

TENDER DOCUMENT

FOR

**CONSTRUCTION OF 4-DOCTOR'S DISPENSARY AND
BRANCH OFFICE AT NAVAIKULAM,
THIRUVANANTHAPURAM FOR ESIC**

**PART-II
GENERAL CONDITIONS OF CONTRACT**

TENDER NO. HLL / ID / 13 / 54

JULY- 2013

**HLL LIFECARE LIMITED.
INFRASTRUCTURE DEVELOPMENT DIVISION**

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HLL W – 7

HLL LIFECARE LIMITED
(A GOVERNMENT OF INDIA ENTERPRISE)

HLL Lifecare Limited
“Adarsh” TC – 6/1718
Vettamukku, Thirumala P.O.
Thiruvananthapuram – 695 006.

Percentage Rate Tender & Contract for Works

Tender for the **Construction of 4 Doctor's Dispensary and Branch Office at Navaikulam, Thiruvananthapuram for ESIC**, to be submitted by 15:00 hours on 22.07.2013 to **Deputy Vice President (Technical), HLL Lifecare Ltd., Trivandrum – 695 006**

- (i) To be opened in presence of tenderer who may be present at 16:00 hours on 22.07.2013 in the office of Deputy Vice President (Technical), HLL Lifecare Ltd., Trivandrum – 695 006

Issued to: _____
(Contractor)
Signature of officer issuing the documents _____
Designation _____
Date of Issue _____.

T E N D E R

I/We have read and examined notice inviting tender, schedule, A, B, C, D, E & F. specifications applicable, Drawings & Design, General Rules and Directions, Conditions of Contract, Clauses of Contract, Special conditions, Schedule of Rate & other documents and Rules referred to in the Conditions of Contract and all other contents in the tender document for the work.

I/We hereby tender for the execution of the work specified for the HLL Lifecare Limited within the time specified in schedule 'F', viz., schedule of quantities and in accordance in all respects with the specifications, designs, drawings and instructions in writing referred to in Rule-1 of General Rules and Directions and with such materials as are provided for, by and in respect in accordance with, such conditions so far as applicable.

We agree to keep the tender open for **120** days from the due date of submission thereof and not to make any modifications in its terms and conditions. If any tenderer withdraws his tender before the said period or issue of letter of acceptance/intent, whichever is earlier, or, makes any modifications in the terms and conditions of the tender which are not acceptable to the HLL, then the HLL shall, without

CONSTRUCTION OF 4 DOCTOR'S DISPENSARY FOR ESIC AT NAVAIKULAM, THIRUVANANTHAPURAM

prejudice to any other right or remedy, be at liberty to forfeit 50% of the said earnest money as aforesaid.

Earnest Money of Rs.5,16,659/-has been deposited along with the technical bid as follows. Either the full amount of Rs.5,16,659/-shall be submitted in the form of a Demand Draft/ Fixed Deposit Receipt (FDR)/ Banker's cheque of a scheduled bank issued in favour of HLL Lifecare Limited, Thiruvananthapuram or Rs.2,58,329.50/-shall be submitted in the form of a Demand Draft/ Fixed Deposit Receipt (FDR)/ Banker's cheque of a scheduled bank issued in favour of HLL Lifecare Limited, Thiruvananthapuram. Remaining amount of Rs. 2,58,329.50/-shall be submitted in the form of an irrevocable guarantee bond of any scheduled bank or State Bank of India. If I/We fail to commence the work specified I/We agree that the said HLL Lifecare Limited shall without prejudice to any other right or remedy, be at liberty to forfeit the said earnest money absolutely otherwise the said earnest money shall be retained by competent authority on behalf of the HLL Lifecare Limited towards Security Deposit to execute all the works referred to in the tender documents upon the terms and conditions contained or referred to therein and carry out such deviations as may be ordered, upto maximum of the percentage mentioned in Schedule 'F' and those in excess of that limit at the rates to be determined in accordance with the provision contained in Clause 2.2 and 2.3 of the tender form.

I/We agree that, in case of works of estimated cost exceeding Rs.6,00,000/-, to deposit an amount equal to 5% of Tendered value of the work as performance guarantee in the form of bond of any Scheduled Bank of India in accordance with the performa prescribed or in the form of Fixed Deposit Receipt etc., within 28 days of the date of signing of this Contract Agreement with HLL. I/We am/are aware that in the event of failure on my/our part to furnish the Bank Guarantee within 28 days, the earnest money will be forfeited and tender cancelled

I/We hereby declare that I/We shall treat the tender documents drawings and other records connected with the work as secret/confidential documents and shall not communicate information derived therefrom to any person other than a person to whom I/We am/are authorised to communicate the same or use the information in any manner prejudicial to the safety of the State.

I/We agree that should I/We fail to commence the work specified in the above memorandum, an amount equal to the amount of the earnest money mentioned in the form of invitation of tender shall be absolutely forfeited to the HLL Lifecare Limited and the same may at the option of the competent authority on behalf of the HLL Lifecare Limited be recovered without prejudice to any right or remedy available in law out of the deposit in so far as the same may extend in terms of the said bond and in the event of deficiency out of any other money due to me/us under this contract or otherwise.

The information in respect of works in hand is as per proforma enclosed.Dated.....

Witness:

Address:

Occupation:

(_____)

Signature of Contractor

Postal Address: -

***** A C C E P T A N C E

The above tender (as modified by you (Contractor) and as provided in the letters mentioned hereunder) is accepted by me for and on behalf of the HLL Lifecare Limited for a sum of

Rs._____ (Rupees_____)

The letters referred to below shall form part of this Contract Agreement:-

(a)

(b)

For & on behalf of the HLL Lifecare Limited.

Signature_____

CONSTRUCTION OF 4 DOCTOR'S DISPENSARY FOR ESIC AT NAVAIKULAM, THIRUVANANTHAPURAM

Dated.....

Designation_____

PROFORMA OF SCHEDULES

(Operative Schedules to be supplied separately to each of the intending tenderer)

SCHEDULE "A"

Schedule of Quantities (as per Part – III)

SCHEDULE "B"

Schedule of Materials to be issued to the contractor

S. No.	Description of Item	Quantity	Rates in figures & words at which the materials will be charged from the contractor	Place of issue
1	2	3	4	5
NIL				

SCHEDULE "C"

Tools and Plants to be hired to the contractor

S. No.	Description of Item	Hire charges per day	Place of issue
1	2	3	4
NIL			

SCHEDULE "D"

Extra schedule for specific requirements/documents for the work. If any.

SCHEDULE "E"

Schedule of component of Materials, Labour etc. for escalation.

SCHEDULE "F"

Reference to General Conditions of Contract

Name of Work **Construction of 4 Doctors Dispensary and Branch Office at Navaikulam, Thiruvananthapuram**

Estimated cost of Work Rs. 2,58,32,923/-

Earnest Money Rs. 5,16,659/-

Performance Guarantee
(5 % of the tendered value in
the form of Bank Guarantee
from Scheduled Bank)

Rs. _____ (Rupees _____
_____ only)

Security Deposit
(5 % of the tendered value in
the form of Bank Guarantee
from Scheduled Bank)

Rs. _____ (Rupees _____
_____ only)

GENERAL RULES AND DIRECTIONS

Officer inviting tender **Deputy Vice President (Technical), HLL Lifecare Ltd.,
Trivandrum – 695 006.**

Maximum percentage for quantity of items of
work to be executed beyond which rates are to
be determined in accordance with Clause 2.1.2
& 2.3 in Appendix D 10%

Definitions		See below	
2(v)	Engineer-in charge	Project Manager or any officer nominated by HLL	
2(viii)	Accepting Authority	Deputy Vice President (Technical), HLL Lifecare Ltd.,	
2(x)	Percentage on cost of materials and labour to cover all overheads and profit	...	10 %
2 (xi)	Standard schedule of rates	...	NA
9(ii)	Standard HLL Contract Form	HLL W-7 form as modified and corrected upto date	

Appendix C

Clause 5.1 in

Authority for fixing compensation
under Clause 5.1

Deputy Vice President (Technical), HLL
Lifecare Ltd.

Appendix B

Clause 8.4 in

- | | |
|---|---|
| i) Time allowed for execution of work. | 8 months |
| ii) Authority to give fair and reasonable extension of time for completion of work. | Deputy Vice President (Technical),
HLL Lifecare Ltd. |

Appendix D

Clause 6 (i)

- | | |
|---|-------------------------------------|
| a) Minimum qualification and experience of Principal Technical Representative for the work with estimated cost put to tender. | Requirement as per CPWD Manual 2012 |
| b) Recovery to be affected from the contractor in the event of not fulfilling the provisions of clause 6(i). | As per CPWD Manual 2012
. |

ADDITIONAL CONDITIONS

- I. The intending tenderers have to satisfy the provisions of EPF & Misc. Provisions Act 1952 & Employees' Provident Fund Scheme 1952, by the contractors in respect of labourers/Employees engaged by them for performing the works of HLL.
 - (a) Each claim bill of contractors must accompany the (I) list showing the details of labourers/employees engaged. (II) duration of their engagement (III) the amount of wages paid to such labourers/employees for the duration in question, (IV) amount of EPF contributions (both employer's & employees' contribution) for the duration of engagement in question, paid to the EPF authorities, (V) copies of authenticated documents of payments of such contribution to EPF authorities and (VI) a declaration from the contractors regarding compliance of the conditions of EPF Act, 1952.
 - (b) The contractors claim will be passed by the bill passing authority only if the contractor complies with the terms and conditions of EPF Act, 1952.
- II. "Cess under Building and Other Construction Workers' Welfare Cess Act, 1996 and Building and Other Construction Workers Cess Rules 1998
Notwithstanding anything contained in this contract, Cess at the rate stipulated under Clause 3(1) of the Building and other construction workers' Welfare Cess Act 1996, shall be recovered from the gross amount of the bill/bills payable under this Contract".
- III. Work Contract Tax, Service Tax and Income Tax at the rate applicable shall be recovered from the gross amount of the bill/bills payable under the contract.

CONTRACTOR

DEPUTY VICE PRESIDENT (TECHNICAL),

HLL LIFECARE LTD

THIRUVANANTHAPURAM – 695 006

**PROFORMA FOR AGREEMENT
(ON NON-JUDICIAL STAMP PAPER OF APPROPRIATE VALUE)**

This Contract Agreement is made this theday of....., 2013 between the M/s HLL Lifecare Limited (hereinafter called the 'Client' or "HLL", which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and permitted assigns) of the One Part and M/s..... (Hereinafter called the 'Contractor' or " ") which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and permitted assigns of the Other Part. (The Client and the Contractor are hereinafter collectively referred to as "Parties" and singly as "Party")

WHEREAS

- A. The Client is desirous of setting up 4 Doctor's Dispensary and Branch Office at Navaikulam, Thiruvananthapuram for ESIC more fully described in HLL's Requirements and for that purpose to appoint a contractor to execute the same.
- B. The Contractor has represented to the Client that it has the required professional experience, skills, expertise and resources including technical skills, personnel, material and equipment to execute the said work.
- C. The Client relying upon the said representations of _____ has agreed to award the contract for execution of said work to ----- subject to and on the terms and conditions set forth in this Contract Agreement.

NOW THEREFORE, THE PARTIES HERETO HEREBY AGREE AND THIS CONTRACT WITNESSTH AS FOLLOWS:

1. DEFINITION AND INTERPRETATION

- 1.1 In this Contract unless repugnant to the context, the following expressions shall have the meaning hereinafter respectively assigned to them:

- 1.1.1 "Approved Estimates" shall mean the Approved Detailed Estimates and Bill of Quantities ("BOQs") as set forth in Appendix 'E' approved by the client.

- 1.1.2 "Completion" shall mean that the Works have been completed in accordance with the Contract, structurally and operationally, in all respects with all facilities, utilities and equipment and in clean and ready to use condition and complying with all HLL Requirements and Contract stipulations.
- 1.1.3 "Contract" shall mean this Contract Agreement together with all Appendices hereto as amended hereafter in accordance with the provisions contained in this behalf in this Contract.
- 1.1.4 "Drawings" shall mean the conceptual drawings of the proposed building approved by the client.
- 1.1.5 "HLL Requirements" or "Employers Requirements" shall mean the broad requirements of the Client set forth in Appendix 'A' hereto and which in relation to the Building are required to be fulfilled and complied with by the Contractor.
- 1.1.6 "General Conditions" or "GCC" shall mean the General Conditions of Contract as set forth in Appendix "C" to this Contract.
- 1.1.7 "Project" shall mean the proposed 4 Doctor's Dispensary and Branch Office at Navaikulam, Thiruvananthapuram, Kerala to be constructed, built, furnished, equipped and completed by the Contractor in accordance with Client's Requirements and the Contract.
- 1.1.8 "Particular Conditions" or "PCC" shall mean the Particular Conditions of Contract as set forth in Appendix 'B' to this Contract.
- 1.1.9 "Programme for Completion of Work" shall mean the Programme for completion of Work as set forth in Appendix 'F' hereto.
- 1.1.10 "Time For Completion" shall mean the 8 months period from the date of signing of agreement as set out in the Particular Conditions within which the proposed building shall be engineered, constructed, built and completed in all respects in ready to use condition by the Contractor in accordance with the Programme for Completion of Work and which the Parties acknowledge and agree is the agreed binding time schedule for the completion of the Works including the office Building in all respects by the Contractor under and in

accordance with the Contract.

1.1.11 "Works" shall mean the sum of the obligations and works to be performed and undertaken by the Contractor including engineering, constructing, building and the completion in all respects of the building in all respects by the Contractor under and in accordance with this Contract and shall include all permanent and temporary works to be executed, all items and things to be supplied/done and services and activities to be performed or provided by or which may be reasonably implied there from and reasonably necessary for execution and completion of the Works by the Contractor pursuant to and in accordance with this Contract.

1.2 Unless repugnant to the context

- (a) All words importing singular shall include plural and vice versa and words importing any gender shall include all genders;
- (b) Words and phrases used but not defined herein shall have the same meaning as is ascribed thereto in the Particular Conditions and failing that in the General Conditions.
- (c) References to Recitals, Articles, Clauses, Sub-clauses, or Appendices in this Contract shall be deemed to be references to Recitals, Articles, Clauses, Sub-clauses, and Appendices of this Contract.
- (d) Any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both such days or dates.

1.3 Headings of the Articles are for the sake of convenience only and shall not affect the interpretation, scope or construction of any provision hereof.

1.4 The Appendices to this Contract Agreement form an integral part of the Contract.

1.5 No modification or amendment to this Contract including any of the Appendices hereto shall be valid and effectual unless expressly agreed as an amendment thereto and is in writing and dated and duly executed by the authorized representatives of the Parties thereto.

1.6 In the event of any conflict or inconsistency between any provision of this Contract Agreement and any of the Appendices, the provisions of this Contract shall prevail.

- 1.7 In the event of any conflict or inconsistency between any provisions of Particular Conditions and General Conditions the provisions of the Particular Conditions shall prevail.

2: CONTRACT

- 2.1 This Contract Agreement and the following documents attached hereto shall be deemed to form an integral part of this Contract:

- (a) This Contract Agreement
- (b) HLL Requirements – Appendix 'A'
- (c) Particular Conditions – Appendix 'B'
- (d) General Conditions – Appendix 'C'
- (e) Special Conditions – Appendix 'D'
- (f) Approved Estimates/BOQ – Appendix 'E'
- (g) Programme for completion - Appendix 'F'

- 2.2 In the event of any ambiguity in the contract including any Appendix thereto reference may be made to the correspondence for clarification thereof.

- 2.3 This Contract Agreement and all the documents forming part of this Contract are to be taken as mutually explanatory and unless otherwise expressly provided in this Contract Agreement, the priority between this Contract Agreement and other documents forming part hereof shall, in the event of any conflict between them, be in the following order:

- (i) This Contract Agreement;
- (ii) HLL Requirements;
- (iii) Programme for Completion of Work;
- (iv) Particular Conditions;
- (v) Approved Estimates/BOQ and
- (vii) General Conditions

i.e. document at (i) will prevail over documents at (ii) to (vii), document at (ii) will prevail over documents at (iii) to (vii) and so on.

2.4 Subject to Clause 2.3 in case of ambiguities or discrepancies within this Contract Agreement or within any of the Appendices hereto, the following shall apply:

- (a) Between two or more Clauses of this Contract Agreement or between two or more clauses of any Appendix hereto, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in other Clauses;
- (b) Between the Clauses of this Contract Agreement and the Appendices, the Clauses of this Contract Agreement shall prevail;
- (c) Between the written description on the Drawings and the specifications and standards set forth in the Particular Conditions, the latter shall prevail;
- (d) Between the dimension scaled from the Drawings and its specific written dimension, the latter shall prevail; and
- (e) Between any value written in numerals and that in words, the latter shall prevail.

3. EXECUTION OF THE WORKS

3.1 The Contractor agrees and undertakes to execute the Works, complete in all respects, under and in accordance with this Contract.

4. RIGHTS AND OBLIGATIONS OF THE PARTIES.

4.1 The mutual rights and obligations of the Client and the Contractor shall, without prejudice to the following, be as set forth in the Contract:

- (a) In consideration of the payments agreed to be made by the Client to the Contractor as set forth in this Contract, the Contractor hereby covenants with the Client and agrees and undertakes to perform the Works including to execute, construct, build and complete the proposed building in all respects and to remedy any defects or deficiencies therein, in accordance with provisions of the Contract; and

- (b) The Client hereby covenants to pay to the Contractor in consideration of the execution, construct, build and completion of the Works including the proposed Building complete in all respects and performance of all of its obligations under the Contract, the Contract Price at the times and in the manner prescribed in the Contract.

4.2 With reference to the Contract Price, the Contractor acknowledges and confirms that

- i) The unit prices set forth in the BOQ at the Appendix 'E' to this Contract Agreement are firm and fixed and not subject to any escalation save and except to the extent otherwise expressly set forth in this Contract;
- ii) The unit prices are including all applicable taxes leviable other than the taxes to be reimbursed as prescribed in the Particular Conditions.
- iii) All taxes on income of the Contractor shall be borne and be the liability of the Contractor and the Client shall not be liable for the same in any manner whatsoever.

5. EFFECTIVE DATE.

5.1 The Contract shall be affective from the date of signing of this contract agreement

7. DISCLAIMER

7.1 It is expressly understood and agreed by and between the Contractor and the Client that the Client is entering into this Contract solely on its own behalf and not on behalf of any other person or entity. In particular it is expressly understood and agreed that the Government of India is not a party to this Contract and has no liabilities, obligations or rights hereunder. It is expressly understood and agreed that the Client is an Independent legal entity with power and authority to enter into contracts solely on its own account under the applicable laws. The Contractor expressly agrees, acknowledges and understands that the Client is not an agent, representative or delegate of the Government of India. It is further understood and agreed that the Government of India is not and shall not be liable for any acts, omissions, commissions, breaches or other wrongs arising out of the Contract. Accordingly, the Contractor expressly waives, releases and foregoes any and all actions or claims, including cross claims, impleader claims or counter claims against the Government of India arising out of this Contract and

CONSTRUCTION OF 4 DOCTOR'S DISPENSARY FOR ESIC AT NAVAIKULAM, THIRUVANANTHAPURAM

covenants not to sue the Government of India as to any claim, cause of action or thing whatsoever arising out of or under this Contract.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

**For and on behalf of HLL Lifecare
Limited (HLL)**

By
Authorized Representative
Name:
Title :

For and on behalf of the Contractor

By
Authorized Representative
Name:
Title :

Witnesses

1.

1.

2.

2.

NOTE

For Proprietary Concern

Shri.....s/o.....r/o.....carrying on business under the name and style of.....at..... (hereinafter called the said Contractor which expression shall unless the context requires otherwise include his heirs, executors, administrators and legal representatives).

For Partnership Concern

M/sa partnership firm having its registered office at(hereinafter called the said Contractor which expression shall unless the context requires otherwise include his heirs, executors, administrators and legal representatives). The partners of the firms are:

- i) Shris/o..... , And
- ii) Shris/o.....etc..

For Companies

M/sa company duly incorporated under the Indian Companies Act, 1956 and having its registered office atin the state of(hereinafter called the said Contractor which expression shall unless the context requires otherwise include its successors and assign).

ANNEXURE –A

PROFORMA FOR PERFORMANCE BANK GUARANTEE

(On a stamp paper of appropriate value from any Nationalised Bank or Scheduled Bank)

To,

HLL Lifecare Limited
Infrastructure Development Division,
Adarsh, TC.6/1718, Vettamukku
Thirumala P.O.,
Thiruvananthapuram – 695 006

Dear Sir,

In consideration of the HLL Lifecare Limited (hereinafter called HLL which expression shall include its successor and assigns) having awarded to M/s _____ (hereinafter referred to as the 'Contractor' which expression shall include its successors and assigns) a contract No. _____ which requires him to obtain a performance Bank Guarantee.

1. We, _____ (hereinafter called 'The Bank' which expression shall include its successors and assigns) having our branch office at _____ and Registered/Head Office at _____ a company registered under the Companies Act, 1956) hereby jointly and severally undertake to guarantee the payment to HLL in rupees forthwith on demand in writing and without protest or demur any and all moneys anyway payable by the contractor to HLL under in respect of or in connection with the said contract inclusive of all HLL's losses and damages and costs, (inclusive between attorney and client) charges and expenses and other moneys anyway payable in respect of the above as specified in any notice of demand made by HLL to the Bank with reference to this guarantee upto an aggregate limit of Rs. _____ (Rupees _____ only).
2. We _____ Bank Ltd. further agree that HLL shall be the sole judge of and as to whether the said contractor has committed any breach or breaches of any of the terms and conditions of the said contract and the extent of loss, damage, cost, charges and expenses caused to or suffered by or that may be caused to or suffered by HLL on account thereof and the decision of HLL that the said Contractor has committed such breach or breaches and as to the amount or amounts of loss, damage, costs, charges and expenses caused to or suffered by HLL from time to time shall be final and binding on us.

3. HLL shall be at liberty without reference to the Bank and without affecting the full liability of the Bank hereunder to take any other security in respect of the Contractor's obligations and liabilities hereunder or to vary the contract or the work to be done there under vis-a-vis the Contractor or to grant time or indulgence to the Contractor or to reduce or to increase or otherwise vary the prices of the total contract value or to release or to forbear from enforcement of all or any of the security and/or any other security(ies) now or hereafter held by HLL and no such dealing(s) reduction(s) increase(s) or other indulgence(s) or arrangements with the Contractor or release or forbearance whatsoever shall absolve the bank of the full liability to HLL hereunder or prejudice the rights of HLL against the bank.
4. This guarantee shall not be determined or affected by the liquidation or winding up, dissolution, or change of constitution or insolvency of the Contractor but shall in all respects and for all purposes be binding and operative until payment of all monies payable to HLL in terms thereof.
5. The bank hereby waives all rights at any time inconsistent with the terms of this guarantee and the obligations of the Bank in terms hereof shall not be anyway affected or suspended by reason of any dispute or disputes having been raised by the Contractor stopping or preventing or purporting to stop or prevent any payment by the Bank to HLL in terms hereof.
6. The amount stated in any notice of demand addressed by HLL to the Bank as liable to be paid to HLL by the Contractor or as suffered or incurred by HLL on account of any losses or damages or costs, charges and/or expenses shall be conclusive evidence of the amount so liable to be paid to HLL or suffered or incurred by HLL as the case may be and shall be payable by the Bank to HLL in terms hereof.
7. This guarantee shall be a continuing guarantee and shall remain valid and irrevocable for all claims of HLL and liabilities of the contractor arising upto and until midnight of _____.
8. This guarantee shall be in addition to any other guarantee or security whatsoever that HLL may now or at any time anyway may have in relation to the Contractor's obligations/or liabilities under and/or in connection with the said contract, and HLL shall have full authority to have recourse to or enforce this security in preference to any other guarantee or security which HLL may have or obtain and no forbearance on the part of HLL in enforcing or requiring enforcement of any other security shall have the effect of releasing the Bank from its full liability hereunder.
9. It shall not be necessary for HLL to proceed against the said Contractor before proceeding against the Bank and the Guarantee herein contained shall be enforceable against the Bank notwithstanding that any security which HLL may have obtained or obtain from the contractor shall at the time when proceedings are taken against the said bank hereunder be outstanding or unrealised.
10. We, the said Bank undertake not to revoke this guarantee during its currency except with the consent of HLL in writing and agree that any change in the constitution of the said contractor or the said bank shall not discharge our liability hereunder.

11. We _____ the said Bank further that we shall pay forthwith the amount stated in the notice of demand notwithstanding any dispute/difference pending between the parties before the arbitrator and/or that any dispute is being referred to arbitration.
12. Notwithstanding anything contained herein above, our liability under this guarantee shall be restricted to Rs. _____ (Rupees _____) and this guarantee shall remain in force till _____ and unless a claim is made on us within 3 months from that date, that is before _____ all the claims under this guarantee shall be forfeited and we shall be relieved of and discharged from our liabilities thereunder.

Dated _____ day of _____ 20

For and on behalf of Bank.

Issued
under
seal :

ADVANCE BANK GUARANTEE

ANNEXURE – B

PROFORMA FOR ADVANCE BANK GUARANTEE

(On a stamp paper of appropriate value from any Nationalised Bank or Scheduled Bank)

To

HLL Lifecare Limited
Infrastructure Development Division,
Adarsh, TC.6/1718, Vettamukku
Thirumala P.O.,
Thiruvananthapuram – 695 006

Dear Sir,

1. In consideration of HLL Lifecare Limited (hereinafter called as HLL which expression shall include his successors and assigns) having agreed under the terms & conditions of contract No. _____ dated _____ (hereinafter called the Contract) to make at the request of the contractor there under a lump sum advance of Rs. _____ for utilising it for the purposes of the said contract on its furnishing a guarantee acceptable to HLL.
2. We, the _____ Bank having its branch office at _____ (hereinafter referred to as the Bank or the said Bank) a Company under the Companies Act 1956 and having our registered office at _____ do hereby guarantee the repayment and recovery of the said advance together with interest thereon as provided according to the terms and conditions of the said contract. If the contractor fails to utilise the said advance for the purposes of the said contract and/or the said advance together with interest thereon as aforesaid is not fully recovered by HLL, we _____ Bank hereby unconditionally and irrevocably undertake to pay to HLL on demand and without demur or protest to the extent of the said sum of Rs. _____ with interest any claim made by HLL on us against non- utilisation/mis-utilisation of the said advance and/or by reason of HLL not being able to recover in full the said sum of Rs. _____ with interest as aforesaid.
3. We, _____ Bank further agree that HLL shall be the sole judge of and as to whether the contractor has utilised or not utilised the said advance or any part thereof for the purposes of the said contract and/or as to whether the advance or any part thereof with interest has been recovered or not and the finding of HLL in this regard shall be final and binding on us.

4. We, the said Bank further agree that the Guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said contract and till the said advance has been fully recovered and its claims satisfied or discharged and till HLL certifies that the said advance with interest has been fully recovered from the contractor.
5. HLL shall have the fullest liberty without affecting in any way the liability of the said Bank under this guarantee or Indemnity from time to time to vary any of the terms and conditions of the said Contract or the advance or to extend time of performance by the Contractor or to postpone for any time and from time to time any of the powers exercisable by it against the said Contractor and either to enforce or forbear from enforcing any of the terms and conditions governing the said contract or the advance or securities available to HLL and the said Bank shall not be released from its liability under these presents by any exercise by HLL of the liberty with reference to the matter aforesaid or by reason of time being given to the said Contractor/or any other forbearance, act or omission on the part of HLL or any indulgence by HLL to the said Contractor or of any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of so releasing the said Bank from its said liability.
6. The Bank hereby waives all rights at any time inconsistent with the terms of this Guarantee and the obligations of the Bank in terms hereof shall not be in any way affected or suspended by reason of any dispute or disputes having been raised by the Contractor (whether or not pending before any arbitrator, Tribunal or court) or any denial or liability by the Contractor stopping or preventing or purporting to stop or prevent any payment by the Bank to HLL in terms thereof.
7. The amount stated in any notice of demand addressed by HLL to the Bank as liable to be paid to HLL by the Contractor, shall be conclusive evidence of the amount so liable to be paid to HLL by the Bank.
8. This guarantee/undertaking shall be in addition to any other guarantee or security whatsoever that HLL may now or any time may have in relation to the Contractor's obligations or liabilities under and/or in connection with the said Contract, and HLL shall have full authority to have recourse to or enforce this security in preference to any other guarantee or security which HLL may have or obtain and no forbearance on the part of HLL in enforcing or requiring enforcement of any other security shall have the effect of releasing the Bank from its full liability hereunder.
9. It shall not be necessary for HLL to proceed against the said Contractor before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank notwithstanding that any security which HLL may have obtained or obtain from the Contractor shall at the time when proceedings are taken against the said Bank hereunder be outstanding or unrealised.
10. We, _____ the said Bank undertake that we shall pay forthwith the amount stated in the notice of demand notwithstanding any

dispute/difference pending between the parties before the arbitrator and/or that any dispute is being referred to arbitration.

