c) for safety of the works or part thereof.

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

- II. If the suspension is ordered for reasons (b) and (c) in sub-para (i) above:
  - a) the contractor shall be entitled to an extension of time equal to the period of every such suspension plus 25%, for completion of the item or group of work for which a separate period of completion is specified in the contract and of which the suspended work forms a part, and ;
  - b) If the total period of all such suspensions in respect of an item or group of items of work for which a separate period of completion is specified in the contract exceeds thirty days, the contractor shall, in addition, be entitled to such compensation as the Engineer-in-charge may consider reasonable in respect of salaries and/or wages paid by the contractor to his employees and labour at site, remaining idle during the period of suspension, adding thereto 2% to cover indirect expenses of the contractor. Provided the contractor submits his claim supported by details to the Engineer-in-charge within fifteen days of the expiry of the period of 30 days.
- III. If the works or part thereof is suspended on the orders of the Engineer-in-charge for more than three months at a time, except when suspension is ordered for reasons (a) in sub-para (i) above, the contractor may after receipt of such order serve a written notice on the Engineer-in-charge of the said notice, to proceed with the work or part thereof in regard to which progress has been suspended and if such permission is not granted within that time, the contractor, if he intends to treat the suspension, where it affects only a part of the works as an omission of such part by the NDMC or where it affects whole of the works, as an abandonment of the works by the NDMC, shall within ten days of expiry of such period of 15 days give notice in writing of his intention to the Engineer-in-charge. In the event of the contractor treating the suspension as an abandonment of the contract by the NDMC, he shall have no claim to payment of any compensation on account of any profit or advantage which he might have derived from the execution of the work in full but which he could not derive in consequence of the abandonment. He shall, however, be entitled to such compensation, as the Engineer-in-charge may consider reasonable, in respect of salaries and/or wages paid by him to his employees and labour at site, remaining idle in consequence adding to the total thereof 2% to cover indirect expenses of the contractor provided the contractor submits his claim supported by details to the Engineer-in-charge within 30 days of the expiry of the period of 3 months.

Provided, further, that the contractor shall not be entitled to claim any compensation from the NDMC for the loss suffered by him on account of delay by the NDMC in the supply of materials where such delay is covered by difficulties relating to the supply of wagons, force majeure including non allotment of such materials by controlling authorities, acts of God, acts of enemies of the state/country or any reasonable cause beyond the control of the NDMC.

**CLAUSE 16****Action in case work not done as per specifications.**

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

If it shall appear to the Engineer-in-charge or his authorized subordinates in charge of the work or to the Chief Engineer-in-charge of Quality Control or his subordinate officers 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 six months 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 his failing to do so within a period specified by the Engineer-in-charge in his demand aforesaid, then the contractor shall be liable to pay compensation at the same rate as under clause 2 of the contract (for non-completion of the work in time) for this default.

In such case the Engineer-in-charge may not accept the item of work at the rates applicable under the contract but may accept such items at reduced rates as the Chief Engineer 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 incidental items rectified, or removed and re-executed at the risk and cost of the contractor. Decision of the Engineer-in-charge to be conveyed in writing in respect of the same will be final and binding on the contractor.

**CLAUSE 17****Contractor liable for damages, defects during maintenance period**

If the contractor or his working people or servants shall break, deface, injure or destroy any part of building in which they may be working, or any building, road, road curb, fence enclosure, water pipe, cables drains, electric or telephone post or wires, trees, grass or grassland, or cultivated ground contiguous to the premises on which the work or any part of it is being executed, or if any damage shall happen to the work while in progress, from any 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 defect, shrinkage or other faults appear in the work within twelve months (6 months in the case of work other than road work costing Rs. 10 lacs and below) after a certificate final or otherwise of its completion shall have been given by the Engineer-in-charge as aforesaid arising out of defects or improper materials or workmanship the contractor shall upon receipt of a notice in writing on that behalf make the same good at his own expense or in default the Engineer-in-charge may cause the same to be made good by the other workmen and deduct the expense from any sums that may be due or at any time thereafter may 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 months (6 months in the case of work other than road work costing Rs. 10 Lacs and below) after the issue of the certificate final or otherwise, of completion of work, or till the final bill has been prepared and passed whichever is later. Provided that in the case of road work if in the opinion of the Engineer-in-charge, half of the security deposit is sufficient to meet

all liabilities of the contractor under his contract, half of the security deposit will be refundable after six bill has been prepared and passed whichever is later.