11. We, the said Bank undertake not to revoke this guarantee during its currency except with the consent of HLL in writing and agree that any change in the Constitution of the said Contractor or the said Bank shall not discharge our liability hereunder.
12. This guarantee/undertaking shall be a continuing guarantee/undertaking and shall remain valid and irrevocable for all claims of HLL and liabilities of the Contractor arising upto and until midnight of _____.
13. Notwithstanding anything contained herein above, our liability under this guarantee shall be restricted to Rs. _____ alongwith interest due thereon (Rs. _____) with interest and this guarantee shall remain in full force till _____ and unless a claim is made on us within 3 months from the date i.e. before _____ all the claims under this guarantee shall be forfeited and we shall be relieved of and discharged from our liabilities hereunder.

Dated _____ day of _____ 20

for and on behalf of Bank.

Issued
under
seal:

AFFIDAVIT

I/We have submitted a bank guarantee for the work
..... (Name of Work), Agreement No.....
Dated: from..... (Name
of the bank with full address) TO THE DEPUTY GENERAL MANAGER (TECH)
..... with a view to seek exemption from payment of
performance guarantee in cash. This Bank guarantee expired on
.....

I /We undertake to keep the validity of the bank guarantee intact by getting it extended
from time to time at my/our own initiative upto a period of months
after the recorded date of completion of the work or as directed by the Engineer in
charge.

I / WE also indemnify the HLL Lifecare Limited against any losses arising out of non-
encashment of the bank guarantee if any.

(Deponent)
Signature of Contractor

Note: The affidavit is to be given by the Executants before a first class Magistrate.

FORM OF BANK GUARANTEE FOR EARNEST MONEY DEPOSIT

1. KNOW ALL MEN by these presents that we
(Name of Bank) having our registered office at (Name of country) (hereinafter called "the Bank") are bound unto HLL Lifecare Limited (hereinafter called "HLL") in the sum of **Rs.** for which payment will and truly to be made to the said HLL, the Bank binds itself, its successors and assigns by these presents.

2. WHEREAS.....(Name of Tenderer) (hereinafter called "the Tenderer") has submitted its tender datedfor.....
.....(Name of the work as mentioned under Clause 1 of NIT) hereinafter called the tender.

AND WHEREAS the Tenderer is required to furnish a Bank Guarantee for the sum of **Rs** (.....)
as Tender Security (Earnest Money Deposit) against the Tenderer's offer as aforesaid.

AND WHEREAS..... (Name of Bank) have, at the request of the Tenderer, agreed to give this guarantee as hereinafter contained.

3. We further agree as follows:

- a. That HLL may without affecting this guarantee grant time or other indulgence to or negotiate further with the Tenderer in regard to the conditions contained in the said tender and thereby modify these conditions or add thereto any further conditions as may be mutually agreed upon between HLL and the Tenderer.
- b. That the guarantee hereinbefore contained shall not be affected by any change in the constitution of our Bank or in the constitution of the Tenderer.
- c. That any account settled between HLL and the Tenderer shall be conclusive evidence against us of the amount due hereunder and shall not be questioned by us.

- d. That this Guarantee commences from the date hereof and shall remain in force till _____ (date to be filled up) (up to 150 days from the last date of submission of tender).
- e. That the expression 'the Tenderer' and 'the Bank' herein used shall, unless such an interpretation is repugnant to the subject or context, include their respective successors and assigns.

4. THE CONDITIONS OF THIS OBLIGATION ARE:

- a. if the Tenderer withdraws his Tender during the period of Tender validity specified in Clause 15 of Notice Inviting Tender, or
- b. if the Tenderer having been notified of the acceptance of his tender by HLL during the period of tender validity :
 - i. fails or refuses to furnish the Performance Security in accordance with Clause 9 of Notice Inviting Tender and/or
 - ii. Fails or refuses to enter into a Contract within the time limit specified in Clause 16 of Notice Inviting Tender.

We undertake to pay to HLL up to the above amount upon receipt of his first written demand, without HLL having to substantiate his demand provided that in his demand HLL will note that the amount claimed by him is due to him owing to the occurrence of any one or more of the conditions (a) & (b), mentioned above, specifying the occurred condition or conditions.

Signature of the witness

 Name of the Witness

 Address of the Witness

Signature of
 Authorized Official of the Bank
 Name of Official
 Designation
 Stamp/Seal
 of the Bank

APPENDIX 'A'

EMPLOYER'S REQUIREMENTS

The scope of work of the Contractor under this Contract shall be the following:

- (a) **Construction of 4- Doctor's Dispensary and Branch Office at Navaikulam, Thiruvananthapuram for ESIC** situated at Kerala.

Preliminary Estimate of work is **Rs.2.58 Crores** as approved by the Client.

- (b) The Contractor agrees and acknowledges that
- Special attention shall give to timely completion and quality of work.
 - No construction water or electricity or any material shall be provided by the client.
 - Technical standards to be adopted shall be that of CPWD, BIS etc. and Building Regulations of the local authority having jurisdiction shall be complied with in all respects.
- (c) Works under this Contract shall be performed in accordance with this Contract.

APPENDIX 'C'**General Conditions****General Provisions****1.1****Definitions**

In the General Conditions, Particular Conditions and Special Conditions of Contract (collectively “these Conditions”), which unless repugnant to the context or meaning thereof or defined in the Contract Agreement, the following words and expressions shall have the meanings hereinafter respectively assigned to them.

1.1.1**Base Date**

“Base Date “ as specified in the particular conditions

1.1.2**Commencement date**

“Commencement Date” means the date notified under Clause 8.1 [Commencement of Work], hereof unless otherwise defined in the Contract Agreement.

1.1.3**The Contract**

“Contract” means the Contract Agreement, these Conditions, the Employer’s Requirements, the Tender, and such other documents (if any) which are expressly included in the Contract by the Contract Agreement.

1.1.4**Contract Agreement**

“Contract Agreement” means the contract agreement referred to in Sub-clause 1.6 (Contract Agreement), including any annexed memoranda.

1.1.5**Contractor**

“Contractor” means the person(s) named as contractor in the Contract Agreement and the legal successors in title to it.

1.1.6**Contractor’s Documents**

“Contractor’s Documents” means the calculations, computer programs and other software, manuals, models and engineering and other documents of a technical nature supplied by the Contractor under the

	Contract; as described in Sub-clause 5.1 [contractor's documents]
1.1.7 Contractor's Equipment	“Contractor’s Equipment” means all apparatus, machinery, vehicles and other things required for the transportation, installation, execution and completion of the Works and the remedying of any defects. However, Contractor’s Equipment excludes Temporary Works, Employer’s Equipment (if any), Plant, Materials and any other things intended to form or forming part of the permanent works.
1.1.8 Contractor's Personnel	“Contractor’s Personnel” means the Contractor’s Representative and all personnel whom the Contractor utilizes on Site, who may include the staff, labour and other employees of the Contractor and of each Subcontractor; and any other personnel assisting the Contractor in the execution of the Work including its consultants
1.1.9 Contract Price	“Contract Price” means the agreed amount stated in the Contract Agreement for the execution and completion of the works and the remedying of any defects, and includes adjustments (if any) in accordance with the Contract.
1.1.10 Contractor's Representative	“Contractor’s Representative” means the person named by the Contractor in the Contract or appointed from time to time by the Contractor under Sub Clause 4.3 {Contractor’s Representative}, who acts on behalf of the Contractor.
1.1.11 Cost	“Cost” means all expenditure reasonable incurred (or to be incurred) by the Contractor, whether on or off the Site, including overhead and similar charges in the Performance of the Works, but does not include profit.

1.1.12 Currency	"Currency" means the Indian Rupee.
1.1.13 DAB	"DAB" means the person or persons so named in the Contract, or other person(s) appointed under Sub-Clause 20.2 [Appointment of the Dispute Adjudication Board] of General Conditions.
1.1.14 Day	"Day" means a calendar day and "year" means 365 days.
1.1.15 Defect Liability/Warranty Period	"Defect Liability/Warranty Period" means the period of validity of the warranties given by the Contractor commencing at Completion of the Facilities during which the Contractor is responsible for defects with respect to the Facilities as provided in Clause "Defect Liability / Warranty" hereof.
1.1.16 Defects Notification Period	"Defects Notification Period" means the period for notifying defects in the Works or a Section (as the case may be) under Sub-Clause 11.1 [Completion of Outstanding Work and Remedying Defects], as stated in the Particular Conditions (with any extension under Sub-Clause 11.3 [Extension of Defects Notification Period], calculated from the date on which the Works or Section is completed as certified under Sub-Clause 10.1 [Taking Over of the Works and Sections], if no such period is stated in the Particular Conditions, the period shall be one year.
1.1.17 Employer's Personnel	"Employer's Personnel" means the Employer's Representative, the assistants referred to in Sub-Clause 3.2 {Other Employer's Personnel} and all other staff, labour and other employees of the Employer and of the Employer's Representative; and any other personnel

1.1.18	notified to the Contractor, by the Employer or the Employer's Representative, as Employer's Personnel.
Employer's Representative	"Employer's Representative" means the person named by the Employer in the Contract or appointed from time to time by the Employer under Sub-Clause 3.1 {The Employer's Representative}, who acts on behalf of the Employer.
1.1.19 Employers Requirements	"Employer's Requirements" means the document titled Employer's Requirements, forming part of the Contract, and any additions and modifications to such document in accordance with the Contract. Such document specifies the purpose, scope, and/or other technical criteria, for the Works.
1.1.20 Employer	"Employer" means the HLL Lifecare Limited (HLL) named as employer in the Contract Agreement and the successors, administrators and assigns in title to HLL
1.1.21 Final Statement	"Final Statement" means the statement defined in Sub-Clause 14.11 [Application for Final Payment]
1.1.22 Force Majeure	"Force Majeure" shall have the meaning ascribed thereto in Clause 19 [force Majeure].
1.1.23 Goods	"Goods" means Contractor's Equipment, Materials, Plant and Temporary Works, or any of them as appropriate.
1.1.24 Law	"Law" means all national (or state) legislation, statutes, ordinances and other laws, rules and regulations and by-laws pursuant to any law or of any legally constituted authority.
1.1.25 Materials	"Materials" means things of all kinds (other than Plant) intended to form or forming part of the Permanent Works, including the materials (if any) to be supplied by

the Contractor under the Contract.

1.1.26	"Month" means calendar month of the Gregorian Calendar
Month	
1.1.27	"Party" means the Employer or the Contractor, as context requires and "Person" includes individuals, bodies corporate and other legal entities.
Party	
1.1.28	"Performance Certificate" means the certificate issued under Sub-Clause 11.9 [Performance Certificate].
Performance Certificate	
1.1.29	"Performance Guarantees" and "Schedule of Payments" mean the documents so named (if any), as included in the Contract.
Performance Guarantees.	
1.1.30	"Performance Security" means the security (or securities, if any) to be provided by the Contractor to the Employer under Sub-Clause 4.2 [Performance Security].
Performance Security	
1.1.31	"Permanent Works" means the permanent works to be engineered, executed and completed in all respects by the Contractor under the Contract.
Permanent Works	
1.1.32	"Plant" means the equipment, apparatus, machinery, vehicles, articles and things intended to form or forming part of the Permanent Works under the Contract (including the spare parts) and tools to be supplied by the Contractor but does not include Contractor's Equipment .
Plant	
1.1.33.	"Provisional sum" means a sum (if any) which is specified in the Contract as a provisional sum, for the execution of any part of the Works or for the supply of Plant, Materials or services under Sub-Clause 13.5 [Provisional sums].
Provisional sum	

<p>1.1.34 Retention Money</p>	<p>“Retention Money” means the accumulated retention moneys which the Employer retains under Sub-Clause 14.3 [Application for interim Payments] and pays under Sub-Clause 14.9 [Payment of Retention Money].</p>
<p>1.1.35 Section</p>	<p>“Section” means a part of the Works specified in the Particular Conditions as a Section (if any).</p>
<p>1.1.36 Statement</p>	<p>“Statement” means a statement submitted by the Contractor as part of an application for payment under Clause 14 [Contract Price and Payment].</p>
<p>1.1.37 Test after Completion.</p>	<p>“Test after Completion” means the tests (if any) which are specified in the Contract and which are carried out under Clause 12 [Tests after Completion] after the Works or a Section {as the case may be} are taken over by the Employer to ascertain whether the Works are able to attain the performance/functional guarantees</p>
<p>1.1.38 Subcontractor.</p>	<p>“Subcontractor” means any person named in the Contract as a subcontractor, or any person appointed as a subcontractor, for a part of the Work.</p>
<p>1.1.39 Site</p>	<p>“Site” means the place or places upon which the Permanent Works or any part thereof are to be executed and on which Plant and Materials are to be installed or to be delivered, and any other place(s) as may be specified in the Contract as forming part of the Site.</p>
<p>1.1.40 Taking-Over Certificate.</p>	<p>“Taking-Over Certificate” means a certificate issued under Clause 10 [Employer’s Taking Over]</p>
<p>1.1.41</p>	<p>“Temporary Works” means all temporary works of every</p>

Temporary Works

kind (other than Contractor's Equipment] required on Site for the execution and completion of the Permanent Works and the remedying of any defects and deficiencies in the Permanent Works.

1.1.42

Third Party

"Third Party" means any person or entity other than the government, the Employer and the Contractor including its sub-Contractors/sub vendors. However, for testing purposes it could be a government laboratory.

1.1.43

Time for Completion

"Time for Completion" means the time for completing the Work or a Section (as the case may be) under Sub-Clause 8.2 [time for Completion], as stated in the Particular Conditions (with any extension under Sub-Clause 8.4 [Extension of Time for Completion], calculated from the Commencement Date.

1.1.44

Test on Completion.

"Test on Completion" means the tests which are specified in the Contract or agreed by both Parties or instructed as a Variation, and which are carried out under Clause 9 [Tests on Completion] before the Works or a Section (as the case may be) are taken over by the Employer to determine the completion of the Works.

1.1.45

Variation

"Variation" means any change to the Employer's Requirements or the Works, which is instructed or approved as a variation under Clause 13 [Variations and Adjustments] hereof.

1.1.46

Works

"Works" mean the Permanent Works and Temporary Works, or either of them as appropriate

1.2

Interpretation

In the Contract, except where the context requires otherwise:

- (a) words indicating one gender include all genders;
- (b) words indicating the singular also include the

plural and words indicating the plural also include the singular;

(c) provisions including the word “agree”, “agreed” or

“agreement” require the agreement to be recorded in writing, and

(d) “written” or “in-writing” means hand-written, type-written, printed or electronically made, and resulting in a permanent record.

The marginal words and other headings shall not be taken into consideration in the interpretation of these Conditions.

1.3

Communications

Wherever these Conditions provide for the giving or issuing of approvals, certificates, consents, determinations, notices and requests, these communications shall be:

- (a) in writing and delivered by hand (against receipt), sent by mail or courier, or transmitted using any of the agreed systems of electronic transmission as stated in the Particular Conditions; and
- (b) Delivered, sent or transmitted to the address for the recipient’s communications as stated in the Contract. However:
 - (i) if the recipient gives notice of another address, communications shall thereafter be delivered accordingly; and
 - (ii) If the recipient has not stated otherwise when requested an approval or consent, it may be sent to the address from which the request was issued.

Approvals, certificates, consents and determinations shall not be unreasonably withheld or delayed.

1.4

**Law and
Language**

The Contract shall be governed by the laws of India.

The language for communications shall be English

1.5

**Priority of
Documents**

The documents forming the Contract are to be taken as mutually explanatory of one another. For the purposes of interpretation, the priority of the documents shall be in accordance with the following sequence:

- (a) The Contract Agreement.
- (b) The Employer's Requirements.
- (c) The Particular Conditions,
- (d) The General conditions
- (e) The Tender or any other documents forming part of the Contract.

1.6

**Contract
Agreement**

The Contract shall come into full force and effect in accordance with the Contract Agreement. The costs of stamp duties and similar charges (if any) imposed by law in connection with entry into the Contract Agreement shall be borne by the contractor.

1.7

Assignment

Neither Party shall assign the whole or any part of the Contract or any benefit or interest in or under the Contract. However, either Party:

- (a) May assign the whole or any part with the prior agreement of the other Party, at the sole discretion of such other Party, and may, as security in favour of a bank or financial institution, assign its right to any moneys due or to become due, under the Contract.

1.8

Care and Supply

Each of the Contractor's Documents shall be in the custody and care of the Contractor, unless and until

of Documents

taken over by the Employer. Unless otherwise stated in the Contract, the Contractor shall supply to the Employer three copies of each of the Contractor's Documents.

The Contractor shall keep, on the Site, a copy of the Contract, publications named in the Employer's Requirements, the Contractor's Documents, and Variations and other communications given under the Contract. The Employer's Personnel shall have the right of access to all these documents at all reasonable times.

If a Party becomes aware of an error or defect of a technical nature in a document which was prepared for use in executing the Works, the Party shall promptly give notice to the other Party of such error or defect.

1.9
Confidentiality

Both Parties shall treat the details of the Contract as private and confidential, except to the extent necessary to carry out obligations under it or to comply with applicable Laws. The Contractor shall not publish, permit to be published, or disclose any particulars of the Works in any trade or technical paper or elsewhere without the previous agreement of the Employer.

1.10
Employer's Use
of Contractor's
Documents

As between the parties, the Contractor shall retain the copyright and other intellectual property rights in the Contractor's Documents and other documents made by (or on behalf of) the Contractor.

Notwithstanding the aforesaid the Contractor shall be deemed (by signing the Contract) to give to the Employer a non-terminable transferable non-exclusive royalty-free right and license to copy, use and communicate the Contractor's Documents, including making and using modifications of them. Without prejudice to the foregoing this license shall:

(a) apply throughout the actual or intended working

life (whichever is longer) of the relevant parts of the Works.

- (b) Entitle any person in proper possession of the relevant part of the Works to copy, use and communicate the Contractor's Documents for the purposes of completing, operating, maintaining altering, adjusting, repairing and demolishing the Works, and
- (c) In the case of Contractor's Documents which are in the form of computer programs and other software, permit their use on any computer on the Site and other places as envisaged by the Contract, including replacements of any computers supplied by the Contractor.

The Contractor's Documents and other documents made by (or on behalf of) the Contractor shall not, without the Contractor's consent, be used, copied or communicated to a third party by (or on behalf of) the Employer for purposes other than those permitted under this Sub-Clause.

**1.11
Contractor's Use
of Employer's
Documents**

As between the Parties, the Employer shall retain the copyright and other intellectual property rights in the Employer's Requirements and other documents made by (or on behalf of) the Employer. The Contractor may, at his cost, copy, use and obtain communication of these documents for the purposes of the Contract including performance of its obligations thereunder.

The Employer's documents shall not, without the Employer's consent, be copied, used or communicated to a third party by the Contractor, except as necessary for the purposes of the Contract.

1.12

The Contractor shall disclose any other information

**Confidential
Details**

which the Employer may reasonably require in order to verify the Contractor's compliance with the Contract and Laws.

**1.13
Compliance with
Laws**

The Contractor shall, in performing the Contract, comply with all applicable Laws.

- (a) The Employer shall have obtained (or shall obtain) the planning, zoning or similar permission for the Permanent Works, and any other permissions described in the Employer's Requirements as having been (or being) obtained by the Employer; and the Employer shall indemnify and hold the Contractor harmless against and from the consequences of any failure to do so; and
- (b) The Contractor shall give all notices, pay all taxes, duties and fees, and obtain all permits, licenses and approvals, other than those listed in (a) above, as required by the Laws in relation to the execution and completion of the Works and the remedying of any defects, and the Contractor shall indemnify and hold the Employer harmless against and from the consequences of any failure to do so.
- (c) Notwithstanding (a) above the Contractor shall provide all reasonable assistance to the Employer in applying for and obtaining the permissions and approvals listed in (a) above.

**1.14
Joint and Several
Liability**

Joint venture firms / Consortium are not allowed to participate in the tender.

**1.15
Entire Agreement**

The Contract constitutes the entire agreement between the Employer and Contractor with respect to the subject matter of Contract and supersedes all communications,

negotiations and agreements (whether written or oral) of the parties with respect thereto made prior to the date the Contract Agreement is issued by the Employer.

The Contractor, subject to this Contract, has complete charge of personnel performing the Works and shall be fully responsible for the services performed by them or on their behalf under this Contract.

The Contract contains all covenants, stipulations and provisions as agreed by the parties. No agent or representative of either party has authority to make (and the Parties shall not be bound by or be liable for), any statement, representation, promise or agreement not set forth herein.

1.16
Amendment

No amendment or other variation of the terms and conditions of the Contract shall be valid and effective unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each party hereto. Each party shall give due consideration to any proposal for amendment/modification made by other party with proper reasoning therefore.

1.17
Independent
Contractor

The Contractor shall be an independent Contractor performing the Contract. The Contract does not create any agency, partnership, joint venture or other joint relationship between the parties hereto.

Subject to the provisions of the Contract, the Contractor shall be solely responsible for the manner in which the Contract is performed. All employees, representatives or Subcontractors engaged by the Contractor in connection with the performance of the Contract shall be under the complete control of the Contractor and shall not be deemed to be employees of the Employer, and nothing

contained in the Contract or in any Sub-contract awarded by the Contractor shall be construed to create any contractual relationship between any such employees, representatives or Subcontractors and the Employer.

1.18
Non-Waiver

Subject to Sub-Clause as stated below, no relaxation, forbearance, delay or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect or restrict the rights of that party under the Contract, nor shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

Any waiver of a party's rights, powers or remedies under the Contract must be in writing, must be dated and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

Severability:

If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable by law such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

1.19

In this Contract:

1. Any approval given by the Employer shall relate only to the specific purpose for which it was given.
2. Approval, consent, checking assistance, inspection or test given or made by the Employer shall not relieve the Contractor from any obligations under the Contract.
3. The terms of the Contract shall be amended,

modified or varied only in writing by authorised representative of the parties hereto and shall not be effected by any oral statement.

4. Decision to be made by the Employer under the Contract shall be communicated to the Contractor only by the Employer's Representative.

The Employer

2.1

Right of Access to the Site

The Employer shall give the Contractor right of access to, and non exclusive possession of, all parts of the Site within the time (or times) stated in the Particular Conditions. The right and possession may not be exclusive to the Contractor. If, under the Contract, the Employer is required to give (to the Contractor) possession of any foundation, structure, plant or means of access, the Employer shall do so in the time and manner stated in the Employer's Requirements. However, the Employer may withhold any such right or possession until the Performance Security has been received.

If no such time is stated in the Particular Conditions, the Employer shall give the Contractor right of access to, and non-exclusive possession of, the Site with effect from the Commencement Date.

If the Contractor suffers delay and/or incurs Cost as a result of a failure by the Employer to give any such right or possession within such time, the Contractor shall give notice to the Employer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion].

After receiving this notice, the Employer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine this matter.

However, if and to the extent that the Employer's failure was caused by any error or delay by the Contractor, including an error in, or delay in the submission of, any of the, Contractor's Documents, the Contractor shall not be entitled to such extension of time.

No land belonging to, or in the possession of the Employer shall be occupied by the Contractor without the permission of the Employer. The Contractor shall not use, or permit to be used the Site for any purpose other than that for execution of the Works.

2.2
Permits,
Licensees or
Approvals

The Employer shall (where he is in position to do so) provide reasonable assistance of the Contractor at the request of the Contractor:

- (a) by obtaining copies of the Laws which are relevant to the Contract but are not readily available, and
- (b) For the Contractor's applications for any permits, licenses or approvals required by the Laws.
 - (i) which the Contractor is required to obtain under Sub-Clause 1.13 [Compliance with Laws],
 - (ii) For the delivery of goods, including clearance through customs.

2.3
Employer's
Personnel

The Employer shall be responsible for ensuring that the Employer's Personnel and the Employer's other contractors on the Site:

- (a) co-operate with the Contractor's efforts under Sub-Clause 4.6 [Co-operation]

- (b) take actions similar to those which the Contractor is required to take under sub-paragraphs (a), (b)

and (c) of Sub-Clause 4.8 [Safety Procedures] and under Sub-Clause 4.18 [Protection of the Environment]

2.4

Unless otherwise specified in the Contract the Employer's obligation include the following:

- (i) Payment to Contractor

Subject to the provisions of the Contract the Employer shall make payment to the Contractor for the work done and duly certified by the Employer's Representative. Such payment shall be based on the periodical computerized measurements and bills as provided in the relevant clauses of the Contract.

2.5

**Employer's
Claims**

If the Employer considers himself to be entitled to any payment under any Clause of these Conditions or otherwise in connection with the Contract, and/or to any extension of the Defects Notification Period, he shall give notice and particulars to the Contractor. However, notice is not required for payments due under Sub-Clause 4.19 [Electricity, Water and Gas], under Sub-Clause 4.20 [Employer's Equipment and Free Issue Material], or for other services requested by the Contractor.

The notice shall be given as soon as practicable after the Employer became aware of the event or circumstances giving rise to the claim. A notice relating to any extension of the Defects Notification Period shall be given before the expiry of such period.

The particulars shall specify the Clause or other basis of the claim, and shall include substantiation of the amount and/or extension to which the Employer considers himself to be entitled in connection with the Contract. The Employer shall then proceed in accordance with Sub-clause 3.5 [Determinations] to agree or determine (i) the amount (if any) which the Employer is entitled to be paid by the Contractor, and/or (ii) the extension (if any) of the Defects Notification Period in accordance with Sub Clause 11.3 [Extension of Defects Notification Period].

The Employer may deduct the amount from any moneys due, or to become due, to the Contractor. The Employer shall only be entitled to set off against or make any deduction from an amount due to the Contractor, or to otherwise claim against the Contractor, in accordance with this Sub-Clause or with sub-paragraph (a) and/or (b) of Sub-Clause 14.6 [Interim Payments].

The Employer's Administration

3.1 The Employer's Representative

The Employer may appoint an Employer's Representative to act on his behalf under the Contract. In this event, he shall give notice to the Contractor of the name, address, duties and authority of the Employer's Representative.

The Employer's Representative shall carry out the duties assigned to him, and shall exercise the authority delegated to him, by the Employer. Unless and until, the Employer notifies the Contractor otherwise, the Employer's Representative shall be deemed to have the full authority of the Employer under the Contract, except in respect of clause 15 [Termination by Employer].

If the Employer wishes to replace any person appointed as Employer's Representative, the Employer shall give the Contractor not less than 14 days' notice of the replacement's name, address, duties and authority and of the date of appointment.

3.2
Other Employer's
Personnel

The Employer or the Employer's Representative may from time to time assign duties and delegate authority to assistants, and may also revoke such assignment or delegation. These assistants may include a resident engineer, and/or independent inspectors appointed to inspect and/or test items of Plant and/or Materials. The assignment, delegation or revocation shall not take effect until a copy of it has been received by the Contractor.

3.3
Delegated
Persons

All these persons, including the Employer's Representative and assistants, to whom duties have been assigned or authority has been delegated, shall only be authorized to issue instructions to the Contractor to the extent defined by the delegation. Any approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test, or similar act by a delegated person, in accordance with the delegation, shall have the same effect as through the act had been an act of the Employer. However,

- (a) Unless otherwise stated in the delegated person's communication relating to such act, it shall not relieve the Contractor from any responsibility he has under the Contract, including responsibility for errors, omissions, discrepancies and non-compliances.
- (b) Any failure to disapprove any work, Plant or

Materials shall not constitute approval, and shall therefore not prejudice the right of the Employer to reject the work, Plant or Materials; and

- (c) If the Contractor questions any determination or instruction of a delegated person, the Contractor may refer the matter to the Employer, who shall promptly confirm, reverse or vary the determination or instruction.

3.4

Instructions

The Employer may issue to the Contractor instructions which may be necessary for the Contractor to perform his obligations under the Contract. Each instruction shall be given in writing and shall state the obligations to which it relates and Sub-Clause (or other term of the Contract) in which the obligations are specified. If any, such instruction constitutes a Variation, Clause 13 [Variations and Adjustments] shall apply.

The Employer in particular may, without prejudice to the generality of the Employer's right to give instructions under the terms of the Contract, issue instructions to the Contractor and the Contractor shall comply with the instructions in connection with:-

- (i). The progress and safety of the Works, and the order of working.
- (ii). The removal of any person brought to the Site by the Contractor whose presence in the Employer's opinion is undesirable.
- (iii). The inspection of the Works or part thereof and/or the Contractor's Temporary Works by or for the Employer at vendor's works or elsewhere.

- (iv) The co-ordination of the Works with the work carried out by any other person at the Site.
- (v) The suspension of any part of the Works.
- (vi). The testing or re-testing of the Works, the removal of defective Works, and any other work necessary for the completion and for proper fulfillment of Contractor's obligations under the Contract.

The Contractor shall take instructions from the Employer, or from the Employer's Representative or an assistant to whom the appropriate authority has been delegated under this Clause.

3.5 Determinations

Whenever these Conditions provide that the Employer shall proceed in accordance with this Sub-Clause 3.5 to agree or determine any matter, the Employer shall consult with the Contractor in an endeavour to reach agreement. If agreement is not achieved, the Employer shall make a fair determination in accordance with the Contract, with due regard to all relevant circumstances.

The Employer shall give notice to the Contractor of each agreement or determination, with supporting particulars in accordance with Sub-Clause 21 [Arbitration and Settlement of Disputes & arbitration]

The Contractor

4.1 Contractor's General Obligations

The Contractor shall execute and complete the Works in accordance with the Contract, and shall remedy any defects in the Works. When completed, the Works shall be fit for the purposes for which the Works are intended as defined in the Contract.

The Contractor shall provide the Plant and Contractor's Documents specified in the Contract and all Contractor's Personnel, Goods,

consumables and other things and services, whether of a temporary or permanent nature, required in and for this execution, completion and remedying of defects.

The Works shall include any work which is necessary to satisfy the Employer's Requirements, or is implied by the Contract, and all works which (although not mentioned in the Contract) are necessary for stability or for the completion, or safe and proper operation, of the Works.

The Contractor shall, unless specifically excluded in the Contract, perform all such work and/or supply all such items and materials not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for completeness and for meeting the performance guarantees under the Contract.

The Contractor shall be responsible for the adequacy, stability and safety of all Site operations, of all methods of construction and of all the Works.

The Contractor shall, whenever required by the Employer, submit details of the arrangements and methods which the Contractor proposes to adopt for the execution of the Works. No significant alteration to these arrangements and methods shall be made without this having previously been notified to the Employer.

4.2
Performance
Security

The Contractor shall obtain (at his cost) a Performance Security for proper performance, in the form and the amount whether denominated as a specified sum or as a percentage of the Contract price or Preliminary estimate of work stated in the Particular Conditions, or the Employer Requirements.

The Contractor shall deliver the Performance Security in the form of a bank guarantee to the Employer within 28 (twenty eight) days after both Parties have signed the Contract Agreement. The Performance Security shall be issued by a Nationalized Bank or a Scheduled Bank approved by the Employer, and shall be in the

form annexed to the Particular Conditions or in such other form as may be prescribed by the Employer.

Failure to provide Performance Security, within specified time shall be the cause for cancellation of the Contract and the forfeiture of earnest money deposit/ security deposit, besides taking of such other legal action as the Employer may deemed fit.

The Contractor shall ensure that the Performance Security is valid and enforceable until the Contractor has executed and completed the Works and remedied any defects. If the terms of the Performance Security specify its expiry date and the Contractor has not become entitled to receive the Performance Certificate by the date 28 days prior to the expiry date, the Contractor shall extend the validity of the Performance Security until after the expiry of a period of 60 (sixty) days beyond the date on which the Works have been completed and any and all defects have been remedied or for a period of 60 days beyond the Warranty/Defects, Liability Period, whichever is later.

The Performance Security shall be kept valid till such time (excluding six months grace period for lodging claim) any claim of the Employer is pending against the Contractor. In the first instance, it shall be kept valid for a period of 60 days beyond the Warranty/Defect Liability Period and Contractor shall get the validity period of the Performance Security extended from time to time and at his cost and shall furnish the extended Performance Security no later than one month before the expiry date of original Performance Security. In case the revised Performance Security is not received by Employer within the specified period, the Employer shall be at liberty to encash the Performance Security without being liable in any manner whatsoever for such encashment of the Performance Guarantee.

Save as may otherwise be provided in the Contract, the Employer shall not make a claim under the Performance Security, except for

amounts to which the Employer is entitled under the Contract in the event of:

- (a) Failure by the Contractor to extend the validity of the Performance Security as described in the preceding paragraph, in which event the Employer may claim the full amount of the Performance Security;
- (b) Failure by the Contractor to pay the Employer an amount due, either as agreed by the Contractor or determined under Sub-Clause 2.5 [Employer's Claims] or Clause 21 [Arbitration and Settlement of Disputes & arbitration] within 42 (forty two) days after such agreement or determination, as the case may be;
- (c) Failure by the Contractor to remedy any breach of Contract or a default within 42 (forty two) days after receiving the Employer's notice requiring such breach/default to be remedied;
- (d) Circumstances which entitle the Employer to termination under Sub-Clause 15.2 [Termination by Employer], irrespective of whether or not notice of termination has been given;
- (e) The Employer has obtained an award and the amount awarded has not been paid; or
- (f) The Contractor has gone into liquidation or is bankrupt.

If the Employer has received any sum under the Performance Security and the Contract continues to be in full force and effect and has not been terminated or ceased to have any force and effect, the Contractor shall replenish the Performance Security by an amount equal to the amount paid out to the Employer under the Performance Security,

The Employer shall return the Performance Security to the

Contractor within 21 (twenty one) days after the Contractor has received the Performance Certificate.

4.3

Security deposit

The person/persons whose tender(s) may be accepted (Hereinafter called the contractor) shall permit HLL at the time of making any payment to him for work done under the contract to deduct a sum at the rate of 10% of gross amount of each running bill till the sum along-with the sum already deposited as earnest money, will amount to security deposit of 5% of the tendered value of the work. Such deductions will be made and held by HLL by way of Security Deposit unless he/they has/have deposited the amount of Security at the rate mentioned above in cash or fixed deposit receipts or Bank Guarantee 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 HLL as part of the security Deposit 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 HLL to make good the deficit.

4.4

**Contractor's
Representative**

The Contractor shall appoint the Contractor's Representative and shall give him all authority necessary to act on the Contractor's behalf under the Contract.

Unless the Contractor's Representative is named in the Contract, the contractor shall, prior to the Commencement Date, submit to the Employer for consent the name and particulars of the person the

Contractor proposes to appoint as a Contractor's Representative. If consent is withheld or subsequently revoked, or if the appointed person fails to act as Contractor's Representative, the Contractor shall similarly submit the name and particulars of another suitable person for such appointment.

The Contractor shall not, without the prior consent of the Employer, revoke the appointment of the Contractor's Representative or appoint any replacement.

The Contractor's Representative shall, on behalf of the Contractor, receive instructions under sub-Clause 3.4 [Instructions].

The Contractor's Representative may delegate any powers, functions and authority to any competent person, and may at any time revoke the delegation. Any delegation or revocation shall not take effect until the Employer has received prior notice signed by the Contractor's Representative, naming the person and specifying the powers, functions and authority being delegated or revoked.

The Contractor's Representative and all these persons shall be fluent in English and preferably the local language spoken where the Site is located.

4.5
Nominated
Subcontractors

In this Sub-Clause, "nominated Subcontractor" means a Subcontractor whom the Employer, under Clause 13 [Variations and Adjustments], instructs the Contractor to employ as a Subcontractor. The Contractor shall not be under any obligation to employ a nominated Subcontractor against whom the Contractor raises reasonable objection by notice to the Employer as soon as practicable, with supporting particulars.

4.6
Co-operation

The Contractor shall, as specified in the Contract or as instructed by the Employer, allow appropriate opportunities for carrying out, inspecting or viewing work to:

- (a) The Employer's Personnel,
- (b) Any other contractors employed by the Employer, and
- (c) The personnel of any legally constituted public authorities,

Services for these personnel and other contractors may include the use of Contractor's Equipment, Temporary Works or access arrangements which are the responsibility of the Contractor.

The Contractor shall be responsible for his construction and other

activities on the Site, and shall co-ordinate his own activities with those of other contractors to the extent (if any) specified in the Employer's Requirements.

If, under the Contract, the Employer is required to give to the Contractor possession of any foundation structure, plant or means of access in accordance with Contractor's Documents, the Contractor shall submit such documents to the Employer in the time and manner stated in the Employer's Requirements.

**4.7
Setting Out**

The Contractor shall set out the Works in relation to original points, lines and levels of reference specified in the Contract. The Contractor shall be responsible for the correct positioning of all parts of the Works, and shall rectify any error in the positions, levels, dimensions or alignment of the Works.

**4.8
Safety
Procedures**

The Contractor shall arrange for the safety provisions as per Safety Code framed from time to time and shall:

- (a) comply with all applicable safety regulations as per safety code framed from time to time,
- (b) take care for the safety of all persons entitled to be on the Site.
- (c) Use reasonable efforts to keep the Site and Works clear of unnecessary obstruction so as to avoid danger to these persons.
- (d) Provide fencing, lighting, guarding and watching of the Works until completion and taking over under Clause 10 [Employer's Taking Over], and

Provide any Temporary Works (including roadways, footways, guards and fences) which may be necessary, because of the execution of the Works, for the use and protection of the public and of owners and occupiers of adjacent land.

4.9 The Contractor shall prepare a quality assurance manual for the

Quality Assurance

Works, and institute a quality assurance system to demonstrate compliance with the requirements of the Contract. The system shall be in accordance with the details stated in the Contract. The Employer shall be entitled to audit any aspect of the system.

Details of all procedures and compliance documents shall be submitted to the Employer for information before each execution stage is commenced. When any document of a technical nature is issued to the Employer, evidence of the prior approval by the Contract or himself shall be apparent on the document itself.

Compliance with the quality assurance system shall not relieve the Contractor of any of his duties, obligations or responsibilities under the Contract.

4.10 Site Data

The Employer shall have made available to the Contractor for his information, prior to the commencement, all relevant data in the Employer's possession on subsurface and hydrological conditions at the Site, including environmental aspects. The Employer shall similarly make available to the Contractor all such data which come into the Employer's possession after the commencement.

The Contractor shall be responsible for verifying and interpreting all such data. The Employer shall have no responsibility for the accuracy, sufficiency or completeness of such data.

Notwithstanding the aforesaid Contractor shall be deemed to have:

- (i) Visited and examined the Site, and obtained all the necessary information on the possibility of carrying out the work, the availability of space and the general labour position at Site, and that he has satisfied himself on all the circumstances that could affect the Works or performance of the Contractor's obligation under the Contract or be detrimental to the Contractor's interest;
- (ii) Satisfied himself before tendering as to the correctness and sufficiency of the data made available by the Employer and

of the rates and prices stated in the Bill of Quantities and/or the Schedule of Rates and prices, which rates and prices are, except in so far as it is hereinafter otherwise provided, cover all his obligations under the Contract and all matters and things necessary for the proper completion and maintenance of the Works.

4.11 Sufficiency of the Contract Price The Contractor shall be deemed to have satisfied himself as to the correctness and sufficiency of the Contract Price. Unless otherwise stated in the Contract, the Contract Price covers all the Contractor's obligations under the Contract (including those under Provisional Sums, if any) and all things necessary for the proper execution and completion of the Works and the remedying of any defects or deficiencies therein.

No extra payments shall be admissible to the Contractor consequent upon any alleged misunderstanding or miscalculation or arising out of any mistake or factors not specifically provided in the Contract.

4.12 Unforeseeable Difficulties Except as otherwise stated in the Contract:

- (a) the Contractor shall be deemed to have obtained all necessary information as to risks, contingencies and other circumstances which may influence or affect the Works;
- (b) by signing the Contract, the Contractor accepts total responsibility for having foreseen all difficulties and costs of successfully completing the Works; and
- (c) The Contract Price shall not be adjusted to take account of any unforeseen difficulties or costs.

4.13 Rights of Way and Facilities The Contractor shall bear all costs and charges for special and/or temporary rights of-way which he may require, include those for access to the Site. The Contractor shall also obtain, at his risk and cost, any additional facilities outside the Site which he may required for the purposes of the Works.

4.14

Avoidance of Interference

The Contractor shall not interfere unnecessarily or improperly with:

- (a) the convenience of the public, or
- (b) The access to and use and occupation of all roads and footpaths, irrespective of whether they are public or in the possession of the Employer or of others.

The Contractor shall indemnify and hold the Employer harmless against and from all claims, actions, proceedings, damages, losses and expenses (including legal fees and expenses) resulting from any such unnecessary or improper interference.

4.15

Access Route

The Contractor shall be deemed to have been satisfied as to the suitability and availability of access routes to the Site. The Contractor shall use reasonable efforts to prevent any road or bridge from being damaged by the Contractor's traffic or by the Contractor's Personnel. These efforts shall include the proper use of appropriate vehicles and routes.

Except as otherwise stated in these Conditions:

- (a) the Contractor shall (as between the Parties) be responsible for any maintenance which may be required for his use of access routes;
- (b) the Contractor shall provide all necessary signs or directions along access routes, and shall obtain any permission which may be required from the relevant authorities for his use of routes, signs and directions;
- (c) the Employer shall not be responsible for any claims which may arise from the use or otherwise of any access route,
- (d) the Employer does not guarantee the suitability or availability of particular access routes, and
- (e) Costs due to non-suitability or non-availability, for the **use** required by the Contractor, of access routes shall be borne by the Contractor.

4.16

Unless otherwise stated in the Particular Conditions:

Transport of

Goods

- (a) the Contractor shall give the Employer not less than 21 (twenty one) days' notice of the date on which any Plant or a major item of other Goods will be delivered to the Site;
- (b) the Contractor shall be responsible for packing, loading, transporting, receiving, unloading, storing and protecting all Goods, materials and other things required for the Works; and
- (c) The Contractor shall indemnify and hold the Employer harmless against and from all claims, actions, proceedings, damages, losses and expenses (including legal fees and expenses) resulting from the transport of Goods, materials and things and shall negotiate and pay all claims arising from their transport.

**4.17
Contractor's
Equipment**

The Contractor shall be responsible for all Contractors' Equipment. When brought on to the Site, Contractors Equipment shall be deemed to be exclusively intended for the execution of the Works.

**4.18
Protection of the
Environment**

The Contractor shall take all reasonable steps to protect the environment (both on and off the Site) and to limit damage and nuisance to people and property resulting from pollution, noise and other results of his operations.

The Contractor shall ensure that emissions, surface discharges and effluent from the Contractor's activities shall not exceed the values prescribed by applicable Laws.

**4.19
Electricity, Water
and Gas**

The Contractor shall, except as stated below, be responsible for the provision of all power, water and other services he may require.

The Contractor shall be entitled to use for the purposes of the Works such supply of electricity, water, gas and other services as may be available on the Site and of which details and prices are

given in the Employer's Requirements. The Contractor shall, at his risk and cost, provide any apparatus necessary for his use of these services and for measuring the quantities consumed.

The quantities consumed and the amounts due (at these prices) for such services shall be agreed or determined in accordance with Sub-Clause 2.5 [Employer's Claims] and Sub-Clause 3.5 [Determinations]. The Contractor shall pay these amounts to the Employer.

4.20
Employer's
Equipment and
Free-Issue
Material

No Equipment or material shall be issued by the Employer.

4.21
Progress Reports

Unless otherwise stated in the Particular Conditions, monthly progress reports shall be prepared by the Contractor and submitted to the Employer in four copies. The first report shall cover the period up to the end of the first calendar month following the Commencement Date. Reports shall be submitted monthly thereafter, each within 7 days after the last day of the period to which it relates.

Reporting shall continue until the Contractor has completed all work which is known to be outstanding at the completion date stated in the Taking-Over Certificate for the Works.

Each report shall include:

- (a) charts and detailed descriptions of progress, including each stage of execution, Contractor's Documents, procurement, delivery to Site, construction, erection, testing, commissioning and trial operation;
- (b) photographs showing the status of progress on the Site;

- (c) for the manufacture of each main item of Plant and Equipment, Materials, the name of the manufacture, manufacture location, percentage progress, and the actual or expected dates of important milestones;
- (d) the details described in Sub-Clause 6.10 [Records of Contractor's Personnel and Equipment];
- (e) copies of quality assurance documents, test results and certificates of Materials;
- (f) list of Variations, notices given under Sub-Clause 2.5 [Employer's Claims] and notices given under Sub clause 20.1 [Contractor's Claims];
- (g) safety statistics, including details of any hazardous incidents and activities relating to environmental aspects and public relations; and
- (h) Comparisons of actual and planned progress, with details of any events or circumstances which may jeopardize the completion in accordance with the Contract, and the measures being (or to be) adopted to overcome delays.

4.22

Unless otherwise stated in the Particular Conditions:

Security of the Site

- (a) the Contractor shall be responsible for keeping unauthorized persons off the Site, and
- (b) Authorized persons shall be limited to the Contractor's Personnel and the Employer's Personnel; and to any other personnel notified to the Contractor by (or on behalf of) the Employer, as authorized personnel of the Employer's other contractors on the Site.

4.23

Contractor's

The Contractor shall confine his operations to the Site, and to any additional areas which may be obtained by the Contractor and

Operations on Site

agreed by the Employer as working areas. The Contractor shall take all necessary precautions to keep Contractor's Equipment and Contractor's Personnel within the Site and these additional areas, and to keep them off adjacent land.

During the execution of the Works, the Contractor shall keep the Site clean and free from all unnecessary obstruction, and shall store or dispose of any Contractor's Equipment or surplus materials. The Contractor shall clear away and remove from the Site any wreckage, rubbish and Temporary Works which are no longer required.

Before the issue of the Taking Over Certificate for the Works, the Contractor shall clear away and remove all Contractor's Equipment, surplus material, wreckage, rubbish and Temporary Works. The Contractor shall leave the Site and the Works in a clean and safe condition. However, the Contractor may retain on Site, during the Defects Notification Period, such Goods as are required for the Contractor to fulfill obligations under the Contract.

4.24 Fossils

All fossils, coins, articles of value or antiquity, and structures and other remains or items of geological or archaeological interest found on the Site shall be placed under the care and authority of the Employer. The Contractor shall take reasonable precautions to prevent Contractor's Personnel or other persons from removing or damaging any of these findings.

The Contractor shall, upon discovery of any such find, promptly give notice to the Employer, who shall issue instructions for dealing with it. If the Contractor suffers delay and/or incurs Cost from complying with the instructions, the Contractor shall give a further notice to the Employer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- (a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and

- (b) Payment of any such Cost, which shall be added to the Contract Price.

After receiving this further notice, the Employer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

5.2
Contractor's
Documents

The Contractor's Documents shall comprise the technical documents specified in the Employer's Requirements, documents required to satisfy all regulatory approvals, and the documents described in Sub-Clause 5.5[As-Built documents] and Sub Clause 5.6 [Operations and Maintenance Manuals]. Unless otherwise stated in the Employer's Requirements, the Contractor's Documents shall be written in English in Sub Clause 1.4 [Law and Language].

The Contractor shall prepare all Contractor's Documents, and shall also prepare any other documents necessary to instruct the Contractor's Personnel.

If the Employer's Requirements describe the Contractor's Documents which are to be submitted to the Employer for review, they shall be submitted accordingly, together with a notice as described below. In the following provisions of this Sub-Clause (i) "review period" means the period required by the Employer for review, and (ii) "Contractor's Documents" exclude any documents which are not specified as being required to be submitted for review.

Unless otherwise stated in the Employer's Requirements, each review period shall not exceed 21 (twenty one) days, calculated from the date on which the Employer receives a Contractor's Document and Contractor's notice. This notice shall state that the Contractor's Document is considered ready, both for review in accordance with this Sub-Clause and for use. The notice shall also state that the Contractor's Document complies with the Contract, or set forth the extent to which it does not comply.

The Employer may, within the review period, give notice to the Contractor that a Contractor's Document fails (to the extent stated) to comply with the Contract. If a Contractor's Document so fails to comply, it shall be rectified, resubmitted and reviewed in accordance with this Sub-Clause, at the Contractor's cost.

For each part of the Works, and except to the extent that the Parties agree otherwise:

- (a) execution of such part of the Works shall not commence prior to the expiry of the review periods for all the Contractor's Documents which are relevant to its execution;
- (b) execution of such part of the Works shall be in accordance with the Contractor's Documents, as submitted for review; and
- (c) If the Contractor wishes to modify any document which has previously been submitted for review, the Contractor shall immediately give notice to the Employer. Thereafter, the Contractor shall submit revised documents to the Employer in accordance with the above procedure.

Any such agreement (under the preceding paragraph) or any review (under this Sub-Clause or otherwise) shall not relieve the Contractor from any liability, obligation or responsibility.

Contractor shall provide to the Employer not less than 3 (three) copies of each document including one reproducible copy and shall provide each additional copies as the Employer may reasonably require.

5.3**Contractor's**

The Contractor undertakes that the Contractor's Documents, the execution and the completed Works will be in accordance with

- Undertaking**
- (a) the Laws of the Country, and
 - (b) the Contract as altered or modified by Variations.

5.4 Technical Standards and Regulations

The Contractor's Documents, the execution and the completed Works shall comply with the Country's technical standards, building, construction and environmental Laws. Laws applicable to the product being produced from the Works and other standards specified in the Employer's Requirements, applicable to the Works, or defined by the applicable Laws.

All these Laws shall, in respect of the Works and each Section, be those prevailing when the Works or Section are taken over by the Employer under Clause 10 [Employer's Taking Over]. References in the Contract to published standards shall be understood to be references to the edition applicable on commencement Date, unless stated otherwise.

If changed or new applicable standards come into force in the Country after the commencement Date, the Contractor shall give notice to the Employer and (if appropriate) submit proposals for compliance. In the event that:

- (a) the Employer determines that compliance is required, and
 - (b) the proposals for compliance constitute a variation
- Then the Employer shall initiate a Variation in accordance with Clause 13 [Variations and Adjustments].

5.5 Training

The Contractor shall carry out the training of Employer's Personnel in the operation and maintenance of the Works to the extent specified in the Contract. If the Contractor specifies training which is to be carried out before taking-over, the Works shall not be considered to be completed for purpose of taking over under Sub-Clause 10.1 [Taking over of the Works and Sections] until this training has been completed.

5.6 As-Built

The Contractor shall prepare, and keep up-to-date, a complete set of "as-built" records of the execution of the Works, showing the

Documents exact as-built locations, sizes and details of the work as executed. These records shall be kept on the Site and shall be issued exclusively for the purposes of this Sub-Clause. Two copies shall be supplied to the Employer prior to the commencement of the Tests on Completion.

In addition, the Contractor shall supply to the Employer as-built drawings of the Works showing all Works as executed, and submit them to the Employer for review under Sub-Clause 5.2 [Contractor's Documents]. The Contractor shall obtain the consent of the Employer as to their size, the referencing system and other relevant details.

Prior to the issue of any Taking-Over Certificate, the Contractor shall supply to the Employer the specified numbers and types of copies of the relevant as-built drawings in accordance with the Contract. The Works shall not be considered to be completed for the purposes of taking-over under Sub-Clause 10.1 [Taking Over of the Works and Sections] until the Employer has received these documents.

5.8 Design Error If errors omissions, ambiguities, inconsistencies, inadequacies, other defects are found in the Contractor's Documents, they and the Works shall be corrected at the contractor's cost notwithstanding any consent or approval under this Clause.

6.1 Engagement of Staff and Labour Except as otherwise expressly stated in the Particular Conditions or, the Contractor shall make arrangements for the engagement of all staff and labour, local or otherwise, and for their payment, housing, feeding and transport.

6.2 Rates and Wages and Conditions of Labour The Contractor shall pay rates of wages, and observe conditions of labour, which are not lower than those established for the trade or industry where the work is carried out. If no established rates or conditions are applicable, the Contractor shall pay rates of wages

and observe conditions which are not lower than the general level of wages and conditions observed locally by employers whose trade or industry is similar to that of the Contractor. Nothing contained in this Clause 6.2 shall relieve the Contractor of its obligation to observe and comply with applicable law in this behalf.

6.3
Persons in the Service of Others The Contractor shall not recruit, or attempt to recruit, staff and labour from amongst the employer's Personnel.

6.4
Labour Laws The Contractor shall comply with all the relevant labour Laws applicable to the Contractor's Personnel including Laws relating to their employment, health, safety, welfare, immigration and emigration, and shall allow them all their legal rights. Contractor shall also comply with all laws relating to contract labour.

The Contractor shall require his employees and the Sub-contractors and their employees to comply with all applicable Laws, including those concerning safety at work.

6.5
Working Hours No work shall be carried out on the Site on locally recognized days of rest, or outside normal working hours, unless:

- (a) otherwise stated in the Contract;
- (b) The Employer gives consent; or
- (c) The work is unavoidable, or necessary for the protection of the property or for the safety of the Works, in which case the Contractor shall immediately advise the Employer.

6.6
Facilities for Staff and Labour Except as otherwise stated in the Employer's Requirements, the Contractor shall provide and maintain all necessary accommodation and welfare facilities for the Contractor's Personnel. The Contractor shall also provide facilities to the Employer's Personnel as stated in the Employer's Requirements.

The Contractor shall not permit any of the Contractor's Personnel to maintain any temporary or permanent living quarters within the

structures forming part of the Permanent Works.

6.7
Health and Safety The Contractor shall at all times take all reasonable precautions to maintain the health and safety of the Contractor's Personnel. In collaboration with local health authorities the Contractor shall ensure that medical staff, first aid facilities, sick bay and ambulance service are available at all times at the Site and at any accommodation for the Contractor's and Employer's Personnel, and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics.

The Contractor shall be responsible for giving all necessary notices of infection and contagious diseases and for the required isolation and removal of such cases from the Site.

The Contractor shall appoint an accident prevention officer at the Site, responsible for maintaining safety and protection against accidents. This person shall be qualified for this responsibility and shall have the authority to issue instructions and take protective measures to prevent accidents. Throughout the execution of the Works, the Contractor shall provide whatever is required by this person to exercise this responsibility and authority.

The Contractor shall send, to the Employer, details of any accident as soon as practicable after its occurrence. The Contractor shall maintain records and make reports concerning health, safety and welfare of persons, and damage to person or property, as the Employer may reasonably require.

6.8
Contractor's
Superintendence Throughout the execution of the Works, and as long thereafter as is necessary to fulfill the Contractor's obligations, the Contractor shall provide all necessary superintendence and assistance to plan, arrange, direct, manage, inspect and test the Works.
The Superintendence shall be provided by the Contractor through sufficient number of persons having adequate knowledge of the

language for communications (defined in Sub-Clause 1.4[Law and Language]) and of the operations to be carried out (including the methods and techniques required, the hazards likely to be encountered and methods of preventing accidents), for the satisfactory and safe execution of the Works.

**6.9
Contractor's
Personnel**

The Contractor's Personnel shall be appropriately qualified, skilled and experienced in their respective trades or occupations. The Employer may require the Contractor to remove (or cause to be removed) any person employed on the Site or Works, including the Contractor's Representative if applicable, who:

- (a) persists in any misconduct or lack of care,
- (b) carries out duties incompetently or negligently,
- (c) fails to conform with any provisions of the Contract, or
- (d) persists in any conduct which is prejudicial to safety, health, or the protection of environment.

Upon such requirement, the Contractor shall appoint (or cause to be appointed) a suitable replacement person.

**6.10
Records of
Contractor's
Personnel and
Equipment**

The Contractor shall submit, to the Employer, details showing the number of each class of Contractor's Personnel and of each type of Contractor's Equipment on the Site. Details shall be submitted each calendar month, in a form approved by the Employer, until the Contractor has completed all work which is known to be outstanding at the completion date as set forth in the Taking-Over Certificate for the Works.