**CLAUSE 18****Contractor to supply tools and plants etc**

The contractor shall provide at his own cost all materials (except such special materials, if any, as may in accordance with the contract be supplied from the NDMC stores), plant, tools, appliances, implements, ladders, cordage, tackle scaffolding and temporary works required for the proper execution of the work, whether original altered or substituted and whether included in the specifications or other documents forming part of the contract or referred to in these conditions or not, or which may be necessary for the purpose of satisfying or complying with the requirement of the Engineer-in-charge as any matter as to which under these conditions he is entitled to be satisfied, or which he is entitled require together with carriage therefore to and from the work. The contractor shall also supply without charge the requisite number of persons with the means and material, 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 expense of the contractor and the expenses may be deducted from any money due to the contractor, under this contract or otherwise and/or from his security deposit.

**CLAUSE 18 A****Recovery of compensation paid to workman**

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

**CLAUSE 18 B****Ensuring payment and amenities to workers if contractor fails**

In every case in which by virtue of the provisions of the Contract Labour (Regulation and Abolition) Act, 1970 and of the Contract Labour (Regulation and Abolition) Central Rules, 1971, the NDMC is obliged to pay any amounts of wages to a workman employed by the contractor in execution of the works, or to incur any expenditure in providing welfare and health amenities required to be provided under the above said act and the rules under clause 19 H or under Contractor's Labour Regulations, or under the

Rules framed from time to time for the protection of contractor the amount of wages so paid or the amount of expenditure so incurred; and without prejudice to the rights of the NDMC under sub-section (2) of section 20 and sub-section (4) of section 21 of the Contract Labour (Regulation and Abolition) Act, 1970, the NDMC shall be at liberty to recover such amount or any part thereof by deducting it from the security deposit or from any sum due by the NDMC to the contractor whether under this contract or otherwise. The NDMC shall not be bound to contest any claim made against it under sub-section (1) of section 20 and sub-section (4) of section 21 of the said Act, except on the written request of the contractor and upon his giving to the NDMC full security for all costs for which the NDMC might become liable in contesting such claim.

**CLAUSE 19****Labour laws to be complied by the contractor**

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

**with provisions of the interstate migrant workmen (Regulation of employment and condition of service) Act 1979.** The contractor shall also abide by the provisions of the Child Labour (Prohibition and Regulation) Act, 1986.

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

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

#### **CLAUSE 19 A**

No labourer below the age of eighteen years shall be employed of the work.

#### **CLAUSE 19 B**

##### **Fair Wage Clause : Payment of Wages:-**

- a) **The contractor shall pay to labour employed by him directly**, wages not less than fair wages as defined in the Contractor's Labour Regulation or as per the provisions of the Contract Labour (Regulation and Abolition) ACT, 1970 and the Contract Labour (Regulation and Abolition) Central Rules, 1971, wherever applicable **through Bank or ECS or on line transfer to his Bank Account. All wages shall be paid through Bank or ECS or online transfer. It shall be duty of the contractor to ensure the disbursement of wages through bank account of labour.**

**The contractor shall obtain from the Junior Engineer or any other authorize representative of the Engineer-in-Charge as the case may be a certificate under his signature at the end of the entries in the "register of wages" or the "wage cum muster roll" as the case may be in the following form:-**

**"Certified that the amount shown in column No.....has been paid to the workman concerned through bank account of labour on.....at....."**

**The filled units may also pursue with contractor of the existing contract to make payment to the labour by contractor through bank or ECS or online transfer also.**

**Labour employed by the contractor has obtained smart of ESI which is essential for imparting medical facility to labour.**

- b) The contractor shall, notwithstanding the provisions of any contract to the contrary, cause to be paid fair wage to labour indirectly engaged on the work, including any labour engaged by his subcontractors in connection with the said work, as if the labour had been immediately employed by him.
- c) In respect of all labour directly or indirectly employed in the works for performance of the contractor's part of this contract, the contractor shall comply with or cause to be complied with the Contractor's Labour Regulation made by Government from time to time in regard to payment of wages, wage period, deductions from wages, recovery of wages not paid and deductions unauthorisedly made, maintenance of wage books or wage slips, publication of scale of wages and other terms of employment, inspection and submission of periodical returns and all other matters of the like nature or as per the provisions of the Contract Labour (Regulation and Abolition) Act, 1970 and the Contract Labour (Regulation and Abolition) Central Rules, 1971, wherever applicable.
- d) The Engineer-in-charge shall have the right to deduct from the moneys due to the contractor, any sum required or estimated to be required for making good the loss suffered by a worker or workers by reason of non fulfillment of the conditions of the contract for the benefit of the workers, non - payment of wages or of deductions made from his or their wages which are not justified by the terms of the contract or non-observance of the regulations.