**6.11
Disorderly
Conduct**

The Contractor shall at all times take all reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or amongst the Contractor's Personnel, and to preserve peace and protection of persons and property on and near the Site.

Plant, Materials and Workmanship

**7.1
Manner of
Execution**

The Contractor shall carry out the manufacture of Plant and Equipment, and provision of Goods and Materials, and execution of the Works;

- (a) in the manner (if any) specified in the Contract,
- (b) efficiently, diligently and in a proper workmanlike and careful manner, in accordance with generally accepted professional techniques and good practices;
- (c) observe sound management practices, and employ advanced technology and safe and effective equipment, materials and methods; and
- (d) with properly equipped facilities and non-hazardous Materials, except as otherwise specified in the Contract.

7.1A
Materials

Except where otherwise expressly specified in Particular Conditions

- (i) the Contractor shall at his own expense supply and provide all necessary construction and other equipment, temporary works, materials both for temporary and for permanent works, labour (including the supervision thereof) transport to and from the Site and in and about the Works and other things of every kind required for the construction, completion and maintenance of the Work; and
- (ii) The Contractor shall be responsible for receiving and off-loading all construction and other equipment, materials, tools etc. delivered to the Site. The Contractor shall consign goods or material to the Site in his own name unless otherwise required by the Owner.

Quality of Materials and Workmanship and Tests.

All materials and Goods and Plant and Equipment workmanship shall be of the respective kinds described in the Contract and in accordance with the Employer's Representative's instructions and shall be subjected from time to time to such tests as the Employer

may direct at the place of manufacture or fabrication or on the Site or at all or any of such place or places. The Contractor shall

provide such assistance, instruments, machines labour and materials as are normally required for examining, measuring and testing any Works and supply samples of materials before incorporation in the Work for testing as may be selected and required by the Employer's Representative.

7.2

Samples

The Contractor shall submit samples to the Employer, for review in accordance with the procedures for Contractor's Documents described in Sub-Clause 5.1 [Contractor's Documents], as specified in the Contract and at the Contractor's cost. Each sample shall be labeled as to origin and intended use in the Works.

7.3

Inspection

The Employer's Personnel and Employer's Representative shall at all reasonable times:

- (a) have full access to all parts of the Site and to all places from which natural Materials are being obtained, and
- (b) during production, manufacture and construction (at the Site and, to the extent specified in the Contract, elsewhere), be entitled to examine, inspect, measure and test the materials and workmanship, and to check the progress of construction.

The Contractor shall give the Employer's Personnel full opportunity to carry out these activities, including providing access, facilities, permissions and safety equipment. No such activity shall relieve the contractor from any obligation or responsibility.

In respect of the work which Employer's Personnel are entitled to examine, inspect, measure and/or test, the Contractor shall give notice to the Employer whenever any such work is ready and before it is covered up, put out of sight, or packaged for storage or transport. The Employer shall then either carry out the examination, inspection, measurement or testing without unreasonable delay, or promptly give notice to the Contractor that the Employer does not require to do so. If the Contractor fails to give the notice, he shall, if

and when required by the Employer, uncover the work and thereafter reinstate and make good, all at the Contractor's cost.

7.4
Testing

This Sub-Clause shall apply to all tests specified in the Contract, other than the Tests after Completion (if any).

The Contractor shall provide all apparatus, assistance, documents and other information, electricity, equipment, fuel consumables, instruments, labour materials, and suitably qualified and experienced personnel, as are necessary to carry out the specified tests efficiently. The Contractor shall agree, with the Employer, the time and place for the specified testing of any Plant and Equipment, Materials and other parts of the Works.

The Employer may, under Clause 13 [Variations and Adjustments], vary the location or details of specified tests, or instruct the Contractor to carry out additional tests. If these varied or additional tests show that the tested Plant and Equipment, Materials or workmanship is not in accordance with the Contract, the cost of carrying out this Variation shall be borne by the Contractor, notwithstanding other provisions of the Contract.

The Employer shall give the Contractor not less than 24 hours' notice of the Employer's intention to attend the tests. If the Employer does not attend at the time and place agreed, the Contractor may proceed with the tests, unless otherwise instructed by the Employer, and the tests shall then be deemed to have been made in the Employer's presence.

The Contractor shall promptly forward to the Employer duly certified reports of the tests. When the specified tests have passed the tested Plant and Equipment, Materials or Workmanship, the Employer shall endorse the Contractor's test certificate, or issue a certificate to him, to that effect. If the Employer has not attended the tests, he shall be deemed to have accepted the readings as accurate.

7.5 Rejection If, as a result of an examination, inspection, measurement or testing, any Plant and Equipment, Materials, construction or workmanship is found to be defective, deficient or otherwise not in accordance with the Contract, the Employer may reject the Plant and Equipment, Materials or workmanship by giving notice to the Contractor, with reasons. The Contractor shall then promptly make good the defect and ensure that the rejected item complied with the Contract.

If the Employer requires this Plant and Equipment, Materials, construction or workmanship to be retested, the tests shall be repeated under the same terms and conditions. If the rejection and retesting cause the Employer to incur additional costs, the Contractor shall subject to Sub-Clause 2.5 [Employer's Claims] pay these costs to the Employer.

7.6 Remedial Work Notwithstanding any previous test or certification, the Employer may instruct the Contractor to:

- (a) remove from the Site and replace any Plant and Equipment or Materials which is not in accordance with the Contract,
- (b) remove and re-execute any other work which is not in accordance with the Contract, and
- (c) Execute any work which is urgently required for the safety of the Works, whether because of an accident, unforeseeable event or otherwise.

If the Contractor fails to comply with any such instruction, which complies with Sub-Clause 3.4 [Instructions], the Employer shall be entitled to employ and pay other persons to carry out the work. Except to the extent that the Contractor would have been entitled to payment for the work, the Contractor shall subject to Sub-Clause

2.5 [Employer's Claims] pay to the Employer all costs arising from this failure.

7.7 Ownership of Plant and Materials Each item of Plant and Equipment and Materials shall, to the extent consistent with the Laws of the Country, become the property of the Employer at whichever is the earlier of the following times, free from all liens and encumbrances:

- (a) when it is delivered to the Site;
- (b) When the Contractor is entitled to payment of the value of the Plant and Equipment and Materials under Sub-Clause 8.10 [Payment for Plant and Materials in Event of Suspension].

7.8 Royalties Unless otherwise stated in the Employer's Requirements, the Contractor shall pay all royalties, rents and other payments for;

- (a) Natural Materials obtained from outside the Site, and
- (c) The disposal of material from demolitions and excavations and of other surplus material (whether natural or man-made), except to the extent that disposal areas within the Site are specified in the Contract.

7.9 Specialised Works For specialized works like water proofing, Anti Termite Treatment, ACP Work, the agency is required to give 10 year warrant and an amount of 10% of the item cost shall be withheld which shall be released only on successfully completion of warranty period. The withheld amount may also be accepted in the form of an unconditional bank guarantee acceptable to the client, from any nationalized bank or scheduled bank in India.

Commencement, Delays and Suspension

8.1 Commencement The date of commencement of work shall be effective from 45 days of date of issue of award letter or handing over of the site whichever

of Works is later.

8.2
Time for
Completion The Contractor shall complete the whole of the Works, and each Section (if any) within the Time for Completion for the Works or Section (as the case may be) including:

- (a) achieving the passing of the Tests on Completion, and
- (b) Completing all work which stated in the Contract as being required for the Works or Section to be considered to be completed for the purposes of taking over under Sub-Clause 10.1 [Taking Over of the Works and Sections].

8.3
Programme The Contractor shall submit a time programme to the Employer for the execution and completion of the Works within the time for completion within 28 days of the Commencement Date. The contractor shall also submit a revised programme whenever the previous programme is inconsistent with actual progress or with the Contractor's obligations. Unless otherwise stated in the Contract, each such programme shall include:

- (a) the order in which the Contractor intends to carry out the Works, including the anticipated timing of each major stage of the Works,
- (b) the periods for reviews under Sub-Clause 5.1 [Contractor's Documents],
- (c) The sequence and timing of inspections and tests specified in the Contract, and
- (d) a supporting report which includes:
 - (i) a general description of the methods which the Contractor intends to adopt for the execution of each major stage of the Works, and
 - (j) the approximate number of each class of Contractor's Personnel and of each type of Contractor's Equipment

for each major stage.

Unless the Employer, within 21 days after receiving a programme, gives notice to the Contractor stating the extent to which it does not comply with the Contract, the Contractor shall proceed in accordance with the programme, subject to his obligations under the Contract. The Employer's Personnel shall be entitled to rely upon the programme when planning their activities.

The Contractor shall promptly give notice to the Employer of specific probable future events or circumstances which may adversely affect or delay the execution of the Works. In this event, or if the Employer gives notice to the Contractor that a programme fails (to the extent stated) to comply with the Contract or to be consistent with actual progress and the Contractor's stated intentions, the Contractor shall submit a revised programme to the Employer in accordance with the Sub-Clause.

8.4
Extension of
Time for
Completion

The Contractor shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to an extension of the Time for Completion if and to the extent that completion for the purposes of Sub-Clause 10.1 [Taking Over of the Works and Sections] is or will be delayed by any of the following causes:

- (a) A Variation (unless an adjustment to the Time for Completion has been agreed under sub-Clause 13.3 [Variation Procedure]) and as per Clause 2 of Special condition.
- (b) A cause of delay giving an entitlement to extension of time under a sub-Clause of these conditions, or
- (c) Any delay, impediment or prevention caused by or attributable to the Employer, the Employer's Personnel, or the Employer's other contractors on the Site.

If the Contractor considers himself to be entitled to an extension of the Time for Completion, the Contractor shall give notice to the Employer in accordance with Sub-Clause 20.1 [Contractor's Claims]. When determining each extension of time under Sub-Clause 21, the Employer shall review previous determinations and

any increase, but shall not decrease, the total extension of time.

The time for completion of the work shall, in the event of any deviations resulting in additional cost over the tendered value, 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 project cost plus
- ii) 25% of the time calculated in (i) above or such further additional time as may be considered reasonable by the competent authority under Clause-5.

8.5

Delays Caused by Authorities

If the following conditions apply, namely:

- (a) the Contractor has diligently followed the procedures laid down by the relevant legally constituted public authorities in the Country,
- (b) these authorities delay or disrupt the Contractor's work, and
- (c) The delay or disruption was not reasonably foreseeable by an experienced contractor by the date for submission of the Tender.

Then this delay or disruption will be considered as a cause of delay under sub-paragraph (b) of Sub-Clause 8.4 [Extension of Time for Completion].

8.6

Rate of Progress

If, at any time:

- (a) actual progress is too slow to complete within the Time for Completion, and/or
- (b) progress has fallen (or will fall) behind the current programme under Sub-Clause 8.3 [Programme],

other than as a result of a cause listed in Sub-Clause 8.4 [Extension of Time for Completion], then the Employer may instruct the Contractor to submit, under Sub-Clause 8.3 [Programme], a revised programme and supporting report describing the revised methods

which the Contractor proposes to adopt in order to expedite progress and complete within the Time for Completion.

Unless the Employer notifies otherwise, the Contractor shall adopt these revised methods, which may require increases in the working hours and/or in the numbers of Contractor's Personnel and/or Goods, at the risk and cost of the Contractor. IF these revised methods cause the Employer to incur additional costs, the Contractor shall subject to Sub-Clause 2.5 [Employer's Claims] pay these costs to the Employer, in addition to delay damages (if any) under Sub-Clause 8.7 below.

8.7
Delay Damages

If the Contractor fails to comply with Sub-Clause 8.2 [Time for Completion], the Contractor shall subject to Sub-Clause 2.5 [Employer's Claims] pay delay damages to the Employer for this default. These delay damages shall be the sum stated in the Particular Conditions, which shall be paid for every day which shall elapse between the relevant Time for Completion and the date stated in the Taking Over Certificate. However, the total amount due under this Sub-Clause shall not exceed the maximum amount of delay damages (if any) stated in the Particular Conditions.

These delay damages shall be the only damages due from the Contractor for such default, other than in the event of termination under Sub-Clause 15.2 [Termination by Employer] prior to completion of the Works or as may otherwise be stipulated under the Contract Agreement or the Particular Conditions. These damages shall not relieve the Contractor from his obligation to complete the Works, or from any other duties, obligations or responsibilities which he may have under the Contract.

8.8
Suspension of Work

The Employer may at any time instruct the Contractor to suspend execution of all or part of the Works. During such suspension, the Contractor shall protect, store and secure such part of the Works against any deterioration, loss or damage.

The Employer may also notify the cause for the suspension. If and to the extent that the cause is notified and is the responsibility of the Contractor, the following Sub-Clauses 8.9, 8.10 and 8.11 shall not apply.

**8.9
Consequences of
Suspension**

If the Contractor suffers delay and/or incurs Cost from complying with the Employer's instructions under Sub-Clause 8.8 [Suspension of Work] and/or from resuming the work, the Contractor shall give notice to the Employer and shall be entitled subject to Sub-Clause 20.1 (contractors claims) to:

- (a) an extension of time for any such delay, if completion is or will be delayed under Sub-Clause 8.4 [Extension of Time for Completion], and
- (b) Payment of any such Cost, which shall be added to the Contract Price.

After receiving this notice, the Employer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

The Contractor shall not be entitled to an extension of time for, or to payment of the Cost incurred in, making good the consequences of the Contractor's faulty workmanship or materials, or of the Contractor's failure to protect, store or secure in accordance with sub-Clause 8.8 [Suspension of Work].

**8.10
Payment for Plant
and Materials in
Event of
Suspension**

The Contractor shall be entitled to payment of the value (as at the date of suspension) of Plant and Equipment and/or Materials which have not been delivered to the Site, if:

- (a) the work on Plant or delivery of Plant and Equipment and/or Materials has been suspended for more than 28 days, and
- (b) The Contractor has marked the Plant and Equipment and/or Materials as the Employer's property in accordance with the

Employer's instructions.

8.11 Prolonged Suspension If the suspension under Sub-Clause 8.8 [Suspension of work] has continued for more than 84 days, the Contractor may request the Employer's permission to proceed. IF the Employer does not give permission within 28 days after being requested to do so, the Contractor may, by giving notice to the Employer, treat the suspension as an omission under clause 13 [Variations and Adjustments] of the affected part of the Works.

8.12 Resumption of Work After the permission or instruction to proceed is given, the Parties shall jointly examine the Works and the Plant and Equipment and Materials affected by the suspension. The Contractor shall make good any deterioration or defect in or loss of the Works or Plant and Equipment or Materials, which has occurred during the suspension.

Tests on Completion

9.1 Contractor's Obligations The Contractor shall carry out the Tests on Completion in accordance with this Clause and Sub-Clause 7.4, [Testing] after providing the documents in accordance with Sub-Clause 5.6 [As-Built Documents] and Sub-Clause 5.7 [Operation and Maintenance Manuals].

The Contractor shall give to the Employer not less than 21 days notice of the date after which the Contractor will be ready to carry out each of the Tests on Completion. Unless otherwise agreed, Tests on Completion shall be carried out within 14 days after this date, on such day or days as the Employer shall instruct.

Unless otherwise stated in the Particular Conditions, the Tests on Completion shall be carried out in the following sequence:

- (a) pre-commissioning tests, which shall include the appropriate inspections and ("dry" or "cold") functional tests to demonstrate that each item of Plant and equipment and the Works can safely under-take the next stage, (b);

- (b) commissioning tests, which shall include the specified operational tests to demonstrate that the Works or Section can be operated and used safely and as specified, under all available operating conditions; and
- (c) trial operation, which shall demonstrate that the entire Works and each Section thereof perform reliably and in accordance with the Contract.

During trial operation, when the Works are operating under stable conditions, the Contractor shall give notice to the Employer that the Works are ready for any other Tests on Completion, including performance tests to demonstrate whether the Works conform with criteria specified in the Employer's Requirements and with the Performance Guarantees.

The Tests (and repeats thereof) shall be conducted by the Contractor before or after commissioning of the Works at the discretion of the Employer but before taking over by the Employer to ascertain whether the Works can attain the performance/functional guarantees specified in the Contract. The Employer's personnel shall witness the Tests. If deemed necessitated, the Employer may provide the Contractor with such information as the Contractor may reasonably require in relation to the conduct and results of the guarantee tests (and any repeats thereof).

Trial operation shall not constitute a taking-over under Clause 10 [Employer's Taking Over]. Unless otherwise stated in the Particular Conditions, the Works during trial operation shall be the property of the Employer.

In considering the results of the Tests on Completion, appropriate allowances shall be made for the effect of any use of the Works by the Employer on the performance or other characteristics of the Works. As soon as the Works, or a Section, have passed each of the Tests on Completion described in sub-paragraph (a), (b) or (c),

the Contractor shall submit a certified report of the results of these Tests to the Employer.

**9.2
Delayed Tests**

If the Tests on Completion are being unduly delayed by the Employer, Sub-Clause 7.4 [Testing] (fifth paragraph) and/or Sub-Clause 10.3 [Interference with Tests on Completion] shall be applicable.

If the Tests on completion are being unduly delayed by the Contractor, the Employer may by notice require the Contractor to carry out the Tests within 21 (twenty one) days after receiving the notice. The Contractor shall carry out the Tests on such day or days within that period as the Contractor may fix and of which he shall give notice to the Employer.

If the Contractor fails to carry out the Tests on Completion within the said period of 21 (twenty one) days, the Employer's Personnel may proceed with the Tests at the risk and cost of the Contractor. These Tests on Completion shall then be deemed to have been carried out in the presence of the Contractor and the results of the Tests shall be accepted as accurate.

**9.3
Retesting**

If the Works, or a Section, fail to pass the Tests on Completion, Sub-Clause 7.5 [Rejection] shall apply, and the Employer or the Contractor may require the failed Tests and Tests on Completion on any related work, to be repeated under the same terms and conditions.

**9.4
Failure to Pass
Tests on
Completion**

If the Works, or a Section, fail to pass the Tests on Completion repeated under Sub-Clause 9.3 [Retesting], the Employer shall be entitled to:

- (a) order further repetition of Tests on Completion under Sub-Clause 9.3;
- (b) if the failure deprives the Employer of substantially the benefit of the whole of the Works or Section, reject the Works or

Section (as the case may be), in which event the Employer shall have the same remedies as are provided in sub-paragraph (c) of Sub-Clause 11.4 [Failure to Remedy Defects], or

(c) Issue a Taking-Over Certificate.

In the event of sub-paragraph (c), the Contractor shall proceed in accordance with all other obligations under the Contract, and the Contract Price shall be reduced by such amount as shall be appropriate to cover the reduced value to the Employer as a result of this failure. Unless the relevant reduction for this failure is stated [or its methods of calculation is defined] in the Contract, the Employer may require the reduction to be (i) agreed by both Parties (in full satisfaction of this failure only) and paid before this Taking-Over Certificate is issued, or (ii) determined and paid under Sub-Clause 2.5 [Employer's Claims] and Sub-Clause 3.5 [Determinations].

Employer's Taking Over

10.1 Taking Over of the Works and Sections

Except as stated in Sub-Clause 9.4 [Failure to Pass Tests on Completion], the Works shall be taken over by the Employer when (i) the Works have been completed in accordance with the Contract, including the matters described in Sub-Clause 8.2 [Time for Completion] and except as allowed in sub-paragraph (a) below and (ii) all the guarantee Tests have been successfully completed and the functional/ performance guarantees are met; the Contractor has paid the liquidated damages and (iii) a Taking-Over Certificate for the Works has been issued, or is deemed to have been issued in accordance with this Sub-Clause.

The Contractor may apply by notice to the Employer for a Taking-Over Certificate not earlier than 14 days before the Works will, in the Contractor's opinion, be complete and ready for taking over. If the Works are divided into Sections, the Contractor may similarly apply for a Taking-Over Certificate for each Section.

The Employer shall, within 28 days after receiving the Contractor's application:

- (a) issue the Taking-Over Certificate to the Contractor, stating the date on which the Works or Section were completed in accordance with the Contract, except for any minor outstanding work and defects which will not substantially affect the use of the Works or Section for their intended purpose (either until or whilst this work is completed and these defects are remedied); or
- (b) Reject the application, giving reasons and specifying the work required to be done by the Contractor to enable the Taking-Over Certificate to be issued. The Contractor shall then complete this work before issuing a further notice under this Sub-Clause.

If the Employer fails either to issue the Taking-Over Certificate or to reject the Contractor's application within the period of 28 days, and provided the Works or Section (as the case may be) are substantially in accordance with the Contract, the Taking-Over Certificate shall be deemed to have been issued on the last day of that period.

10.2
Taking Over of
Parts of the
Works

Parts of the Works (other than Sections) shall not be taken over or used by the Employer, except as may be stated in the Contract or as may be agreed by both Parties.

10.3
Interference with
Tests on
Completion

If the Contractor is prevented, for more than 14 (fourteen) days, from carrying out the Tests on Completion by a cause for which the Employer is solely responsible, the Contractor shall carry out the Tests on Completion as soon as practicable.

If the Contractor suffers delay and/or incurs Cost as a result of delay in carrying out the Tests on Completion for a cause solely

attributable to the Employer, the Contractor shall give notice to the Employer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion].

After receiving this notice, the Employer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

Guarantees

10.A.1 Completion Time Guarantee:

- (1) The Contractor guarantees that it shall attain Completion of the Works within the Time for Completion and in accordance with Programme for Completion of Work specified in the Contract or within such extended time to which the Contractor shall be entitled.
- (2) No bonus/benefit will be given for earlier Completion of the Works. Save and except as may otherwise be expressly provided in the Particular Conditions.

10.A.2 Warranty/ Defect Liability:

The Contractor warrants that the Works or all part thereof shall be new and in accordance with the Contract and free from all defects in the engineering, materials and workmanship of the Works including Plant and Equipment supplied and of the Works executed.

10.A.3 The Contractor's obligations under this Clause shall not apply to any materials that are supplied by the Employer.

10.A.4 The Warranty/ Defect Liability Period shall be twelve(12) months from the date of taking over of the complete Works under the scope of the Contractor.

10.A.5 Performance Guarantees

The Contractor guarantees the Works shall satisfy and meet the guarantees set

forth in the Particular Conditions and Employer's Requirements.

Defects Liability

11.1 Completion of Outstanding Work and Remedying Defects

In order that the Works and Contractor's Documents, and each Section, shall be in the condition required by the Contract (fair wear and tear excepted) by the expiry date of the relevant Defects Notification Period or as soon as practicable thereafter, the Contractor shall:

- (a) complete any work which is outstanding on the date stated in a Taking-Over Certificate, within such reasonable time as is instructed by the Employer and
- (b) execute all work required to remedy defects, deficiencies or damage, as may be notified by the Employer on or before the expiry date of the Defects Notification Period for the Works or Section (as the case may be).

If a deficiency is found or a defect appears or damage occurs, the Employer shall notify the Contractor accordingly.

11.1A The Contractor shall be fully responsible to replace free of cost, with no repair, transportation or insurance cost or custom duty or excise duty or other taxes etc to the Employer up to the Site the whole or any part of the Works which in normal and proper use proves defective in engineering, quality, materials or workmanship and not meeting with any functional/performance guarantees subject, however, to the condition that the defects are noticed during the Warranty/Defect Liability Period. The consignee of any Plant and Equipment or any officer of the Employer actually using the Works will give prompt notice of each such defect or deficiency to the Contractor. The replacement shall be effected by the Contractor within a reasonable time but not in any case exceeding 60 (sixty) days, from the date of intimation of defects or deficiency. The Contractor shall also arrange to remove the defective

supply within a reasonable period, but not exceeding 60 (sixty) days from the date of issue of the notice in respect thereof, failing which the Employer shall reserve the right to dispose off the defective material in any manner as considered fit at the sole risk and cost of the Contractor. Any sale proceeds of the defective material after meeting the expenses incurred on its custody, disposal, handling etc. shall, however, be credited/debited to the Contractor's account and set off against any outstanding dues of the Employer against the Contractor.

These provisions shall also equally apply to the replaced material/renewals. In case the material is again found to be defective within a period of 12 (twelve) months of its replacement, it shall also have to be replaced similarly.

11.1B The Employer shall afford the Contractor all necessary access to the Works and the Site to enable the Contractor to perform its obligations under this Clause.

The Contractor may, with the consent of the Employer, remove from the Site any Plant and Equipment or any part of the Works that are defective if the nature of the defect and/or any damage to the Works caused by the defect, is such that repairs cannot be expeditiously carried out at the Site.

11.1C If the repair, replacement or making good is of such a character that it may affect the efficiency, functional/performance guarantee of the Works or any part thereof, the Employer may give to the Contractor a notice requiring that tests of the defective part of the Works shall be made by the Contractor immediately upon completion of such remedial work, whereupon the Contractor shall carry out such tests at his own cost.

If such part fails the tests, the Contractor shall carry out further repairs, replacement or making good (as the case may be) until that part of the Works passes such tests. The

tests in character shall in any case be not less than what has already been agreed by the Employer and the Contractor for the original Plant and Equipment/part of the Works.

**11.2
Cost of
Remedying
Defects**

All work referred to in sub-paragraph (b) of Sub-Clause 11.1 [Completion of Outstanding Work and Remedying Defects] shall be executed at the risk and cost of the Contractor, if and to the extent that the work is attributable to:

- (a) Plant and Equipment Materials or workmanship not being in accordance with the Contract,
- (b) Improper operation or maintenance which was attributable to matters for which the Contractor is responsible (under sub-Clauses 5.5 to 5.7 or otherwise), or
- (c) Failure by the Contractor to comply with any other obligation

If and to the extent that such work is attributable to any other cause, the Employer shall give notice to the Contractor accordingly, and Sub-Clause 13.3 [Variation Procedure] shall apply.

**11.3
Extension of
Defects
Notification
Period**

The Employer shall be entitled to Sub-Clause 2.5 [Employer's Claims] to an extension of the Defects Notification Period for the Works or a Section if and to the extent that the Works, Section or a major item of Plant and Equipment (as the case may be, and after taking over) cannot be used for the purposes for which they are intended by reason of a defect or damage.

Upon the defects in the Works or any part thereof being remedied by repair/replacement, such repair/replacement shall have the Defects Notification Period extended by a period of twelve (12) months from the time such replacement/repair of the Works or any part thereof.

If delivery and/or erection of Plant and/or Materials was suspended under Sub-Clause 8.8 [Suspension of Work], the Contractor's

obligations under the Clause shall not apply to any effects or damage occurring more than two years after the Defects Notification Period for the Plant and Equipment and/or Materials would otherwise have expired.

11.4
Failure to
Remedy Defects

If the Contractor fails to remedy any defect or damage within a reasonable time, a date may be fixed by (or on behalf of the Employer, on or by which the defect or damage is to be remedied. The Contractor shall be given reasonable notice of this date.

If the Contractor fails to remedy the defect or damage by this notified date and this remedial work was to be executed at the cost of the Contractor under Sub-Clause 11.2 [Cost of Remedying Defects], the Employer may (at his option):

- (a) carry out the work himself or by others, in a reasonable manner and at the Contractor's cost, and the Contractor shall subject to Sub-Clause 2.5 [Employer's Claims] pay to the Employer the costs reasonable incurred by the Employer in remedying the defect or damage;
- (b) agree or determine a reasonable reduction in the Contract Price in accordance with Sub-Clause 3.5 [Determinations];
or
- (c) If the defect or damage deprives the Employer of substantially the benefit of the whole of the Works or any major part of the Works, terminate the Contract as a whole, or in respect of such major part which cannot be put to the intended use. Without prejudice to any other rights, under the Contract or otherwise, the Employer shall then be entitled to recover all sums paid for the Works or for such part (as the case may be), plus financing costs and the cost of dismantling the same, clearing the Site and returning Plant and Equipment and Materials to the Contractor.

- 11.5
Removal of
Defective Work** If the defect or damage cannot be remedied expeditiously on the Site and the Employer gives consent, the Contractor may remove from the Site for the purposes of repair such items of Plant and Equipment as are defective or damaged. This consent may require the Contractor to increase the amount of the Performance Security by the full replacement cost of these items or to provide other appropriate security.
- 11.6
Further Tests** If the work of remedying of any defect or damage may affect the performance of the Works, the Employer may require the repetition of any of the tests described in the Contract, including Tests on Completion and/or Tests after Completion. The requirement shall be made by notice within 28 days after the defect or damage is remedied.
These tests shall be carried out in accordance with the terms applicable to the previous tests, except that they shall be carried out at the risk and cost of the Party liable, under Sub-Clause 11.2 [Cost of Remedying Defects], for the cost of the remedial work.
- 11.7
Right of Access** Until the Performance Certificate has been issued, the Contractor shall have the right of access to all parts of the Works and to records of the operation and performance of the Works, except as may be inconsistent with the Employer's reasonable security restrictions.
- 11.8
Contractor to
Search** The Contractor shall, if required by the Employer, search for the cause of any defect, under the direction of the Employer. Unless the defect is to be remedied at the cost of the Contractor under Sub-Clause 11.2 [Cost of Remedying Defects], the Cost of the search plus reasonable profit shall be agreed or determined in accordance with Sub-Clause 3.5 [Determinations] and shall be added to the Contract Price.
- 11.9** Performance of the Contractor's obligations shall not be

Performance Certificate considered to have been completed until the Employer has issued the Performance Certificate to the Contractor, stating the date on which the Contractor completed his obligations under the Contract.

The Employer shall issue the Performance Certificate within 28 (twenty eight) days after the latest of expiry dates of the Defects Notification Periods, or as soon thereafter as the Contractor has supplied all the Contract Documents and completed and tested all the Works, including remedying any defects.

Only the Performance Certificate shall be deemed to constitute acceptance of the Works.

11.10 Unfulfilled obligations After the performance certificate has been issued, each party shall remain liable for the fulfillment of any obligation which remains unperformed at that time. For the purpose of determining the nature and extent of unperformed obligations the Contract shall be deemed to remain in force.

11.11 Consequence of Issue of Performance Certificate After the Performance Certificate, the Contractor shall remove any remaining Contractor's Equipment, surplus material, wreckage, rubbish and Temporary Works from the Site.

If all these items have not been removed within 28 (twenty eight) days after the Employer issues the Performance Certificate, the Employer may sell or otherwise dispose of any remaining items. The Employer shall be entitled to be paid the costs incurred in connection with, or attributable to, such sale or disposal and restoring the Site.

Any balance of the moneys from the sale shall be paid to the Contractor. If these moneys are less than the Employer's costs, the Contractor shall pay the outstanding balance to the Employer.

Tests after Completion

**12.1
Procedure for
Tests after
Completion**

If Tests after Completion are specified in the Contract, this Clause shall apply. Unless otherwise stated in the Particular Conditions:

- (a) The Employer shall provide all electricity, fuel and materials, and make the Employer's Personnel and Works available.
- (b) The Contractor shall provide any other plant, equipment and suitably qualified and experienced staff, as are necessary to carry out the Tests after Completion efficiently; and
- (c) The Contractor shall carry out the Tests after Completion in the presence of such Employer's and/or Contractor's Personnel as either Party may reasonably request.

The Tests after Completion shall be carried out as soon as is reasonably practicable after the Works or Section have been taken over by the Employer. The Employer shall give to the Contractor 21 (twenty one) days' notice of the date after which the Tests after Completion will be carried out. Unless otherwise agreed, these Tests shall be carried out within 14 (fourteen) days after this date, on the day or days determined by the Employer.

The results of the Tests after Completion shall be compiled and evaluated by the Contractor, who shall prepare a detailed report. Appropriate account shall be taken of the effect of the Employer's prior use of the Works.

**12.2
Delayed Tests**

If the Contractor incurs Costs as a result of any unreasonable delay by the Employer the Tests after Completion, the Contractor shall (i) give notice to the Employer and (ii) be entitled subject to Sub-Clause 20.1 [Contractor's Claims], to the payment of any such Cost plus reasonable profit, which shall be added to the Contract Price.

After receiving this notice, the Employer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine the Cost and profit.

If, for reasons not attributable to the Contractor, a Test after

Completion on the Works or any Section cannot be completed during the Defects Notification Period [or any other period agreed upon by both Parties), then the Works or Section shall be deemed to have passed this Test after Completion.

**12.3
Retesting**

If the Works, or a Section, fail to pass the Tests after Completion:

- (a) sub-paragraph (b) of Sub-Clause 11.1 [Completion of Outstanding Work and Remedying of Defects] shall apply, and
- (b) Either Party may then require the failed Tests, and the Tests after Completion on any related work, to be repeated under the same terms and conditions.

If and to the extent that this failure and retesting are attributable to any of the matters listed in sub-paragraphs (a) to (d) of Sub-Clause 11.2 [Cost of Remedying Defects] and cause the Employer to incur additional costs, the Contractor shall subject to Sub-Clause 2.5 [Employer's Claims] pay these costs to the Employer.

**12.4
Failure to Pass
Tests after
Completion**

If the following conditions apply, namely:

- (a) the Works, or a Section, fail to pass any or all of the Tests after Completion,
- (b) the relevant sum payable as non-performance damages for this failure is expressly stated (or its method of calculation is defined) in the Contract, and
- (c) the Contractor pays this relevant sum to the Employer during the Defects Notification Period,

Then the Works or Section shall be deemed to have passed these Tests after Completion.

If the Works, or a Section fail to pass a Test after Completion and the Contractor proposes to make adjustments or modifications to the Works or such Section, the Contractor may be instructed by (or on behalf of) the Employer that right of access to the Works or Section cannot be given until a time that is convenient to the

Employer. The Contractor shall then remain liable to carry out the adjustments or modifications and to satisfy this Test, within a reasonable period of receiving notice by (or on behalf of) the Employer of the time that is convenient to the Employer. However, if the Contractor does not receive this notice during the relevant Defects Notification Period, the Contractor shall be relieved of this obligation and the Works or Section (as the case may be) shall be deemed to have passed this Test after Completion.

If the Contractor incurs additional Cost as a result of any unreasonable delay by the Employer in permitting access to the Works or Plant by the Contractor, either to investigate the causes of a failure to pass a Test after Completion or to carry out any adjustments or modifications, the Contractor shall (i) give notice to the Employer and (ii) be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to payment of any such Cost plus reasonable profit, which shall be added to the Contract Price.

After receiving this notice, the Employer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine this Cost and profit.

Variations and Adjustments

13.1
Right to Vary Variations may be initiated by the Employer at any time prior to issuing the Taking-Over Certificate for the Works, either by an instruction or by a request for the Contractor to submit a proposal.

The Contractor shall execute and be bound by each Variation, unless the Contractor promptly gives notice to the Employer stating (with supporting particulars) that (i) the Contractor cannot readily obtain the Goods required for the Variation, (ii) it will reduce the safety or suitability of the Works, or (iii) it will have an adverse impact on the achievement of the Performance Guarantees. Upon receiving this notice, the Employer shall cancel, confirm or vary the instruction.

13.2
Value
Engineering

The Contractor may at any time, submit to the Employer a written proposal which (in the Contractor's opinion) will, if adopted, (i) accelerate completion, (ii) reduce the cost to the Employer of executing, maintaining or operating the Works, (iii) improve the efficiency or value to the Employer of the completed Works, or (iv) otherwise be of benefit to the Employer.

The said proposal shall be prepared at the cost of the Contractor and shall include the items listed in Sub-Clause 13.3 [Variation Procedure].

13.3
Variation
Procedure

If the Employer requests a proposal, prior to instructing a variation, the Contractor shall respond in writing as soon as practicable, either by giving reasons why he cannot comply (if this is the case) or by submitting:

- (a) a description of the proposed work to be performed and a programme for its execution,
- (b) the Contractor's proposal for any necessary modifications to the programme according to Sub-Clause 8.3 [Programme] and to the Time for Completion, and
- (c) The Contractor's proposal for adjustment to the Contract Price.

The Employer shall, as soon as practicable after receiving such proposal (under Sub-Clause 13.2 [value Engineering] or otherwise, respond with approval, disapproval or comments. The Contractor shall not delay any work whilst awaiting a response.

Each instruction to execute a Variation, with any requirements for the recording of Costs, shall be issued by the Employer to the Contractor, who shall acknowledge receipt.

Upon instructing or approving a Variation, the Employer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine adjustments to the Contract Price and the Schedule of Payments. These adjustments shall include reasonable profit, and shall take account of the Contractor's submissions under Sub-Clause 13.2 [Value Engineering] if

applicable.

13.5
Provisional Sums

Each Provisional Sum shall only be used, in whole or in part, in accordance with the Employer's instructions, and the Contract Price shall be adjusted accordingly. The total sum paid to the Contractor shall include only such amounts, for the work, supplies or services to which the Provisional Sum relates, as the Employer shall have instructed. For each Provisional Sum, the Employer may instruct:

- (a) Works to be executed (including Plant and Equipment, Materials or services to be supplied) by the Contractor and valued under Sub-Clause 13.3 [Variation Procedure]; and/or
- (b) Plant and Equipment, Materials or services to be purchased by the Contractor, for which there shall be added to the Contract Price less the original Provisional Sums:
 - (i) The actual amounts paid (or due to be paid) by the Contractor, and
 - (ii) A sum for overhead charges and profit, calculated as a percentage of these actual amounts by applying the relevant percentage rate (if any) stated in the Contract.

13.6
Day work

The Contractor shall, when required by the Employer, produce quotations, invoices, vouchers and accounts or receipts in substantiation. For work of a minor or incidental nature, the Employer may instruct that a Variation shall be executed on a day work basis. The work shall then be valued in accordance with the day work schedule included in the Contract, and the following procedure shall apply. If a day work schedule is not included in the Contract, this Sub-Clause shall not apply.

Before ordering Goods for the work, the Contractor shall submit quotations to the Employer. When applying for payment, the Contractor shall submit invoices, vouchers and accounts or receipts

for any Goods.

Except for any items for which the day work schedule specifies that payment is not due, the Contractor shall deliver each day to the Employer accurate statements in duplicate which shall include the following details of the resources used in executing the previous day's work:

- (a) The name, occupations and time of Contractor's Personnel,
 - (b) The identification, type and time of Contractor's Equipment and Temporary Works, and
 - (c) The quantities and types of Plant and Materials used.
- One copy of each statement will, if correct, or when agreed, be signed by the Employer and returned to the Contractor. The Contractor shall then submit priced statements of these resources to the Employer, prior to their inclusion in the next Statement under Sub-Clause 14.3 [Application for interim Payments].

13.7
Adjustments for
changes in
Legislation

The Contract Price shall be adjusted to take account of any increase or decrease in Cost resulting from a change in the Laws of the Country (including the introduction of new Laws and the repeal or modification of existing Laws) or in the judicial or official government interpretation of such Laws, made after the Commencement Date, which affect the Contractor in the performance of obligations under the Contract.

If the Contractor suffers (or will suffer) delay and/or incurs (or will incur) additional Cost as a result of these changes in the Laws or in such interpretations, made after the Commencement Date, the Contractor shall give notice to the Employers and shall be entitled subject to Sub-Clause 21 to:

- (a) An extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 (Extension of Time for Completion), and

- (b) Payment of any such Cost, which shall be added to the Contract Price.

After receiving this notice, the Employer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

**13.8
Adjustments for
changes in costs**

If the Contract Price is to be adjusted for rises or falls in the cost labours, Goods and other inputs to the Works, the adjustments shall be calculated in accordance with the provisions in the Particular Conditions. However for contracts in which prescribed time of completion is upto 18 months no adjustments for changes in costs shall be permissible.

Contract Price and Payment

**14.1
The Contract
Price**

The Contractor shall pay all taxes, duties and fees required to be paid by him under the Contract, and the Contract Price shall not be adjusted for any of these costs, except as stated in Sub-Clause 13.7 [Adjustments for Changes in Legislation].

**14.2
Advanced
Payment**

The Employer shall make an advance payment at a simple interest at the rate 10% per annum for mobilization, when the Contractor submits a guarantee in accordance with this Sub-Clause including the details stated in the Particular Conditions. If the Particular Conditions does not state:

- (a) the amount of the advance payment, then this Sub-Clause shall not apply;
- (b) deleted
- (c) deleted

The Employer shall pay the first installment after receiving (i) a Statement (under Sub-Clause 14.3 [Application for interim Payments], (ii) the Performance Security in accordance with Sub-Clause 4.2 [Performance Security], and (iii) a guarantee in amounts and currencies equal to the advance payment. This guarantee shall be issued by an

entity and from within a country (or other jurisdiction) approved by the Employer, and shall be in the form annexed to the Particular conditions or in another form approved by the employer. Unless and until the Employer receives this guarantee, this Sub-Clause shall not apply.

The Contractor shall ensure that the guarantee is valid and enforceable until the advance payment has been repaid, but its amount may be progressively reduced by the amount repaid by the Contractor. If the terms of the guarantee specify its expiry date, and the advance payment has not been repaid by the date 28 days prior to the expiry date, the Contractor shall extend the validity of the guarantee until the advance payment has been repaid.

The advance payment shall be repaid through proportional deductions in interim payments. Deductions shall be made at the amortization rate stated in the Particular Conditions (or, if not so stated, as stated in subparagraph (d) above), which shall be applied to the amount otherwise due (excluding the advance payment and deductions and repayments of retention), until such time as the advance payment has been repaid.

If the advance payment has not been repaid prior to the issue of the Taking-Over Certificate for the Works or prior to termination under Clause 15 [Termination by employer], or Clause 19 [Force Majeure] (as the case may be), the whole of the balance then outstanding shall immediately become due and payable by the Contractor to the Employer.

14.3
Application for
Interim Payments

The Contractor shall submit a Statement in four copies to the Employer after the end of the period of payment stated in the Contract (if not stated, after the end of each month), in a form approved by the Employer, showing in detail the amounts to which the Contractor considers himself to be entitled, together with supporting documents which shall include the relevant report on progress in accordance with Sub-Clause 4.21 [Progress Reports] and Clause 5 of Special Conditions.

The Statement shall include the following items, as applicable, which

shall be expressed in the various currencies in which the Contract Price is payable in the sequence listed:

- (a) the estimated contract value of the Works executed and the Contractor's Documents produced up to the end of the month (including Variations but excluding items described in sub—paragraphs (b) to (f) below);
- (b) any amounts to be added and deducted for changes in legislation and changes in cost, in accordance with Sub-Clause 13.7 [Adjustments for Changes in Legislation] and Sub-Clause 13.8 [Adjustments for Changes in Cost];
- (c) any amount to be deducted for retention, calculated by applying the percentage of retention stated in the Particular Conditions to the total of the above amounts, until the amount so retained by the Employer reaches the limit or Retention Money (if any) stated in the Particular Conditions;
- (d) any amounts to be added and deducted for the advance payment and repayments in accordance with Sub-Clause 14.2 [Advance Payment];
- (e) any other additions or deductions which may have become due under the Contract or otherwise, including those under Clause 20 [Claims, Disputes and Arbitration]; and
- (f) the deduction of amounts included in previous Statements.

**14.4
Schedule of
Payments**

If the Contract includes a schedule of Payments specifying the installments in which the Contract Price will be paid, then unless otherwise stated in such Schedule;

- (a) The installments quoted in the Schedule of Payments shall be estimated contract values for the purposes of sub-paragraph (a) of Sub-Clause 14.3 [Application for Interim Payments], subject to Sub-Clause 14.5 [Plant and Materials intended for the Works], and
- (b) If these installments are not defined by reference to the actual progress achieved in executing the Works, and if actual progress is found to be less than that on which the Schedule of Payments was based, then the Employer may proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine revised installments, which shall take account of the extent to which progress is less than that on which the installments were previously based.

If the Contract does not include a Schedule of Payments, the Contractor shall submit non-binding estimates of the payments which he expects to become due during each quarterly period. The first estimate shall be submitted within 42 days after the Commencement Date, Revised estimates shall be submitted at quarterly intervals, until the Taking-Over Certificate has been issued for the Works.

14.5

Plant and

Materials intended

for the Works

If the Contractor is entitled, under the Contract, to an interim payment for Plant and Equipment and Materials which are not yet on the Site, the Contractor shall nevertheless not be entitled to such payment unless:

- (a) The relevant Plant and Equipment and Materials are in the Country and have been marked as the Employer's property in accordance with the Employer's instructions; or
- (b) The Contractor has delivered, to the Employer, evidence of insurance and a bank guarantee in a form and issued by an entity approved by the Employer in amounts and currencies equal to such payment. This guarantee may be in similar form to the form referred to in Sub-Clause 14.2 [Advance Payment] and shall be valid until the Plant and Equipment and Materials are properly

stored on Site and protected against loss, damage or deterioration.

14.6
Interim Payments No amount will be paid until the Employer has received and approved the Performance Security. Thereafter, the Employer shall within 28 days after receiving a Statement and supporting documents, give to the Contractor notice of any items in the Statement with which the Employer disagrees, with supporting particulars. Payments due shall not be withheld, except that:

- (a) If any thing supplied or work done by the Contractor is not in accordance with the Contract, the cost of rectification or replacement may be withheld until rectification or replacement has been completed; and/or
- (b) If the Contractor was or is failing to perform any work or obligation in accordance with the Contract, and had been so notified by the

Employer, the value of this work or obligation may be withheld until the work or obligation has been performed.

The Employer may, by any payment, make any correction or modification that should properly be made to any amount previously considered due; Payment shall not be deemed to indicate the Employer's acceptance, approval, consent or satisfaction.

14.7
Timing of Payments **deleted**

14.8
Delayed Payment **deleted**

14.9 When the Taking-Over Certificate has been issued for the Works, and

Payment of Retention Money the Works have passed all specified tests (including the Tests after completion, if any), the first half of the Retention Money shall be paid to

the Contractor. If a Taking-Over Certificate is issued for a Section, the relevant percentage of the first half of the Retention Money shall be paid when the Section passes all tests.

Promptly after the latest of the expiry dates of the Defects Notification Periods, the outstanding balance of the Retention Money shall be paid to the Contractor, if a Taking-Over Certificate was issued for a Section, the relevant percentage of the second half of the Retention Money shall be paid promptly after the expiry date of the Defects Notification Period for the Section.

However, if any work remains to be executed under Clause 11 [Defects Liability] or Clause 12 [Tests after Completion], the Employer shall be entitled to withhold the estimated cost of this work until it has been executed.

The relevant percentage for each Section shall be the percentage value of the Section as stated in the Contract.

**14.10
Statement at
Completion**

Within 84 (eighty four) days after receiving the Taking-Over Certificate for the Works, the Contractor shall submit to the Employer four copies of a Statement at completion with supporting documents, in accordance with Sub-Clause 14.3 [Application for Interim Payments], showing:

- (a) the value of all work done in accordance with the Contract up to the date stated in the Taking-Over Certificate for the Works,
- (b) any further sums which the Contractor considers to be due, and
- (c) an estimate of any other amounts which the Contractor considers will become due to him under the Contract. Estimated amounts shall be shown separately in this Statement at completion.

The Employer shall then give notice to the Contractor in accordance with Sub-Clause 14.6 [Interim Payments] and make payment in accordance with supporting documents showing in

detail in a form approved by the Employer:

**14.11
Application for
Final Payment**

The final bill shall be submitted by the contractor in the same manner as specified in the interim bills within three months of physical completion of the work. 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 the Employer, will, as far as possible be made within the period specified here in under, the period being reckoned from the date of receipt of the bill by the employer.

**14.12
Discharge**

When submitting the Final Statement, the Contractor shall submit a written discharge which confirms that the total of the Final Statement represents full and final settlement of all moneys due to the Contractor under or in connection with the Contract. This discharge may state that it becomes effective when the Contractor has received the Performance Security and the out-standing balance of this total, in which event the

discharge shall be effective on such date.

**14.13
Final Payment**

In accordance with sub-paragraph © of Sub-Clause 14.7 [timing of Payments], the Employer shall pay to the Contractor the amount which is finally due, less all amounts previously paid by the Employer and any deductions in accordance with Sub-Clause 2.5 [Employer's Claims].

**14.14
Cessation of
Employer's
Liability**

The Employer shall not be liable to the Contractor for any matter or thing under or in connection with the Contract or execution of the Works, except to the extent that the Contractor shall have included an amount expressly for it;

(a) in the Final Statement and also

- (b) (Except for matters or things arising after the issue of the Taking-Over Certificate the Works) in the Statement at completion described in Sub-Clause 14.10 [Statement at Completion].

However, this Sub-Clause shall not limit the Employer's liability under his indemnification obligations, or the Employer's liability in case of fraud, deliberate default or reckless misconduct by the Employer.

Termination by Employer

15.1
Notice to Correct If the Contractor fails to carry out any obligation under the Contract, the Employer may by notice require the Contractor to make good the failure and to remedy it within a specified reasonable time.

15.2
Termination by Employer The Employer shall be entitled to terminate the Contract if the Contractor:

- (a) Fails to comply with Sub-Clause 4.2 [Performance Security] or with a notice under Sub-Clause 15.1 [Notice to Correct].
- (b) abandons the Works or otherwise demonstrates the intention not to continue performance of his obligations under the Contract,
- (c) without reasonable excuse fails to proceed with the Works in accordance with Clause 8 [Commencement, Delays and Suspension],
- (d) subcontracts the whole of the Works or assigns the Contract or any of his rights or interest therein without the required agreement of the Employer,
- (e) becomes bankrupt or insolvent, goes into liquidation, has a

receiving or administration order made against him, compounds with his creditors generally or carries on business under a receiver, trustee or manager for the benefit of his creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events, or

- (f) gives or offers to give (directly or indirectly) to any person any bribe, gift, gratuity, commission or other thing of value, as an inducement or reward:
 - 1) for doing or forbearing to do any action in relation to the Contract, or
 - 2) for showing or forbearing to show favour or disfavor to any person in relation to the Contract,

Or if any of the Contractor's Personnel, agents or Subcontractors gives or offers to give (directly or indirectly) to any person any such inducement or reward as is described in this sub-paragraph (f),. However, lawful inducements and rewards to Contractor's Personnel shall not entitle termination.

- (g) persistently fails to execute the Contract in accordance with the Contract or persistently neglects to carry out the performance of its obligations under the Contract without just cause; or
- (h) Refuses or is unable to provide sufficient materials, services or labour to execute and complete the Works in the manner specified in the "Program for Completion of Work" or performance at rates of progress that give reasonable assurance to the Employer that the Contractor can attain Completion of the Works by the Time for Completion as extended; or
- (i) If the Contractor fails to comply with any decisions as a result of settlement of disputes; or

- (j) If the Contractor submits to Employer a statement which has a material effect on the rights, obligations or interests of the Employer and which the Contractor know to be false.

In any of these events or circumstances, the Employer may, upon giving 14 days' notice to the Contractor, terminate the Contract and expel the Contractor from the Site. However, in the case of sub-paragraph (e) or (f), the Employer may by notice terminate the Contract immediately.

The Employer's election to terminate the Contract shall not prejudice any other rights of the Employer, under the Contract or otherwise.

The Contractor shall then

- (i) cease all further work except for such work as the Employer may have instructed for the protection of life or safety of the Works,
- (ii) assign such of the Sub-contracts to the Employers as the Employer may require;
- (iii) remove Contractor's Equipment and goods, debris and rubbish from the Site,
- (iv) Leave the Site and deliver any required Goods, all Contractor's Documents, and other documents made by or for him, to the Employer. However, the Contractor shall comply immediately with any reasonable instructions included in the notice (i) for the assignment of any sub-contract, and (ii) for the protection of life or property or for the safety of the Works.

After termination, the Employer may complete the Works and/or employ any Third Party to execute and complete the Works. The Employer and these entities may then use any Goods, Contractor's Documents and other documents made by or on behalf of the Contractor.

The Employer shall thereafter give notice that the Contractor's Equipment and Temporary Works will be released to the Contractor at or near the Site. The Contractor shall promptly arrange their removal, at the risk and cost of the Contractor. However, if by this time the Contractor has failed to make a payment due to the Employer, these items may be sold by the Employer in order to recover this payment. Any balance of the proceeds shall then be paid to the Contractor.

**15.3
Valuation of Date
of Termination**

As soon as practicable after a notice of termination under Sub-Clause 15.2 [Termination by Employer] has taken effect, the Employer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine the value of the Works, Goods and Contractor's Documents, and any other sums due to the Contractor for work executed in accordance with the Contract.

**15.4
Payment after
termination**

After a notice of termination under Sub-Clause 15.2 [Termination by Employer] has taken effect, the Employer may:

- (a) proceed in accordance with Sub-Clause 2.5 [Employer's Claims],
- (b) With-hold further payments to the Contractor until the costs of execution, completion and remedying of any defects, damages for delay in completion (if any), and all other costs incurred by the Employer, has been established, and/or
- (c) recover from the Contractor any losses and damages incurred by the Employer and any extra costs of completing the Works, after allowing for any sum due to the Contractor under Sub-Clause 15.3 [Valuation of Date of Termination]. After recovering any such losses, damages and extra costs, the Employer shall pay any balance to the Contractor.

Any sums due including the costs incurred in protecting the Works and any sums due to the Employer from the Contractor accruing prior to

the date of termination shall also be deducted from the amount to be paid to the Contractor under this Contract.

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**15.5
Employer's
Entitlement to
Termination**

The Employer shall be entitled to terminate the Contract, at any time for the Employer's convenience, by giving notice of such termination to the Contractor. The termination shall take effect 28 days after the later of the dates on which the Contractor receives this notice or the Employer returns the Performance Security. The Employer shall not terminate the Contract under this Sub-Clause in order to execute the Works himself or to arrange for the Works to be executed by another contractor.

After this termination, the Contractor shall proceed in accordance with Sub-Clause 16.3 [Cessation of Work and Removal of Contractor's Equipment] and shall be paid in accordance with Sub-Clause 19.6 [Optional Termination, Payment and Release].

Suspension and Termination by contractor

DELETED

Risk and Responsibility

17.1

The Contractor shall indemnify and hold harmless the Employer, the Employer's Personnel, and their respective agents, against and from all claims, damage, losses and expenses (including legal fees and expenses) in respect of:

- (a) Bodily injury, sickness, disease or death, of any person whatsoever arising out of or in the course of or by reason of the execution and completion of the Works and the remedying of any defects.
- (b) damage to or loss of any property, real or personal (other than the Works), to the extent that such damage or loss:

- (c) rises out of or in the course of or by reason of the execution and completion of the Works and the remedying of any defects, and

**17.2
Contractor's
Care of
the Works**

The Contractor shall take full responsibility for the care of the Works and Goods from the Commencement Date until the Taking Over Certificate is issued (or is deemed to be issued under Sub-Clause 10.1 [Taking Over of the Works and Sections] for the Works, when responsibility for the care of the Works shall pass to the Employer. If a Taking-Over Certificate is issued (or is so deemed to be issued) for any Section of the Works, responsibility for the care of the Section shall then pass to the Employer.

After responsibility has to the Employer as aforesaid, the Contractor shall remain responsible for the Contractor's Documents during the period when the Contractor is responsible for their care and of such part of the Works and Goods the responsibility for the case of which is with the Contractor and in the event of any loss or damage thereto, from any cause not listed in Sub-Clause 17.3 [Employer's Risk], the Contractor shall rectify the loss or damage at the Contractor's risk and cost, so that the Works, Goods and Contractor's Documents conform with the Contract.

The Contractor shall be liable for any loss or damage caused by any actions performed by the Contractor after a Taking-Over Certificate has been issued. The Contractor shall also be liable for any loss or damage which occurs after a Taking-Over Certificate e has been issued and which arose from a previous event for which the Contractor was liable.

**17.3
Employer's
Risks**

The risks referred to in Sub-Clause 17.4 below are:

- a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
- b) rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war, within the Country,
- c) riot, commotion or disorder within the Country by persons

- other than the Contractor's Personnel and other employees of the Contractor and Subcontractors,
- d) Munitions of war, explosive materials, ionising radiation or contamination by radio-activity, within the Country, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity, and
 - e) Pressure waves caused by aircraft or other aerial devices traveling at sonic or supersonic speeds.

17.4

Consequences of Employer's Risk

If and to the extent that any of the risks listed in Sub-Clause 17.3 above results in loss or damage to the Works, Goods or Contractor's Documents, the Contractor shall promptly give notice to the Employer and shall rectify this loss or damage to the extent required by the Employer.

If the Contractor suffers delay and/or incurs Cost from rectifying this loss or damage, the Contractor shall give a further notice to the Employer and shall be entitled subject to Sub-Clause 21 to:

- (a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- (b) Payment of any such Cost, which shall be added to the Contract Price.

After receiving this further notice, the Employer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

17.5

Intellectual and Industrial Property Rights

The Contractor shall hold harmless and indemnify the Employer from all losses, damages, and expenses arising from any claim for infringement of patent, copy rights in existence or to be granted on an application prior to final acceptance of the services under the Contract, with respect to or arising out of the use of tools, equipment and machinery, material or composition of material and practice of employment of methods and

processor etc. in the performance of Works under the Contract.

**17.6
Limitation
of Liability**

Neither Party shall be liable to the other Party for loss of use of any Works, loss of profit, loss of any contract or for any indirect or consequential loss or damage which may be suffered by the other Party in connection with the Contract, other than under Sub-Clause 16.4 [Payment on Termination] and Sub-Clause 17.1 [Indemnities].

The total liability of the Contractor to the Employer, under or in connection with the Contract other than under Sub-Clause 4.19 [Electricity, Water and Gas], Sub-Clause 4.20 [Employer's Equipment and Free-Issue Material], and Sub-Clause 17.5 [Intellectual and Industrial Property Rights], shall not exceed the sum stated in the Particular Conditions or (if a sum is not so stated) the Contract Price stated in the Contract Agreement.

This Sub-Clause shall not limit liability in any case of fraud, deliberate default or reckless misconduct by the defaulting Party.

Insurance

**18.1
General
Requirements
for Insurances**

In this Clause "insuring Party" means, for each type of insurance, the Party responsible for effecting and maintaining the insurance specified in the relevant Sub-Clause.

Wherever the Contractor is the insuring Party, each insurance shall be affected with insurers and in terms approved by the Employer. These terms shall be consistent with any terms agreed by both Parties before they signed the Contract Agreement. This agreement of terms shall take precedence over the provisions of this Clause.

Wherever the Employer is the insuring Party, each insurance shall be

affected with insurers and in terms consistent with the details annexed to the Particular Conditions.

If a policy is required to indemnify joint insured, the cover shall apply separately to each insured as though a separate policy had been issued for each of the joint insured. If a policy indemnifies additional joint insured, namely in addition to the insured specified in this Clause, (i) the Contractor shall act under the policy on behalf of these additional joint insured except that the Employer shall act for Employer's Personnel, (ii) additional joint insured shall not be entitled to receive payments directly from the insurer or to have any other direct dealings with the insurer, and (iii) the insuring Party shall require all additional joint insured to comply with the conditions stipulated in the policy.

Each policy insuring against loss or damage shall provide for payments to be made in the currencies required to rectify the loss or damage. Payments received from insurers shall be used for the rectification of the loss or damage.

The relevant insuring Party shall, within the respective periods stated in the Particular Conditions (calculated from the Commencement Date), submit to the other Party.

- (a) evidence that the insurance described in this Clause have been effected, and
- (b) Copies of the policies for the insurance described in Sub-Clause 18.2 [Insurance of Works and Contractor's Equipment] and Sub-Clause 18.3 [Insurance against injury to Persons and Damage to Property].

When each premium is paid, the insuring Party shall submit evidence of payment to the other party.

Each Party shall comply with the conditions stipulated in each of the insurance policies. The insuring Party shall keep the insurers informed of any relevant changes to the execution of the Works and ensure that insurance is maintained in accordance with this Clause.

Neither Party shall make any material alteration to the terms of any insurance without the prior approval of the other Party. If an insurer shall promptly give notice to the other Party.

If the insuring Party fails to effect and keep in force any of the insurances it is required to effect and maintain under the Contract, or fails to provide satisfactory evidence and copies of policies in accordance with this Sub-Clause, the other Party may (at its option and without prejudice to any other right or remedy) effect insurance for the relevant coverage and pay the premiums to the other Party, and the Contract Price shall be adjusted accordingly.

Nothing in this Clause limits the obligations, liabilities or responsibilities of the Contractor or the Employer, under the other terms of the Contract or otherwise. Any amounts not insured or not recovered from the insurers shall be borne by the Contractor and/or the Employer in accordance with these obligations, liabilities or responsibilities. However, if the insuring Party fails to effect and keep in force an insurance which is available and which it is required to effect and maintain under the Contract, and the other Party neither approves the omission nor effects insurance for the coverage relevant to this default, any moneys which should have been recoverable under this insurance shall be paid by the insuring Party.

Payment by one Party to the other Party shall be subject to Sub-Clause 2.5 [Employer's Claims] or Sub-Clause 21, as applicable.

18.2 Insurance for Works and Contractor's Equipment The insuring Party shall insure the Works, Plant, Materials and Contractor's Documents for not less than the full reinstatement cost including the costs of demolition, removal of debris and professional fees and profit. This insurance shall be effected from the date by which the evidence is to be submitted under sub-paragraph (a) of Sub-Clause 18.1 [General Requirements for insurances], until the date of issue of the Taking-Over Certificate for the Works.

The insuring Party shall maintain this insurance to provide cover until the

date of issue of the Performance Certificate, for loss or damage for which the Contractor is liable arising from a cause occurring prior to the issue of the Taking-Over Certificate, and for loss or damage caused by the Contractor or Subcontractors in the course of any other operations (including those under Clause 11 [Defects Liability] and Clause 12 [Tests after Completion]).

The insuring Party shall insure the Contractor's Equipment for not less than the full replacement value, including delivery to Site. For each item of Contractor's Equipment, the insurance shall be effective while it is being transported to the Site and until is no longer required as Contractor's Equipment.

Unless otherwise stated in the Particular Conditions, insurance under this Sub-Clause:

- (a) Shall be effected and maintained by the Contractor as insuring Party.
- (b) Shall be in the joint names of the Parties, who shall be jointly entitled to receive payments from the insurers, payments being held or allocated between the Parties for the sole purpose of rectifying the loss or damage,
- (c) Shall cover all loss and damage from any cause not listed in Sub-Clause 17.3 [Employer's Risks],
- (d) Shall also cover loss or damage from the risks listed in sub-paragraph (c) Sub-Clause 17.3 [Employer's Risk], with deductibles per occurrence of not more than the amount stated in the Particular Conditions (if an amount is not so stated, this sub-paragraph (d) shall not apply), and
- (e) May however exclude loss, damage to, and reinstatement of:
 - (i) a part of the Works which is in a defective condition due to a defect in its materials or workmanship (but cover shall include any other parts which are lost or damaged as a direct result of this defective condition and not as described in sub-paragraph (ii) below,
 - (ii) a part of the Works which is lost or damaged in order to reinstate any other part of the Works if this other part is in a

defective condition due to a defect in its materials or workmanship,

- (iii) a part of the Works which has been taken over by the Employer, except to the extent that the Contractor is liable for the loss or damage, and
- (iv) Goods while they are not in the Country, subject to Sub-Clause 14.5 [Plant and Materials intended for the Works].

If, more than one year after the Base Date, the cover described in subparagraph (d) above ceases to be available at commercially reasonable terms, the Contractor shall (as insuring Party) give notice to the Employer with supporting particulars. The Employer shall then (i) be entitled subject to Sub-Clause 2.5 [Employer's Claims] to payment of an amount equivalent to such commercially reasonable terms as the Contractor should have expected to have paid for such cover, and (ii) be deemed, unless he obtains the cover at commercially reasonable terms, to have approved the omission under Sub-Clause 18.1 [General Requirements for Insurances].

18.3
Insurance
against
Injury to
Persons and
Damage to
Property

The insuring Party shall insure against each Party's liability for any loss, damage, death or bodily injury which may occur to any physical property (except things insured under Sub-Clause 18.2 [Insurance for Works and Contractor's Personal], which may arise out of the Contractor's performance of the Contract and occurring before the issue of the Performance Certificate.

This insurance shall be for a limit per occurrence of not less than the amount stated in the Particular Conditions, with no limit on the number of occurrences. If an amount is not stated in the Contract, this Sub-Clause shall not apply.

Unless otherwise stated in the Particular Conditions, the insurances

specified in this Sub-Clause:

- (a) Shall be effected and maintained by the Contractor as insuring Party.
- (b) Shall be in the joint names of the Parties.
Shall be extended to cover liability for all loss and damage to the Employer's property (except things insured under Sub-Clause 18.2) arising out of the Contractor's performance of the Contract, and
- (c) May however exclude liability to the extent that it arises from:
 - (i) The Employer's right to have the Permanent Works executed on, over, under, in or through any land, and to occupy this land for the Permanent Works.
 - (ii) Damage which is an unavoidable result of the Contractor's obligations to execute the Works and remedy any defects, and
 - (iii) A cause listed in Sub-Clause 17.3 [Employer's Risks], except to the extent that cover is available at commercially reasonable terms.

**18.4
Insurance for
Contractor's
Personnel**

The Contractor shall effect and maintain insurance against liability for claims, damages, losses and expenses (including legal fees and expenses) arising from injury, sickness, disease or death of any person employed by the Contractor or any other of the Contractor's Personnel.

The Employer shall also be indemnified under the policy of insurance, except that this insurance may exclude losses and claims to the extent that they arise from any act or neglect to the Employer or of the Employer's Personnel.

The insurance shall be maintained in full force and effect during the whole time that these personnel are assisting in the execution of the Works. For a Subcontractor's employees, the insurance may be effected by the

Subcontractor, but the Contractor shall be responsible for compliance with this Clause.

Force Majeure

19.1 In this Clause, "Force Majeure" means an exceptional event or circumstance:

Definition of

- Force Majeure**
- (a) which is beyond the party's control;
 - (b) Which such party could not reasonably have provided against before entering into the Contract or prevented; or
 - (c) Which is not substantially attributable to the other party.

Force Majeure may include, but not be limited to, exceptional events or circumstances of the kind listed below, so long as conditions (a) to (d) above are satisfied:

- (i) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
- (ii) rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war,
- (iii) riot, commotion, disorder, strike or lockout by persons other than the Contractor's Personnel and other employees of the Contractor and Sub-Contractors,
- (iv) munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the contractor's use or such munitions, explosives, radiation or radio-activity, and
- (v) Natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity.

19.2 If a Party is or will be prevented from performing any of its obligations under the Contract by Force Majeure, then it shall give notice to the other Party of the event or circumstances constituting the Force Majeure and shall specify the obligations, the performance of which is or will be prevented. The notice shall be given within 14 days after the Party became aware, or should have become aware, of the relevant event or circumstance constituting Force Majeure.

The Party shall, upon having given notice as aforesaid be excused performance of such obligations for so long such Force Majeure event prevents it from performing them.

Notwithstanding any other provision of this Clause, Force Majeure shall not apply to obligations of either Party to make payments to the other Party under the Contract.

19.3 Each Party shall at all times use all reasonable endeavors to minimize any
Duty to delay in the performance of the Contract as a result of Force Majeure.
Minimize A Party shall give notice to the other Party when it cease to be affected by the
Delay Force Majeure.

19.4 If the Contractor is prevented from performing any of his obligations under the
Consequences Contract by Force Majeure of which notice has been given under Sub-Clause
of Force 19.2 [Notice of force Majeure], and suffers delay and/or incurs Cost by reason
Majeure of such Force Majeure, the Contractor shall be entitled subject to Sub-Clause
21 to:

- (a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- (b) if the event or circumstance is of the kind described in sub-paragraphs (i) to (iv) of Sub-Clause 19.1 [Definition of Force Majeure] and, in the case of sub-paragraphs (ii) to (iv), occurs in the Country, payment of any such Cost.

After receiving this notice, the Employer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

19.5 If any Subcontractor is entitled under any contract or agreement relating to the
Force Majeure Works to relief from force majeure on terms additional to or broader than
Affecting those specified in this Clause, such additional or broader force majeure events
Subcontractor or circumstances shall not excuse the Contractor's non-performance or entitle him to relief under this Clause.

19.6 If the execution of substantially all the Works in progress is prevented for a

Optional Termination, Payment and Release

continuous period of 84 (eighty four) days by reason of Force Majeure of which notice has been given under Sub-Clause 19.2 [Notice of Force Majeure], or for multiple periods of not less than 10 (ten) continuous days which total more than 140 (one hundred forty) days in aggregate in a calendar year due to the same notified Force Majeure, then either Party may give to the other Party a notice of termination of the Contract. In this event, the termination shall take effect 7 (seven) days after the notice is given, and the Contractor shall proceed in accordance with Sub-Clause 16.3 [Cessation of Work and Removal of Contractor's Equipment].

19.7 Release from Performance under the Law

Notwithstanding any other provision of this Clause, if any event or circumstance outside the control of the Parties (including, but not limited to, Force Majeure) arises which makes it impossible or unlawful for either or both Parties to fulfill its or their contractual obligation or which, under the law governing the Contract, entitles the Parties to be released from further performance of the Contract, then upon notice by either Party to the other Party of such event or circumstance:

- (a) the Parties shall be discharged from further performance, without prejudice to the rights of either Party in respect of any previous breach of the Contract, and
- (b) the sum payable by the Employer to the Contractor shall be the same as would have been payable under Sub-Clause 19.6 [Optional Termination, Payment and Release] if the Contract had been terminated under Sub-Clause 19.6.

Claims, Disputes and Arbitration

20.1 Contractor's Claims

If the Contractor considers himself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give notice to the Employer, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 28 days after the Contractor became

aware, or should have become aware, of the event or circumstance.

If the Contractor fails to give notice of a claim within such period of 28 (twenty eight) days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and the Employer shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub-Clause shall apply.

The Contractor shall also submit any other notices which are required by the Contract, and supporting particulars for the claim all as relevant to such event or circumstance.

The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Employer. Without admitting liability, the Employer may, after receiving any notice under this Sub-Clause, monitor the record-keeping and/or instruct the Contractor to keep further contemporary records. The Contractor shall permit the Employer to inspect all these records, and shall (if instructed) submit copies to the Employer.

Within 42 (forty two) days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Employer, the Contractor shall send to the Employer a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed.

If the event or circumstance giving rise to the claim has a continuing effect:

- (a) this fully detailed claim shall be considered as interim;
- (b) the Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and/or amount claimed, and such further particulars as the employer may reasonably require;; and
- (c) the Contractor shall send a final claim within 28 (twenty eight) days after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved

by the Employer.

Within 42 (forty two) days after receiving a claim or any further particulars supporting a previous claim, or within such other period as may be proposed by the Employer and approved by the Contractor, the Employer shall respond with approval, or with disapproval and detailed comments. He may also request any necessary further particulars, but shall nevertheless give his response on the principles of the claim within such time.

Each interim payment shall include such amounts for any claim as have been reasonably substantiated as due under the relevant provision of the Contract. Unless and until the particulars supplied are sufficient to substantiate the whole of the claim, the Contractor shall only be entitled to payment for such part of the claim as he has been able to substantiate.

The Employer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) the extension (if any) of the Time for Completion (before or after its expiry) in accordance with Sub-clause 8.4 [Extension of Time for Completion], and/or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.

The requirements of this Sub-Clause are in addition to those of any other Sub-Clause which may apply to a claim. IF the Contractor fails to comply with this or another Sub-Clause in relation to any claim, any extension of time and/or additional payment shall take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this Sub-Clause.

20.2 DELETED

**Appointment
of the
Dispute
Adjudication
Board**

21 Arbitration Settlement of Disputes & arbitration Except where otherwise provided in the contract all questions and disputes relating to the meaning of the specifications, design, drawings and instructions herein before mentioned and as to the quality of workmanship or materials used on the work or as to any other question, claim, right, matter or thing whatsoever in any way arising out of or relating to the contract, designs, drawings, specifications, estimates, instructions orders or these conditions or otherwise concerning the works or the execution or failure to execute the same whether arising during the progress of the work or after the cancellation, termination, completion or abandonment thereof shall be dealt with as mentioned hereinafter:-

(i) If the contractor considers that he is entitled to any extra payment or compensation in respect of the works over and above the amounts admitted as payable by HLL or in case the contractor wants to dispute the validity of any deductions or recoveries made or proposed to be made from the contract, the contractor shall forthwith give notice in writing of his claim, in this behalf to the Engineer-in-Charge within 30 days from the date of disallowance thereof for which the contractor claims such additional payment or compensation or disputes the validity of any deduction or recovery. The said notice shall give full particulars of the claim, grounds on which it is based and detailed calculations of the amount claimed and the contractor shall not be entitled to raise any claim nor shall HLL be in any way liable in respect of any claim by the contractor unless notice of such claim shall have been given by the contractor to the Engineer-in-Charge in the manner and within the time as aforesaid. The contractor shall be deemed to have waived and extinguished all his rights in respect of any claims not notified to the Engineer-in-Charge in writing in the manner and within the time aforesaid.

(ii) The Engineer-in-Charge shall give his decision in writing on the claims notified by the contractor within 30 days of the receipt of the notice thereof. If the contractor is not satisfied with the decision of

the Engineer-in-Charge, the contractor may within 15 days of the receipt of the decision of the Engineer-in-Charge submit his claims to the conciliating authority named in Schedule 'F' for conciliation along with all details and copies of correspondence exchanged between him and the Engineer-in-Charge.

(iii) If the conciliation proceedings are terminated without settlement of the disputes, the contractor shall, within a period of 30 days of termination thereof shall give a notice, in the form prescribed by HLL, to the Chairman & Managing Director, HLL Lifecare Limited for appointment of an arbitrator to adjudicate the notified claims failing which the claims of the contractor shall be deemed to have been considered absolutely barred and waived.

(iv) Except where the decisions have become final, binding and conclusive in terms of the contract, all disputes arising out of the notified claims of the contractor as aforesaid and all claims of HLL shall be referred for adjudication through the arbitration by the Sole Arbitrator appointed by the Chairman & Managing Director, HLL Lifecare Ltd. It will also be no objection to any such appointment that the Arbitrator so appointed is a HLL Employee and that he had to deal with the matters to which the Contract relates in the course of his duties as HLL Employee. If the arbitrator so appointed is unable or unwilling to act or resigns his appointment or vacates his office due to any reason whatsoever another sole arbitrator shall be appointed in the manner aforesaid by the said Chairman & Managing Director. Such person shall be entitled to proceed with the reference from the stage at which it was left by his predecessor.

It is a term of this contract that the party invoking arbitration shall give a list of disputes with amounts claimed in respect of each dispute along-with the notice for appointment of arbitrator.

It is also a term of this contract that no person other than a person appointed by such Chairman & Managing Director, HLL Lifecare

Ltd as aforesaid should act as arbitrator and if for any reasons that is not possible, the matter shall not be referred to arbitration at all.

The conciliation and arbitration shall be conducted in accordance with the provisions of the Arbitration & Conciliation Act 1996 or any statutory modification or re-enactment thereof and the rules made thereunder and for the time being in force shall apply to the arbitration proceeding under this clause

It is also a term of this contract that the arbitrator shall adjudicate on only such disputes as are referred to him by the appointing authority and give separate award against each disputes and claim referred to him. The arbitrator shall give reasons for the award.

It is also a term of the contract that if any fees are payable to the arbitrator these shall be paid equally by both the parties. It is also a term of the contract that the arbitrator shall be deemed to have entered on the reference on the date he issues notice to both the parties calling them to submit their statement of claims and counter statement of claims. The venue of the arbitration shall be such place as may be fixed by the arbitrator in his sole discretion. The fees, if any, of the arbitrator shall, if required to be paid before the award is made and published, be paid half and half by each of the parties. The cost of the reference and of the award (including the fees, if any, of the arbitrator) shall be in the discretion of the arbitrator who may direct to any, by whom and in what manner, such costs or any part thereof, shall be paid and fix or settle the amount of costs to be so paid.

CLAUSE 21 (a)

“In the event of any dispute or difference relating the interpretation and application of the provisions of the contract, such dispute or difference shall be referred by either party to the Arbitration of one of the 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 Award of the Arbitrator shall be binding upon the parties to the dispute provided; however,

any party aggrieved by such award may take a further reference for setting aside or revision of the award to 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 Special Secretary/Additional Secretary when so authorized by the Law Secretary, whose decision shall bind the parties finally and conclusively. The parties to the dispute will share equally the cost of Arbitration or intimate by the Arbitrator.”

APPENDIX B

PARTICULAR CONDITIONS

Construction of 2 Doctor's Dispensary at Kulasekarapuram, Kollam

The General Condition and these Particular Conditions are to be taken as mutually explanatory to one another. However, in the event of any inconsistency or conflict between the General Conditions and the Particular Conditions, the Particular Conditions shall supersede and prevail over the General Conditions.

1.1

Definitions unless repugnant to the context or meaning thereof or defined in the Contract Agreement, in these Particular Conditions the following expressions shall have the meaning hereinafter respective assigned to them:

1.1.1 Contract Price "Contract Price" means product of the aggregate of the Approved Estimates (as defined in the Contract Agreement) and the rates of the items in the BOQ forming part of the Contract.

1.1.2 CPWD "CPWD" means the Central Public Works Department of the Government of India.

1.1.3 "DSR" means the CPWD, Delhi Schedule of Rates. The Cost Index applicable at the time of sanction of Detailed Estimate shall be added.

1.1.4 "Contractor" or "Construction Agency" means the individual or firm with whom the Contract Agreement is entered into.

1.1.4.5 "Tender" means the Contractor's signed offer for the proposed Work including necessary documents as required by the Employer and included in and forming part of the Contract.

- 1.2 Interpretation** In these Particular Conditions provision the expression “Cost plus reasonable profits” require the profit to be 10% of this Cost.
- 1.3 Communication** The Employer’s Address for communications under the Contract is:
The Contractor’s Address for Communications under the Contract is :
- 1.4 Employer’s use of Contractor’s Documents** All plans, data, maps, drawings, specifications, standards, application to Statutory Authorities, Provision of Certificates and all other documents obtained by the Contractor in relation to the work under the Contract shall be the property of the Employer and shall so far as necessary be held in temporary custody of the Contractor.
- Upon completion of the work under the Contract or termination under Clause 15.2 of General Conditions, all of aforesaid documents including originals thereof shall be returned and handed over to the Employer by the Contractor in accordance with the arrangements as prescribed by the Employer. The Contractor shall not utilize in any manner, any of the documents referred to herein for any purpose other than for the Works under the Contract without the prior written consent of the Employer.
- 2.1 Access to Site** The Contractor acknowledges that the Site is vacant and free from all encumbrances and it has full access to the Site as a licensee of the Employer. The Contractor shall not use nor permit the use of the Site for any purpose other than for execution of the Works.
- 3.1 Employer’s Representative** The Employer’s representative is :-
- 3.5 Determinations** ~~deleted~~

4.2
Performance
Security

The Performance Security shall be 5% of the Contract price in the format annexure at 'A' to these Particular Conditions. Such Performance Security shall be from a Nationalized/Scheduled Bank acceptable to the Employer.

4.4
Inspections,
Rules and
Procedures

The Contractor may divide the work under the contract for purposes of awarding suitable sub-contracts. However no such division of the work or award of sub-contracts by the Contractor shall be in derogation of and shall not relieve in any way or manner whatsoever the Contractor from its obligations under the Contract including of execution and completion of the Works in all respects under and in accordance with the Contract.

The Contractor shall give notices described in sub-paras (a), (b) and (c) of Sub-Clause 4.4 of General Conditions in respect of each of the Sub-Contractors to be employed for the works under the Contract.

4.4 The Contractor shall follow observe and comply with all applicable laws, rules, regulations and procedure including all Govt. of India and concerned Local authority rules, procedures and regulations while performing Work under the Contract including the detailing, estimation, dealing with variations, site supervision etc. and obey instructions, rules and regulations of agencies having jurisdiction as issued or applicable from time to time. The Contract price and the rates under the Contract shall be deemed to be inclusive of all expenses required for complying with all such applicable laws, rules, regulations and procedures.

The Contractor shall at all times safeguard the interests of the Employer in performing the work under his scope.

The Contractor shall be fully responsible for facilitating statutory inspections/scrutiny by CTE/other Govt. of India organization or authority and shall comply with their observations and directions with respect to the work carried out by him. All such observations and directions shall be carried out and finally settled by the Contractor, if necessary, even after completion of the work under the Contract.

7.6 Besides removal of rejected material from site, an amount of 3%
Rejection of cost of materials brought to site and rejected shall be recovered from the subsequent RA bill of the Contractor.

8.3
Programme Deleted

8.7 In the event of any delay in execution and completion of any part
Delay Damages of the Works in accordance with the Programme for completion of Work, the Contractor shall, without prejudice to any other rights or

remedies which the Employer may have under the Contract, be liable to pay as mutually agreed genuine pre estimated loss and damage, the damages at the rate of 1.25 % of the Contract price per week or part thereof of delay subject to a total of 10% of the Contract Price.

**Incentive For
Early
Completion**

If the whole work is completed earlier than the contracted Time for Completion then the Contractor shall be paid a bonus for early completion at the rate of 1% of the Contract Price per complete month of early completion subject to a maximum of 3% of the Contact price. No bonus shall be granted, if any extension of time under any circumstances has been allowed for completion of the work.

**13.8
Adjustment for
change in cost**

DELETED

Payment due to
Increase/
Decrease in
Prices/Wages
after receipt of
Tender for the
work

No compensation for any increase in the price of materials supplied or service rendered or wages shall be payable for a work for which the stipulated period of completion is 18 months

13.9.0

During execution of the work if an obvious mistake is detected in the quantities worked out by the architectural and engineering consultant appointed by the employer, approved estimate, and included in the contract the same shall be reworked by the employer and correction made in the quantities including in the contract. However, this will not applied to quantities for the working of which the contractor is responsible.

13.9.1

During execution of the work, if an obvious mistake is detected in the unit rate of any DSR/Non DSR item included in the contract based on information/proposal of the contractor/architectural

engineering consultant, the same shall be corrected by the employer under clause 3.5 above and revised rates fixed for the same which shall be final and binding on the contractor. Payment shall be made at the revised rates.

14.2
Advance Payment

- (i). 10% of the Contract Price shall be paid as interest bearing mobilization advance on production of bank guarantee from Nationalized or a Scheduled Bank acceptable to the employer and submission of 5% performance guarantee as stipulated in clause 4.2 of GCC. The mobilization advance 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.

However if the contract is terminated due default of contractor the mobilization advance would be deemed as interest bearing advance at an interest rate of 14.7% to be compounded quarterly.

- (ii). The Bank Guarantee etc. taken towards security of 'Mobilization Advance' shall be 110% of the advance amount.
- (iii). The mobilization advance should be paid in two equal installments i.e. 5% each. Second installment be released after utilization of the 1st installment and production of proof of utilization of 1st installment. The employer reserves the right to satisfy itself about the utilization of 1st installment before releasing the second one. The contractor has to request for release the 1st installment within a period of one month of the order to commence the work.
- (iv). Maximum period between two installments shall be three months. However in case of justified delay, employer reserves the right for condoning the delay.

The recovery of the advance payment shall be affected in each Interim Payment starting from the Third Interim payment of the Contractor proportional to the value of the work executed under the Contract. However, total recovery of the advance shall be affected in such a manner that the total advance has been recovered when 80% of the work has been completed and billed.

14.3 The value of work under Sub-Clause 14.3 (a) of General

Interim Payments Conditions shall be as follows:-

- i) The estimated Contract Value of the works executed shall be the product of the quantities executed (as evidenced from the measurement book entries made by the Contractor for his sub contractor) and the rates of the item in the BOQ approved by the HLL and forming part of the Contract.
- ii) Advance Payment against material and plants for incorporating in the permanent work which are non perishable and non inflammable and are
 - Planned to be substantially consumed in the subsequent quarter.
 - Are as per the specification and in the right quantity and have been tested and approved.
 - Are properly stored, protected against loss or deterioration.
 - Indemnity bond in approved format has been provided by the Contractor.

The advance payment shall be 75% of cost of material as shown in the Vouchers or 75% of the rate of the item in the BOQ of detailed estimate, whichever is lower.

Actual quantity executed against each item shall be paid. However, in case of excess quantity executed, the payment shall be restricted to 10% above the quantity in the detailed estimate for each item of work.

No taxes & duties shall be reimbursed by the employer.

14.6

On the Contractor submitting certified bill for payment which is not strictly in line with the contract and/or includes untenable amounts, an amount of upto 1% centage fee shall be recovered as liquidated

damages for correction by the employer. The Chief Engineer, ESIC decision, in this matter, shall be final and binding.

14.7 (b)
Timings of
payment

Amount which is due with respect to each interim payment shall be paid as follows:-

- (i) 75% of the value of the Interim Payment Application

(Submitted along with all details and supporting documentation complete in all respects) within 15 working days.

- (ii) The balance amount due after checking of the application by the Employer within 25 working days.

18.1
Insurance

Insurance shall be affected through Indian Companies and payment shall be in Indian Rupees.

APPENDIX

Dispute Adjudication Agreement

DELETED

Appendix D

SPECIAL CONDITIONS**CLAUSE 1****Recovery
of
Security
Deposit**

The person/persons whose tender(s) may be accepted (Hereinafter called the contractor) shall permit HLL at the time of making any payment to him for work done under the contract to deduct a sum at the rate of 10% of gross amount of each running bill till the sum along-with the sum already deposited as earnest money, will amount to security deposit of 5% of the tendered value of the work. Such deductions will be made and held by HLL by way of Security Deposit unless he/they has/have deposited the amount of Security at the rate mentioned above in cash or fixed deposit receipts or Bank Guarantee 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 HLL as part of the security Deposit 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 HLL to make good the deficit.

All compensations or the other sums of the money payable by the contractor under the terms of this contract may be deducted from, or paid by the sale of a sufficient part of his security deposit or from the interest arising there from, or from any sums which may be due to or may become due to the contractor by HLL on any account whatsoever and in the event of his Security Deposit being reduced by reason of any such deductions or sale as aforesaid, the contractor shall within 10 days make good in cash or Guarantee Bond in favour of the HLL Lifecare Ltd. or fixed deposit receipt tendered by the State Bank of India or by Scheduled Banks (in case of guarantee offered by Scheduled Banks, the amount shall be within the financial limit prescribed by the Reserve Bank of India); any sum or sums which may have been deducted from, or raised by the sale of his security deposit or any part thereof. The Security deposit shall be collected from the running bills of the contractor at the rates mentioned above and the Earnest Money, if deposited in cash at the time of tenders, will be treated a part of the Security Deposit.

Note:- Security Deposit shall be recovered @10% of gross amount of each running bill till the sum along with the sum already deposited as earnest money, will amount to security deposit of 5% of the tendered value of the work.

CLAUSE 2**Deviations,
Variations
Extent and
Pricing**

The Engineer-in-Charge shall have power to make alteration in, omission 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 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 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.

2.1.1 The time for completion of the work shall, in the event of any deviations resulting in additional cost over the tendered value, be extended if requested by the contractor, as follows:

- iii) In the proportion which the additional cost of the altered, additional or substituted work, bears to the original tendered value(+) plus
- iv) 25% of the time calculated in (i) above or such further additional time as may be considered reasonable by the competent authority under Clause-5.

2.1.2 Rates for such altered, additional or substituted work shall be determined by the Engineer-in-Charge as follows:

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

Deviations,
Substituted
Items, Pricing

In the case of substituted items, the rate for the agreement item (to be substituted item shall also be determined in the manner as mentioned in the aforesaid para.

- a) If the market rate for the substitute item so determined is more than the market rate for the substituted item shall be the rate for 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)

Deviations,
Deviated
Quantities,
Pricing

- b) In 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)

In the case of contract items, substituted items, contract cum substituted items, which exceed the limits laid down in schedule F, 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 mention 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 claims 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.

- 2.3 The provisions of the preceding paragraph shall also apply to the decrease in the rates of items for the work in excess of the limits laid down in Schedule F 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.

- 2.4 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 Superintending Engineer may authorize consideration of such claims on merits.

- 2.5 Any operation incidental to or necessarily has to be in contemplation of tenderer while filing 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 3

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 license until the completion of the work.

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 3 A

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

CLAUSE 3 B

Payment of wages:

- Payment of wages**
- i) The contractor shall pay to labour employed by him either directly or through sub-contractors, 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.
 - ii) 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 sub-contractors in connection with the said work, as if the labour had been immediately employed by him.

iii) 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 Regulations made by HLL / HLL from time to time in regard to payment of wages, wage period, deductions from wages recovery of wages not paid and deductions unauthorizedly 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 & Abolition) Act, 1970, and the Contract Labour (Regulation and Abolition) Central Rules, 1971, wherever applicable.

iv) a) The Engineer-in-Charge concerned 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 their terms of the contract or non-observance of the Regulations.

b) Under the provisions of Minimum Wages (Central) Rules, 1950, the contractor is bound to allow to the labours directly or indirectly employed in the works one day rest for six days continuous work and pay wages at the same rate as for duty. In the event of default the Engineer-in-Charge shall have the right to deduct the sum or sums not paid on account of wages for weekly holidays to any labours and pay the same to the persons entitled thereto from any money due to the contractor by the Engineer-in-Charge concerned.

In the case of Union Territory of Delhi, however, as the all inclusive minimum daily wages fixed under Notification of the Delhi Administration No.F.12 (162) MWO/DAB/43884-91, dated 31.12.1979 as amended from time to time are inclusive

of wages for the weekly day of rest, the question of extra payment for weekly holiday would not arise.

v) The contractor shall comply with the provisions of the Payment of Wages Act, 1936, Minimum Wages Act, 1948, Employees Liability Act 1938, workmen's compensation Act, 1923, industrial disputes Act, 1947, Maternity benefits act, 1961, and the contractor's labour (Regulation and Abolition) Act, 1970, or the modifications their of or any other laws relating their to and the rules made their under from time to time.

vi) The contractor shall indemnify and keep indemnified HLL against payments to be made under and for the observance of the Laws

aforesaid and the contractor's Labour Regulations without prejudice to his right to claim indemnity from his sub-contractors.

vii) The laws aforesaid shall be deemed to be a part of this contract and any breach thereof shall be deemed to be a breach of this contract.

viii) Whatever is the minimum wage for the time being, or if the wage payable is higher than such wage, such wage shall be paid by the contractor to the Workmen directly without the intervention of Jamadar and that Jamadar shall not be entitled to deduct or recover any amount from the minimum wage payable to the workmen as and by way of commission or otherwise.

ix) The contractor shall ensure that no amount by way of commission or otherwise is deducted or recovered by the Jamadar from the wage of workmen.

CLAUSE 3 C

In respect of all labour directly or indirectly employed in the work for the performance of the contractor's part of this contract, the contractor shall, at his own expense, arrange for the safety provisions as per Safety Code framed from time to time and shall, at his own expense, provide for all facilities in connection therewith. In case the contractor fails to make arrangements and provide necessary facilities as aforesaid he shall be liable to pay a penalty of Rs.200/- for each default and in addition the Engineer-in-Charge shall be at liberty to make arrangement and provide facilities as aforesaid and recover the costs incurred in that behalf from the contractor.

CLAUSE 3 D

The contractor shall submit by the 4th and 19th of every month, to the Engineer-in-Charge a true statement showing in respect of the second half of the preceding month and the first half of the current month respectively:-

- (1) the number of labourers employed by him on the work,
- (2) their working hours,
- (3) the wages paid to them,
- (4) the accidents that occurred during the said fortnight showing the circumstances under which they happened and the extent of the damages and injury caused by them, and,
- (5) The number of female workers who have been allowed maternity benefit according to Clause 19 F and the amount paid to them.

Failing which the contractor shall be liable to pay to HLL a sum not exceeding Rs.200/- for each default or materially incorrect statement. The decision of the Engineer-in-Charge shall be final in deducting from any bill due to the contractor the amount levied as fine and be binding on the Contractor.

CLAUSE 3 E

In respect of all labour directly or indirectly employed in the works for the performance of the contractor's part of this contract, the contractor shall comply with or cause to be complied with all the rules framed by HLL from time to time for the protection of health and sanitary arrangements for workers employed by HLL and its contractors.

CLAUSE 3 F

Leave and pay during leave shall be regulated as follows:-

1. Leave:
 - (i) in the case of delivery-maternity leave not exceeding 8 weeks, 4 weeks, up to and including the day of delivery and 4 weeks following that day,
 - (ii) in case of miscarriage-up to 3 weeks from the date of miscarriage.
2. Pay:
 - (i) in case of delivery- leave pay during maternity leave will be at the rate of the women's average daily earnings, calculated on total wages earned on the days when full time work was done during the period of three months immediately preceding the date on which she gives notice that she expects to be confined or at the rate of Rupee one only a day whichever is greater.
 - (ii) in the case of miscarriage – leave pay at the rate of average daily earning calculated on the total wages earned on the days when full time work was done during a period of three months immediately preceding the date of such miscarriage.
3. Conditions for the grant of Maternity Leave:

No maternity leave benefit shall be admissible to a woman unless she has been employed for a total period of not less than six months immediately preceding the date on which she proceeds on leave,
4. The contractor shall maintain a register of Maternity (Benefit) in the prescribed form as shown in Appendix-I and II, and the same shall be kept at the place of work.

CLAUSE 3 G

In the event of the contractor(s) committing a default or breach of any of the provisions of the Contractor's Labour Regulation and Model Rules for the protection of health and sanitary arrangements for the workers as amended from time to time or furnishing any information or submitting or filing any statement under the provisions of the above Regulation and Rules which is materially incorrect, he/they shall, without prejudice to any other liability, pay to HLL a sum not exceeding Rs.200/- for every default, breach or furnishing, making, submitting, filing such materially incorrect statements and in the event of the contractor (s) defaulting continuously in this respect, the penalty may be enhanced to Rs.200/- per day for each day of default subject to a maximum of 5 percent of the estimated cost of the work put to tender. The decision of the Engineer-in-Charge shall be final and binding on the parties.

Should it appear to the Engineer-in-Charge that the contractor(s) is/ are not properly observing and complying with the provisions of the Contractor's Labour Regulations and Model Rules and the provisions of the Contract labour (Regulation and Abolition) Act, 1970, and the Contract Labour (R&A) Central Rules 1971, for the protection of health and sanitary arrangements for the work-people employed by the contractor(s)(hereinafter referred as "the said Rules") the Engineer-in-Charge shall have power to give notice in writing to the contractor(s) requiring that the said Rules to be complied with and the amenities prescribed therein be provided to the work-people within a reasonable time to be specified in the notice. If the contractor(s) shall fail within the period specified in the notice to comply with and/or observe the said Rules and to provide the amenities to the workpeople as aforesaid, the Engineer-in-Charge shall have the power to provide the amenities herein before mentioned at the cost of the contractor(s). The contractor(s) shall erect, make and maintain at his/their own expense and to approved standards all necessary huts and sanitary arrangements required for his/their work-people on the site in connection with the execution of the works, and if the same shall not have been erected or constructed, according to approved Standards, the Engineer-in-Charge shall have power to give notice in writing to the contractor(s) requiring that the said huts and sanitary arrangements be re-modeled and/ or reconstructed according to approved standards, and if the contractor(s) shall fail to remodel or reconstruct such huts and sanitary arrangements according to approved standards within the period specified in the notice, the Engineer-in-Charge shall have the power to remodel or reconstruct such huts and sanitary arrangements according to approved standards at the cost of the contractor(s).

CLAUSE 3 H

The contractor(s) shall at his/their own cost provide his /their labour with a sufficient number of huts (hereinafter referred to as the camp) of the following specifications on a suitable plot of land to be approved by the Engineer-in-Charge.

- i)
 - a) The minimum height of each hut at the eaves level shall be 2.10m (7 ft.) and floor area to be provided will be at the rate of 2.7 Sq.ms. (30 Sq.Ft.) for each member of the workers family staying with the labourers.

- b) The contractor(s) shall in addition construct suitable cooking places having a minimum area of 1.80m X 1.50m(6'X5') adjacent to the hut for each family.
 - c) The contractor(s) shall also construct temporary latrines and urinals for the use of the labourers each on the scale of not less than four per each one hundred of the total strength, separate latrines and urinals being provided for women.
 - d) The contractor(s) shall construct sufficient number of bathing and washing places, one unit for every 25 persons residing in the camp. These bathing and washing places shall be suitably screened.
- ii)
- a) All the huts shall have walls of sun-dried or burnt-bricks laid in mud mortar or other suitable local materials as may be approved by the Engineer-in-Charge. In case of sun-dried bricks, the walls should be plastered with mud gobri on both sides. The floor may be kutcha but plastered with mud gobri and shall be at least 15 cm (6") above the surrounding ground. The roofs shall be laid with thatch or any other materials as may be approved by the Engineer-in-Charge and the contractor shall ensure that through out the period of their occupation the roofs remain watertight.
 - b) The contractor(s) shall provide each hut with proper ventilation.
 - c) All doors, windows, and ventilators shall be provided with suitable leaves for security purposes.
 - d) There shall be kept an open space of at least 7.2m(8yds.) between the rows of huts which may be reduced to 6m(20ft.) according to the availability of site with the approval of the Engineer-in-Charge. Back to back construction will be allowed.
- iii) **Water Supply-** The contractor(s) shall provide adequate supply of water for the use of labourers. The provisions shall not be less than two gallons of pure and wholesome water per head per day for drinking purposes and three gallons of clean water per head per day for bathing and washing purpose. Where piped water supply is available, supply shall be at stand posts and where the supply is from wells or river, tanks, which may be of metal or masonry, shall be provided. The contractor(s) shall also at his/their own cost make arrangements for laying pipe lines for water supply to his/their labour camp from the
- iv) Existing mains wherever available, and shall pay all fees and charges thereof.
 - v) The site selected for the camp shall be high ground, removed from jungle.

- vi) **Disposal of Excreta-** The contractor(s) shall make necessary arrangements for the disposal of excreta from the latrines by trenching or incineration, which shall be according to the requirements laid down by the Local Health Authorities. If trenching or incineration is not allowed the contractor(s) shall make arrangements for the removal of the excreta through the Municipal Committee/Authority and inform it about the number of labourers employed so that arrangements may be made by such Committee/authority for removal of the excreta. All charges on this account shall be borne by the contractor and paid direct by him to the Municipality/authority. The contractor shall provide one sweeper for every eight seats in case of dry system.
- vii) **Drainage:-** The contractor(s) shall provide efficient arrangements for draining away sullage water so as to keep the camp neat and tidy.
- viii) The Contractor(s) shall make necessary arrangements for keeping the camp area sufficiently lighted to avoid accidents to the workers.
- ix) **Sanitation:-** The contractor(s) shall make arrangements for conservancy and sanitation in the labour camps according to the rules of the Local Public Health and Medical Authorities.

CLAUSE 3 I

The Engineer-in-Charge may require the contractor to dismiss or remove from the site of the work any person or persons in the contractor's employment upon the work who may be incompetent or misconducts himself and the contractor shall forthwith comply with such requirements.

CLAUSE 3 J

It shall be the responsibility of the contractor to see that the building under construction is not occupied by any body unauthorizedly during construction, and is handed over to the Engineer-in-Charge with vacant possession of complete building. If such building though completed is occupied illegally, then the Engineer-in-Charge

shall have the option to refuse to accept the said building/buildings in that position. Any delay in acceptance on this account will be treated as the delay in completion and for such delay a levy up to 5% of the tendered value of work may be imposed by the Head (ID), HLL whose decision shall be final both with regard to the justification and quantum and be binding on the contractor.

However, the Head (ID), HLL, through a notice, may require the contractor to remove the illegal occupation any time on or before construction and delivery.

CLAUSE 4

Minimum wages Act to be Compiled with	The contractor shall comply with all the provisions of the Minimum Wages Act, 1948, and Contract Labour (Regulation and Abolition) Act, 1970, amended from time to time and rules framed there under and other labour laws affecting contract labour that may be brought into force from time to time.
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CLAUSE 5

Measurements of work done	<ol style="list-style-type: none"> 1. All measurements of all the items having financial value shall be entered by the contractor in presence of the Project Manager (PM) or his authorized representative and compiled in the shape of the Computerized Measurements Book having pages of A-4 size so that a complete record is obtained of all the items of work performed under the contract. 2. 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 PM or his authorized representative as per interval or programme fixed in consultation with PM. After the necessary corrections made by the PM or his authorized representative, the measurements sheets shall be returned to the contractor for incorporating the corrections and shall be resubmitted by the contractor with his dated signature to the PM for his dated signature. The dated signature of contractor or their representative /PM is necessary in token of their acceptance. The final computerized MB so made shall be duly bound with its pages machine numbered with no cutting or over-writing in the measurements in the computerized MB. The contractor shall submit two spare copies of such computerized MB,s along with the statements mentioned in 14.3 of General Conditions for the purpose of reference and record by the various officers of the department 3. 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. 4. 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 incharge 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 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 in default thereof no
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payment or allowance shall be made for such work or the materials with which the same was executed.

5. Engineer-in-charge or his authorized representative may cause either themselves or through another officer of the department to check the measurements recorded by contractor and all provisions stipulated herein above shall be applicable to such checking of measurements or levels.
6. 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 materials 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.
7. No payment shall be made for work, estimated to cost Rs. Twenty thousand or less till after the whole work shall have been completed and certificate of completion given. For works estimated to cost over Rs.20,000/- the interim or running accounts bill shall be submitted by the contractor for the work executed on the basis of such recorded measurements on the format of the Department in triplicate on or before the date of every month fixed for the same by the Engineer-in-Charge . The contractor shall not be entitled to be paid any such interim payment in the gross work done together with net payment /adjustment of advance for material collected, if any since the last such payment is less than the amount specified in Schedule "F" in which case the interim bill shall be prepared in the appointed date of the month after the requisite progress is achieved. Engineer-in-charge shall arrange to have the bill verified by Checking and or test checking or causing to be checked where necessary the requisite measurements of the work in the event of failure of the contractor to submit the bills, no claims whatsoever due to delays on payment including that of interest shall be payable to the contractor. Payment on account of amount admissible shall be made by the Engineer-in-Charge certifying the sum to which the contractor is considered entitled by way of interim payment at such rates as decided by the Engineer-in-charge.

CLAUSE 6

Contractors Superintendence, Supervision, Technical Staff & Employees

**Employment
of Technical
Staff and
employees**

- i) The contractor shall provide all necessary superintendence during execution of the work and as long 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, qualifications, experience, age, address and other particulars along with certificates, of the Principle technical representative to be in charge of the work. Such qualifications and experience shall not be lower than specified in Schedule 'F'. The Engineer-in-Charge shall within 15 days of receipt of such communication intimate in writing his approval or otherwise of such representative 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 according to the provisions of this clause. Decision of the Engineer-in-Charge shall be final and binding on the contractor in this respect. Such a Principle technical representative shall be appointed by the contractor soon after receipt of the approval from the Engineer-in-Charge and shall be available at site within fifteen days of start of the work.

If the contractor (or any partner in case of firm/company) who himself has such qualifications, it will not be necessary for the said contractor to appoint such a Principle technical representative but the contractor shall designate and appoint a responsible agent to represent him and to be present at the work whenever the contractor is not in a position to be so present. All the provisions applicable to the Principle technical representative under the Clause will also be applicable in such a case to contractor or his responsible agent. The Principle technical representative and/or the contractor shall on receiving reasonable notice from the Engineer-in-Charge or his designated representative(s) in charge of the work in writing or in person or otherwise, present himself to the Engineer-in-Charge and/or at the site of work, as required, to take instructions. Instructions given to the Principle technical representative or the responsible agent shall be deemed to have the same force as if these have been given to the contractor. The Principle technical representative and/or the contractor or his responsible authorised agent shall be actually available at site atleast two working days every week, these days shall be determined in consultation with the Engineer-in-Charge as well as fully during important stages of execution of work, during recording measurement of works and whenever so required by the Engineer-in-Charge by a notice as aforesaid and shall also note down instructions conveyed by the Engineer-in-Charge or his

designated representative in the site order book and shall affix his signature in token of noting down the instructions and in token of acceptance of measurements. There shall be no objection if the representative/agent looks after more than one work and not more than three works in the same station provided these details are disclosed to the Engineer-in-Charge and he shall be satisfied that the provisions and purpose of this clause are fulfilled satisfactorily.

If the Engineer-in-Charge, whose decision in this respect is final and binding on the contractor, is convinced that no such technical representative or agent is effectively appointed or is effectively attending or fulfilling the provisions of this clause, a recovery shall be effected from the contractor as specified in Schedule 'F' and the decision of the Engineer-in-Charge as recorded in the site order book and measurement recorded in Measurement Books shall be final and binding on the contractor. Further if the contractor fails to appoint a suitable technical representative or responsible agent and if such appointed persons are not effectively present or do not discharge their responsibilities satisfactorily, the Engineer-in-Charge shall have full powers to suspend the execution of the work until such date as a suitable agent is 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/responsible agent along-with every on account bill/ final bill and shall produce evidence if at any time so required by the Engineer-in-Charge.

- ii) The contractor shall also provide and employ on the site the required complement of technical assistants and foreman who are skilled and experienced in their respective fields for proper supervision of the work.

The contractor shall provide and employ skilled, semi skilled 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 person so removed shall be replaced as soon as possible by competent substitutes.

SAFETY CODE

1. Suitable scaffolds should be provided for workmen for all works that cannot safely be done from the ground, or from solid construction except such short period work as can be done safely from ladders. When a ladder is used an extra Mazdoor shall be engaged for holding the ladder and if the ladder is used for carrying materials as well suitable footholds and hand-hold shall be provided on the ladder and the ladder shall be given an inclination not steeper than $\frac{1}{4}$ to 1 ($\frac{1}{4}$ horizontal and 1 vertical).

2. Scaffolding of staging more than 3.6 m (12 ft.) above the ground or floor, swung or suspended from an overhead support or erected with stationary support shall have a guard rail properly attached or bolted, braced and otherwise secured at least 90 cm (3 ft.) high above the floor or platform of such scaffolding or staging and extending along the entire length of the outside and ends thereof with only such opening as may be necessary for the delivery of materials. Such scaffolding or staging shall be so fastened as to prevent it from swaying from the building or structure.
3. Working Platforms, gangways and stairways should be so constructed that they should not sag unduly or unequally, and if the height of the platform or the gangway or the stairway is more than 3.6 ms (12 ft.) above ground level or floor level, they should be closely boarded, should have adequate width and should be suitably fastened as described in (2) above.
4. Every opening in the floor of a building or in a working platform shall be provided with suitable means to prevent the fall of person or materials by providing suitable fencing or railing whose minimum height shall be 90 cm (3 ft.).
5. Safe means of access shall be provided to all working platforms and other working places. Every ladder shall be securely fixed. No portable single ladder shall be over 9 m (30 ft) in length while the width between side rails in rung ladder shall in no case be less than 29 cm. (11 ½") for ladder upto and including 3 metre (10 ft.) in length. For longer ladders this width should be increased at least ¼" for each additional 30 cm.(1 foot) of length. Uniform step spacing of not more than 30 cm shall be kept. Adequate precautions shall be taken to prevent danger from electrical equipment. No materials on any of the sites or work shall be so stacked or placed as to cause danger or inconvenience to any person or the public. The contractor shall provide all necessary fencing and lights to protect the public from accident and shall be bound to bear the expenses of defence of every suit, action or other proceedings at law that may be brought by any person for injury sustained owing to neglect of the above precautions and to pay any damages and cost which maybe awarded in any such suit, action or proceedings to any such person or which may, with the consent of the contractor, be paid to compensate any claim by any such person.
6. Excavation and trenching- All trenches 1.2 m (4 ft.) or more in depth, shall at all times be supplied with atleast one ladder for each 30 metre (100 ft) in length or fraction thereof. Ladder shall extend from bottom of the trench to atleast 90 cm. (3 ft) above the surface of the ground. The sides of the trenches, which are 1.5 m (5 ft) or more in depth shall be stepped back to give suitable slope or securely held by timber bracing, so as to avoid the danger of sides collapsing. The excavated material shall not be placed within 1.5 m (5 ft) of the edges of the trench or half of the depth of the trench whichever is more. Cutting shall be done from top to bottom. Under no circumstances undermining or undercutting shall be done.
7. Demolition. - Before any demolition work is commenced and also during the progress of the work,
 - i) All roads and open areas adjacent to the work site shall either be closed or suitably protected.
 - ii) No electric cable or apparatus which is liable to be a source of danger or a cable or apparatus used by the operator shall remain electrically charged.

- iii) All practical steps shall be taken to prevent danger to persons employed from risk of fire or explosion or flooding. No floor, roof or other part of the building shall be so overloaded with debris or materials as to render it unsafe.
8. All necessary personal safety equipment as considered adequate by the Engineer-in-Charge should be kept available for the use of the person employed on the site and maintained in a condition suitable for immediate use, and the contractor should take adequate steps to ensure proper use of equipment by those concerned. The following safety equipment shall invariably be provided.
- i) Workers employed on mixing asphaltic materials, cement and lime mortars shall be provided with protective footwear and protective goggles.
 - ii) Those engaged in whitewashing and mixing or stacking of cement bags or any material, which is injurious to the eyes, shall be provided with protective goggles.
 - iii) Those engaged in welding works shall be provided with welder's protective eye shields.
 - iv) Stonebreakers shall be provided with protective goggles and protective clothing and seated at sufficiently safe intervals.
 - v) When workers are employed in sewers and manholes, which are in active use, the contractors shall ensure that the manhole covers are opened and ventilated at least for an hour before the workers are allowed to get into manholes and the manholes so opened shall be cordoned off with suitable railing and provided with warning signals or boards to prevent accident to the public. In addition, the contractor shall ensure that the following safety measures are adhered to:-
 - a) Entry for workers into the line shall not be allowed except under supervision of the Engineer in Charge or any other higher officer.
 - b) At least 5 to 6 manholes upstream and downstream should be kept open for at least 2 to 3 hours before any man is allowed to enter into the manhole for working inside.
 - c) Before entry presence of toxic gases should be tested by inserting wet lead acetate paper, which changes colour in the presence of such gases and gives indication of their presence.
 - d) Presence of oxygen should be verified by lowering a detector lamp into the manhole. In case, no oxygen is found inside the sewer line, worker should be sent only with oxygen kit.
 - e) Safety belt with rope should be provided to the workers. While working inside the manhole such rope should be handled by two men standing outside to enable him to be pulled out during emergency.
 - f) The area should be barricaded or cordoned off by suitable means to avoid mishaps of any kind. Proper warning signs should be displayed for the safety of the public whenever for the cleaning works are undertaken during night or day.

- g) No smoking or open flames shall be allowed near the blocked manhole being cleaned.
- h) The malba obtained on account of cleaning of blocked manholes and sewer lines should be immediately removed to avoid accidents on account of slippery nature of the malba.
- i) Workers should not be allowed to work inside the manhole continuously. He should be given rest intermittently. The Engineer-in-Charge may decide the time upto which worker may be allowed to work continuously inside the manhole.
- j) Gas masks with Oxygen cylinder should be kept at site for use in emergency.
- k) Air blowers should be used for flow of fresh air through the manholes. Whenever called for, portable air blowers are recommended for ventilating the manholes. The motors for these, shall be vapour proof and of totally enclosed type. Non-sparking gas engines also could be used but they should be placed at least 2 metres away from the opening and on the leeward side, protected from wind so that they will not be the source of friction on any inflammable gas that might be present.
- l) The workers engaged for cleaning the manholes/sewers should be properly trained before allowing working in the manhole.
- m) The worker shall be provided with Gumboots or non-sparking shoes bump helmets and gloves non-sparking tools and safety lights and gas masks and portable air-blowers (when necessary). They must be supplied with barrier cream for anointing the limits before working inside the sewer lines.
- n) Workmen descending a manhole shall try each ladder stop or rung carefully before putting his full weight on it to guard against insecure fastening due to corrosion of the rung fixed to manhole well.
- o) If a man has received a physical injury, he should be brought out of the sewer immediately and adequate medical aid should be provided to him.
- p) The extent to which these precautions are to be taken depend on individual situation but the decision of the Engineer-in-Charge regarding the steps to be taken in this regard in an individual case will be final.
- vi) The contractor shall not employ men and women below the age of 18 years on the work of painting with products containing lead in any form. Whenever men above the age of 18 years are employed on the work of lead painting, the following precautions should be taken: -
 - a) No paint containing lead or lead products shall be used except in the form of paste or readymade paint.

- b) Suitable face masks should be supplied for use by the workers when paint is applied in the form of spray or a surface having lead paint is dry rubbed and scrapped.
 - c) Overalls shall be supplied by the contractors to the workmen and adequate facilities shall be provided to enable the working painters to wash during and on the cessation of work.
9. The Contractor shall not employ women and men below the age of 18 years on the work of painting with product containing lead in any form. Whenever men above the age of 18 are employed on the work of lead painting, the following principles must be observed for such use:
- (i) White lead, sulphate of lead or product containing these pigments, shall not be used in painting operation except in the form of pastes or paint ready for use.
 - (ii) Measures shall be taken, wherever required in order to prevent danger arising from the application of paint in the form of spray.
 - (iii) Measures shall be taken, wherever practicable to prevent danger arising out of from dust caused by dry rubbing down and scrapping.
 - (iv) Adequate facilities shall be provided to enable working painters to wash during and on cessation of work.
 - (v) Overall shall be worn by working painters during the whole of working period.
 - (vi) Suitable arrangement shall be made to prevent clothing put off during working hours being spoiled by painting materials.
 - (vii) Cases of lead poisoning and suspected lead poisoning shall be notified and shall be subsequently verified by medical man appointed by the competent authority of HLL
 - (viii) HLL may require, when necessary, medical examination of workers.
 - (ix) Instructions with regard to special hygienic precautions, to be taken in the painting trade, shall be distributed to working painters.
10. When the work is done near any place where there is risk of drowning, all necessary equipment should be provided & kept ready for use and all necessary steps taken for prompt rescue of any person in danger and adequate provision, should be made for prompt first aid treatment of all injuries likely to be obtained during the course of the work.
11. Use of hoisting machines and tackle including their attachments, anchorage and supports shall conform to the following standards or conditions: -
- i) (a) These shall be of good mechanical construction, sound materials and adequate strength and free from patent defects and shall be kept repaired and in good working order.
 - (b) Every rope used in hoisting or lowering materials or as means of suspension shall be of durable quality and adequate strength, and free from patent defects.
 - (ii) Every crane driver or hoisting appliance operator shall be properly qualified and no person under the age of 21 years should be in charge of any hoisting machine including any scaffolding winch or give signals to operator.

- (iii) In case of every hoisting machine and of every chain ring hook, shackle swivel and pulley blocks used in hoisting or as means of suspension the safe working load shall be ascertained by adequate means. Every hoisting machine and all gear referred to above shall be plainly marked with the safe working load. In case of hoisting machine having a variable safe working load each safe working load and the condition under which it is applicable shall be clearly indicated. No part of any machine or any gear, referred to above in this paragraph shall be loaded beyond the safe working load except for the purpose of testing.
 - (iv) In case of HLL machines, the safe working load shall be notified by the Electrical Engineer-in-Charge. As regard contractor's machines the contractors shall notify the safe working load of the machines to the Engineer-in-Charge whenever he brings any machinery to the site of work and get it verified by the Electrical Engineer concerned.
- 12. Motors, gearing, transmission, electric wiring and other dangerous parts of hoisting appliances should be provided with efficient safeguards. Hoisting appliances should be provided with such means as will reduce to the minimum the risk of accidental descent of the load. Adequate precautions should be taken to reduce to the minimum the risk of any part of a suspended load becoming accidentally displaced. When workers are employed on electrical installations, which are already energised, insulating mats, wearing apparel, such as gloves, sleeves and boots, as may be necessary, should be provided. The worker should not wear any rings, watches and carry keys or other materials, which are good conductors of electricity.
 - 13. All scaffolds ladders and other safety devices mentioned or described herein shall be maintained in safe condition and no scaffold, ladder or equipment shall be altered or removed while it is in use. Adequate washing facilities should be provided at or near places of work.
 - 14. These safety provisions should be brought to the notice of all concerned by display on a notice board at a prominent place at work spot. The person responsible for compliance of the safety code shall be named therein by the contractor.
 - 15. To ensure effective enforcement of the rules and regulations relating to safety precautions the arrangements made by the contractor shall be open to inspection by Labour Officer or the Engineer-in-Charge or their representatives.
 - 16. Notwithstanding the above clauses from (1) to (15) there is nothing in these to exempt the contractor from the operations of any other Act or Rule in force in the Republic of India.

MODEL RULES FOR THE PROTECTION OF HEALTH AND SANITARY ARRANGEMENTS FOR WORKERS EMPLOYED BY HLL LIFECARE LIMITED OR ITS CONTRACTORS

1. APPLICATION

These rules shall apply to all buildings and construction works in charge of the HLL Lifecare Ltd in which twenty or more workers are ordinarily employed or are proposed to be employed in any day during the period during which the contract work is in progress.

2. DEFINITION

Work place means a place where twenty or more workers are ordinarily employed in connection with construction work, on any day during the period, during which the contract work is in progress.

3. FIRST-AID FACILITIES

- i) At every work place there shall be provided and maintained, so as to be easily accessible during working hours, first aid boxes at the rate of not less than one box for 150-contract labour or part thereof ordinarily employed.
- ii) The first-aid box shall be distinctly marked with a red cross on white back ground and shall contain the following equipment: -
 - a) For work places in which the number of contract labour employed does not exceed 50- Each first-aid box shall contain the following equipment: -
 1. 6 small sterilised dressings.
 2. 3 medium size sterilised dressings.
 3. 3 large size sterilised dressings.
 4. 3 large sterilised burn dressings.
 5. 1 (30 ml.) bottle containing a two percent alcoholic solution of iodine
 6. 1 (30ml) bottle containing salvolatile having the dose and mode of administration indicated on the label.
 7. 1 snakebite lancet.
 8. 1 (30gms.) bottle of potassium permanganate crystals.
 9. 1 pair scissors.
 10. 1 copy of the first-aid leaflet issued by the Director General, Factory Advice Service and Labour Institute, Government of India.
 11. 1 Bottle containing 100 tablets (each of 5 gms.) of aspirin.
 12. Ointment for burns.
 13. A bottle of suitable surgical antiseptic solution

- b) For workplaces in which the number of contract labour exceeds 50- Each first-aid- box shall contain the following equipment.
 - 1. 12 small sterilised dressing.
 - 2. 6 medium size sterilised dressings.
 - 3. 6 large size sterilised dressings.
 - 4. 6 large size sterilised burn dressings.
 - 5. 6 (15-gms.) packets sterilised cotton wool.
 - 6. 1 (60 ml.) bottle containing two percent alcoholic solution iodine.
 - 7. 1 (60-ml.) bottle containing salvolite latile having the dose and mode of administration indicated on the label.
 - 8. 1 roll of adhesive plaster.
 - 9. 1 snake bite lancet.
 - 10. 1 (30 gms.) bottle of potassium permanganate crystals.
 - 11. 1 pair of scissors.
 - 12. 1 copy of the first-aid leaflet issued by the Director General Factory Advice Service and Labour Institute/ Government of India.
 - 13. A bottle containing 100 tablets (each of 5 gms.) of aspirin.
 - 14. Ointment for burns.
 - 15. A bottle of suitable surgical antiseptic solution.
- iii) Adequate arrangements shall be made for immediate recoupment of the equipment when necessary.
- iv) Nothing except the prescribed contents shall be kept in the First-aid box.
- v) The first-aid box shall be kept in charge of a responsible person who shall always be readily available during the working hours at the work place.
- vi) A person in charge of the first-aid box shall be a person trained in First-Aid treatment, at the work places where the number of contract labour employed is 150 or more.
- vii) In work places where the number of contract labour employed is 500 or more and hospital facilities are not available within easy distance from the works, First-aid posts shall be established and run by a trained compounder. The compounder shall be on duty and shall be available at all hours when the workers are at work.
- viii) Where work places are situated in places, which are not towns or cities, a suitable motor transport shall be kept readily available to carry injured person or person suddenly taken ill to the nearest hospital.

4. DRINKING WATER

- i) In every work place, there shall be provided and maintained, at suitable places, easily accessible to labour, a sufficient supply of cold water fit for drinking.
- ii) Where drinking water is obtained from an intermittent public water supply, each work place shall be provided with storage where such drinking water shall be stored.
- iii) Every water supply or storage shall be at a distance of not less than 50 feet from any latrine drain or other source of pollution. Where water has to be drawn from an existing well, which is within such proximity of latrine, drain or any other source of pollution, the well shall be properly chlorinated before water is drawn from it or for drinking. All such wells shall be entirely closed in and be provided with a trap door, which shall be dust and waterproof.
- iv) A reliable pump shall be fitted to each covered well, the trap door shall be kept locked and opened only for cleaning or inspection which shall be done at least once a month.

5. WASHING FACILITIES

- i) In every work place adequate and suitable facilities for washing shall be provided and maintained for the use of contract labour employed therein.
- ii) Separate and adequate cleaning facilities shall be provided for the use of male and female workers.
- iii) Such facilities shall be conveniently accessible and shall be kept in clean and hygienic condition.

6. LATRINES AND URINALS

- i) Latrines shall be provided in every work place on the following scale namely:-
 - a) Where female are employed there shall be at least one latrine for every 25 females.
 - b) Where males are employed, there shall be at least one latrine for every 25 males.Provided that where the number of males or females exceeds 100, it shall be sufficient if there is one latrine for 25 males or females as the case may be upto the first 100, and one for every 50 thereafter.
- ii) Every latrine shall be under cover and so partitioned off as to secure privacy, and shall have a proper door and fastenings.
- iii) Construction of latrines: The inside walls shall be constructed of masonry or some suitable heat-resisting nonabsorbent materials and shall be cement washed inside and outside at least once a year. Latrines shall not be of a standard lower than bore-hole system.

- iv) a) Where workers of both sexes are employed, there shall be displayed outside each block of latrine and urinal, a notice in the language understood by the majority of the workers "For Men only" or "For Women only" as the case may be.
b) The notice shall also bear the figure of a man or a woman, as the case may be.
- v) There shall be at least one urinal for upto 50 number of male workers and one for upto 50 number of female workers employed at a time, provided that where the number of male or female workers, as the case may be, exceeds 500, it shall be sufficient if there is one urinal for every 50 males or females, upto the first 500 and one for every 100 or part thereafter.
- vi) a) The latrines and urinals shall be adequately lighted and shall be maintained in a clean and sanitary condition at all times.
b) Latrines and urinals other than those connected with a flush sewage system shall comply with the requirements of the Public Health Authorities.
- vii) Water shall be provided by means of tap or otherwise so as to be conveniently accessible in or near the latrines and urinals.
- viii) Disposal of excreta: - Unless otherwise arranged for by the local sanitary authority, arrangements for proper disposal of excreta by incineration at the work place shall be made by means of a suitable incinerator. Alternately excreta may be disposed off by putting a layer of night soil at the bottom of a pucca tank prepared for the purpose and covering it with a 15 cm. layer of waste or refuse and then covering it with a layer of earth for a fortnight (When it will turn to manure).
- ix) The contractor shall at his own expense, carry out all instructions issued to him by the Engineer-in-Charge to effect proper disposal of night soil and other conservancy work in respect of the contractor's workmen or employees on the site. The contractor shall be responsible for payment of any charges, which may be levied by Municipal or Cantonment Authority for execution of such on his behalf.

7. PROVISION OF SHELTER DURING REST

At every place there shall be provided, free of cost, four suitable sheds, two for meals and the other two for rest separately for the use of men and women labour. The height of each shelter shall not be less than 3 metres (10 ft.) from the floor level to the lowest part of the roof. These shall be kept clean and the space provided shall be on the basis of 0.6 sq. m. (6 sq. ft.) per head. Provided that the Engineer-in-Charge may permit subject to his satisfaction, a portion of the building under construction or other alternative accommodation to be used for the purpose.

8. CRECHES

- i) At every work place, at which 20 or more women worker are ordinarily employed, there shall be provided two rooms of reasonable dimensions for the use of their children under the age of six years. One room shall be used as a playroom for the children and the other as their bedroom. The rooms shall be constructed with specifications as per clause 19 H (ii) a, b & c.

- ii) The rooms shall be provided with suitable and sufficient openings for light and ventilation. There shall be adequate provision of sweepers to keep the places clean.
- iii) The contractor shall supply adequate number of toys and games in the playroom and sufficient number of cots and beddings in the bedroom.
- iv) The contractor shall provide one ayah to look after the children in the crèche when the number of women workers does not exceed 50 and two when the number of women workers exceeds 50.
- v) The use of the rooms earmarked as crèches shall be restricted to children, their attendants and mothers of the children.

9. CANTEENS

- i) In every work place where the work regarding the employment of contract labour is likely to continue for six months and where in contract labour numbering one hundred or more are ordinarily employed, an adequate canteen shall be provided by the contractor for the use of such contract labour.
- ii) The contractor shall maintain the canteen in an efficient manner.
- iii) The canteen shall consist of atleast a dining hall, kitchen, storeroom, pantry and washing places, separately for workers and utensils.
- iv) The canteen shall be sufficiently lighted at all times when any person has access to it.
- v) The floor shall be made of smooth and impervious materials and inside walls shall be lime-washed or colour washed atleast once in each year. Provided that the inside walls of the kitchen shall be lime-washed every 4 months.
- vi) The premises of the canteen shall be maintained in a clean and sanitary condition.
- vii) Wastewater shall be carried away in suitable covered drains and shall not be allowed to accumulate so as to cause a nuisance.
- viii) Suitable arrangements shall be made for the collection and disposal of garbage.
- ix) The dining hall shall accommodate at a time 30 percent of the contract labour working at a time.
- x) The floor area of the dining hall, excluding the area occupied by the service counter and any furniture, except tables and chairs, shall not be less than one square metre (10 sft.) per diner to be accommodated as prescribed in sub-Rule 9.
- xi)
 - a) A portion of the dining hall and service counter shall be partitioned off and reserved for women workers in proportion to their number.
 - b) Washing places for women shall be separate and screened to secure privacy.
- xii) Sufficient tables' stools, chair or benches shall be available for the number of diners to be accommodated as prescribed in sub-Rule 9.

- xiii) a)
1. There shall be provided and maintained, sufficient utensils, crockery, furniture and any other equipment's, necessary for the efficient running of the canteen.
 2. The furniture utensils and other equipment shall be maintained in a clean and hygienic condition.
- b)
1. Suitable clean cloths for the employees serving in the canteen shall be provided and maintained.
 2. A service counter, if provided, shall have top of smooth and impervious material.
 3. Suitable facilities including an adequate supply of hot water shall be provided for the cleaning of utensils and equipment's.
- xiv) The foodstuffs and other items to be served in the canteen shall be in conformity with the normal habits of the contract labour.
- xv) The charges for foodstuffs, beverages and any other items served in the canteen shall be based on 'No profit, No loss' and shall be conspicuously displayed in the canteen.
- xvi) In arriving at the price of food stuffs, and other articles served in the canteen, the following items shall not be taken into consideration as expenditure namely: -
- a) The rent of land and building.
 - b) The depreciation and maintenance charge for the building and equipment's provided for the canteen.
 - c) The cost of purchase, repairs and replacement of equipment's including furniture, crockery, cutlery and utensils.
 - d) The water charges and other charges incurred for lighting and ventilation.
 - e) The interest and amounts spent on the provision and maintenance of equipment's provided for the canteen.
- xvii) Registered accountants and auditors shall audit the accounts pertaining to the canteen once every 12 months.

10. ANTI-MALARIAL PRECAUTIONS

The contractor shall at his own expense, conform to all anti-malarial instructions given to him by the Engineer-in-Charge including the filling-up of any borrow pits which may have been dug by him.

- 11.** The above rules shall be incorporated in the contracts and in notices inviting tenders and shall form an integral part of the contracts.

12. AMENDMENTS

HLL may, from time to time, add to or amend these rules and issue directions it may consider necessary for the purpose of removing any difficulty, which may arise in the administration thereof.

CONTRACTOR'S LABOUR REGULATIONS

1. SHORT TITLE

These regulations may be called the Contractors Labour Regulations.

2. DEFINITIONS

- i) **Workman** means, any person employed by HLL or its contractor directly or indirectly, through a subcontractor, with or without the knowledge of the HLL, to do any skilled, semiskilled or unskilled, manual, supervisory, technical or clerical work, for hire or reward, whether the terms of employment are expressed or implied, but does not include any person: -
 - a) Who is employed mainly in a managerial or administrative capacity; or,
 - b) Who, being employed in a supervisory capacity draws wages exceeding five hundred rupees per mensem or exercises either by the nature of the duties attached to the office or by reason of powers vested in him, functions mainly of managerial nature; or,
 - c) Who is an out worker, that is to say, person to whom any article or materials are given out by or on behalf of the principal employers to be made up cleaned, washed, altered, ornamental finished, repaired adopted or otherwise processed for sale for the purpose of the trade or business of the principal employers and the process is to be carried out either in the home of the out worker or in same other premises, not being premises under the control and management of the principal employer.
- ii) **Fair Wages** means wages whether for time or piecework fixed and notified under the provision of the Minimum Wages Act from time to time.
- iii) **Contractors** shall include every person who undertakes to produce a given result other than a mere supply of goods or articles of manufacture through contract labour or who supplies contract labour for any work and includes a subcontractor.
- iv) **Wages** shall have the same meaning as defined in the Payment of Wages Act.

3.

- i) Normally working hours of an adult employee should not exceed 9 hours a day and in case of child 4 ½ hours a day. The working day shall be so arranged that inclusive of interval for rest, if any, it shall not spread over more than 12 hours on any day.
- ii) When an adult worker is made to work for more than 9 hours on any day or for more than 48 hours in any week he shall be paid over time for the extra

hours put in by him at double the ordinary rate of wages. Children shall not be made to work extra hours.

- iii) a) Every worker shall be given a weekly holiday normally on a Sunday, in accordance with the provisions of Minimum Wages (Central) Rules 1960, as amended from time to time, irrespective of whether such worker is governed by the Minimum Wages Act or not.
- b) Where the minimum wages prescribed by the HLL, under the Minimum Wages Act, are not inclusive of the wages for the weekly day of rest, the worker shall be entitled to rest day wages, at the rate applicable to the next preceding day, provided he has worked under the same contractor for a continuous period of not less than 6 days.
- c) Where a contractor is permitted by the Engineer-in-Charge to allow a worker to work on a normal weekly holiday, he shall grant a substituted holiday to him for the whole day, on one of the five days, immediately before or after the normal weekly holiday, and pay wages to such worker for the work performed on the normal weekly holiday at the overtime rate.

4. DISPLAY OF NOTICE REGARDING WAGES ETC.

The contractor shall, before he commences his work on contract, display and correctly maintain and continue to display and correctly maintain, in a clear and legible condition in conspicuous places on the work, notices in English and in local Indian languages spoken by the majority of the workers, giving the minimum rates of the wages fixed under Minimum Wages Act, the actual wages being paid, the hours of work for which such wage are earned, wages periods, dates of payments of wages and other relevant information as per Appendix 'III'.

5. PAYMENT OF WAGES.

- i) The contractor shall fix wage periods in respect of which wages shall be payable.
- ii) No wage period shall exceed one month.
- iii) The wages of every person employed as contract labour in an establishment or by a contractor, where less than one thousand such persons are employed, shall be paid before the expiry of seventh day and in other cases before the expiry of tenth day after the last day of the wage period in respect of which the wages are payable.
- iv) Where the employment of any worker is terminated by or on behalf of the contractor the wages earned by him shall be paid before the expiry of the second working day from the date on which his employment is terminated.
- v) All payment of wages shall be made on a working day at the work premises and during the working time and on a date notified in advance and in case the work is completed before the expiry of the wage period, final payment shall be made within 48 hours of the last working day.
- vi) Wages due to every worker shall be paid to him direct or to other person authorized by him in this behalf.

- vii) All wages shall be paid in current coin or currency or in both.
- viii) Wages shall be paid without any deductions of any kind except those specified by the Central HLL by general or special order in this behalf or permissible under the Payment of Wages Act 1956.
- ix) A notice showing the wages period and the place and time of disbursement of wages shall be displayed at the place of work and a copy sent by the contractor to the Engineer-in-Charge under acknowledgement.
- x) It shall be the duty of the contractor to ensure the disbursement of wages in presence of authorized representative of the Engineer-in-Charge who will be required to be present at the place and time of the disbursement of wages by the contractor to workmen.
- xi) The contractor shall obtain from the or any other authorized 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 the column No.....has been paid to the workman concerned in my presence on.....at....."

6. FINES AND DEDUCTIONS WHICH MAY BE MADE FROM WAGES

- (i) The wages of a worker shall be paid to him without any deduction of any kind except the following: -
 - (a) Fines
 - (b) Deductions for absence from duty i.e. from the place or the places where by the terms of his employment he is required to work. The amount of deduction shall be in proportion to the period for which he was absent.
 - (c) Deductions for damage to or loss of goods expressly entrusted to the employed person for custody, or for loss of money or any other deductions which he is required to account, where such damage or loss is directly attributable to his neglect or default.
 - (d) Deduction for recovery of advances or for adjustment of overpayment of wages, advances granted shall be entered in a register.
 - (e) Any other deduction, which the Central Government may from time to time, allows.
- (ii) No fines should be imposed on any worker save in respect of such acts and omissions on his part as have been approved of by the Chief Labour Commissioner.

Note:- An approved list of Acts and Omission for which fines can be imposed is enclosed at Appendix-X.

- (iii) No fine shall be imposed on a worker and no deduction for damage or loss shall be made from his wages until the worker has been given an opportunity of showing cause against such fines or deductions.
- (iv) The total amount of fine, which may be imposed, in any one-wage period, on a worker, shall not exceed an amount equal to three paise in a rupee of the total wages, payable to him in respect of that wage period.
- (v) No fine imposed on any worker shall be recovered from him by installment, or after the expiry of sixty days from the date on which it was imposed.
- (vi) Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed.

7. LABOUR RECORDS

- (i) The contractor shall maintain a **Register of Persons employed** on work on contract in Form XIII of the CL (R&A) Central Rules 1971 (Appendix IV)
- (ii) The contractor shall maintain a **Muster Roll** register in respect of all workmen employed by him on the work under Contract in Form XVI of the CL (R&A) Rules 1971 (Appendix V)
- (iii) The contractor shall maintain a **Wage Register** in respect of all workmen employed by him on the work under contract in Form XVII of the CL (R&A) Rules 1971 (Appendix VI)
- (iv) **Register of accident** – The contractor shall maintain a register of accidents in such form as may be convenient at the work place but the same shall include the following particulars:
 - a) Full Particulars of the labourers who met with accident.
 - b) Rate of wages.
 - c) sex
 - d) Age
 - e) Nature of accident and cause of accident
 - f) Time and date of accident
 - g) Date and time when admitted in hospital
 - h) Date of discharge from the hospital
 - i) Period of treatment and result of treatment
 - j) Percentage of loss of earning capacity and disability as assessed by Medical Officer.
 - k) Claim required to be paid under Workmen's Compensation Act.
 - l) Date of payment of compensation
 - m) Amount paid with details of the person to whom the same was paid

- n) Authority by whom the compensation was assessed
- o) Remarks.

- v) The contractor shall maintain a **Register of Fines** in the Form XII of the CL (R&A) Rules 1971 (Appendix XI) The contractor shall display in a good condition and in a conspicuous place of work the approved list of acts and omission for which fines can be imposed (Appendix X)

- v) The contractor shall maintain a **Register of deductions for damage or loss** in Form XX of the CL (R&A) Rules 1971 (Appendix XII).

- vii) The contractor shall maintain a **Register of Advances** in Form XXIII of the CL (R&A) Rules 1971 (Appendix-XIII).

- vii) The contractor shall maintain a **Register of Overtime** in Form XXIII of the CL (R&A) Rules 1971 (Appendix-XIV).

8. ATTENDANCE CARD-CUM WAGE SLIP

- i) The contractor shall issue an **Attendance card cum wage slip** to each workman employed by him in the specimen form at (Appendix-VII).

- ii) The card shall be valid for each wage period.

- iii) The contractor shall mark the attendance of each workman on the card twice each day, once at the commencement of the day and again after the rest interval, before he actually starts work.

- iv) The card shall remain in possession of the worker during the wage period under reference.

- v) The contractor shall complete the wage slip portion on the reverse of the card at least a day prior to the disbursement of wages in respect of the wage period under reference.

- vi) The contractor shall obtain the signature or thumb impression of the worker on the wage slip at the time of disbursement of wages and retain the card with him.

9. EMPLOYMENT CARD

The contractor shall issue an **Employment Card** in the Form XIV of CL (R&A) Central Rules 1971 to each worker within three days of the employment of the worker (Appendix-VIII).

10. SERVICE CERTIFICATE

On termination of employment for any reason whatsoever the contractor shall issue to the workman whose services have been terminated, a Service Certificate in the Form XV of the CL (R&A) Central Rules 1971 (Appendix-IX).

11. PRESERVATION OF LABOUR RECORDS

All records required to be maintained under Regulations Nos. 6 & 7 shall be preserved in original for a period of three years from the date of last entries made in them and shall be made available for inspection by the Engineer-in-Charge or Labour Officer or any other officers authorized by the Ministry of Communication in this behalf.

12. POWER OF LABOUR OFFICER TO MAKE INVESTIGATIONS OR ENQUIRY

The labour officer or any person authorized by the Central HLL on their behalf shall have power to make enquiries with a view to ascertaining and enforcing due and proper observance of Fair Wage Clauses and provisions of these Regulations. He shall investigate into any complaint regarding the default made by the contractor or subcontractor in regard to such provision.

13. REPORT OF LABOUR OFFICER

The Labour Officer or other persons authorized as aforesaid shall submit a report of result of his investigation or enquiry to the Engineer in charge concerned indicating the extent, if any, to which the default has been committed with a note that necessary deductions from the contractor's bill be made and the wages and other dues be paid to the labourers concerned. In case an appeal is made by the contractor under Clause 13 of these regulations, actual payment to labourers will be made by the Engineer in charge after a decision has been made on such appeal.

- i) Engineer in charge shall arrange payments to the labour concerned within 45 days from the receipt of the report from the Labour Officer

14. APPEAL AGAINST THE DECISION OF LABOUR OFFICER

Any person aggrieved by the decision and recommendations of the Labour Officer or other person so authorized may appeal against such decision to the Superintending Engineer concerned within 30 days from the date of decision, forwarding simultaneously a copy of his appeal to the Executive Engineer concerned but subject to such appeal, the decision of the officer shall be final and binding upon the contractor.

15. PROHIBITION REGARDING REPRESENTATION THROUGH LAWYER

- i) A workman shall be entitled to be represented in any investigation or inquiry under these regulations by: -

- a) An officer of a registered trade union of which he is a member.
 - b) An officer of a federation of trade unions to which the trade union referred to in Clause (a) is affiliated.
 - c) Where the employer is not a member of any registered trade union, by an officer of a registered trade union, connected with the industry in which the worker is employed or by any other workman employed in the industry in which the worker is employed.
- ii) An employer shall be entitled to be represented in any investigation or inquiry under these regulations by:-
- a) An officer of an association of employers of which he is a member.
 - b) An officer of a federation of associations of employers to which association referred to in Clause (a) is affiliated.
 - c) Where the employer is not a member of any association of employers, by an officer of association of employer connected with the industry, in which the employer is engaged or by any other employer, engaged in the industry in which the employer is engaged.
- iii) No party shall be entitled to be represented by a legal practitioner in any investigation inquiry under these regulations.

16. INSPECTION OF BOOKS AND SLIPS

The contractor shall allow inspection of all the prescribed labour records to any of his workers or to his agent at a convenient time and place after due notice is received or to the Labour Officer or any other person, authorized by the Central Government on his behalf.

17. SUBMISSION OF RETURNS

The contractor shall submit periodical returns as may be specified from time to time.

18. AMENDMENTS

The HLL may from time to time add to or amend the regulations and on any question as to the application/interpretation or effect of those regulations the decision of the Superintending Engineer concerned shall be final.

Appendix 'I'

REGISTER OF MATERNITY BENEFITS (Clause 19F)

Name and address of the contractor _____

Name and Location of the work _____

Name of the Employee	Father's/ husband's name	Nature of Employment	Period of actual confinement	Date on which notice of given
1	2	3	4	5

Date on which maternity leave commenced and ended				
Date of Delivery/ Miscarriage	In case of delivery		In case of miscarriage	
	Commenced	Ended	Commenced	Ended
6	7	8	9	10

Leave pay paid to the employee				Remarks
In case of delivery		In case of miscarriage		
Rate of leave pay	Amount paid	Rate of leave pay	Amount paid	
11	12	13	14	15

Appendix 'II'

**SPECIMEN FORM OF THE REGISTER, REGARDING
MATERNITY BENEFIT ADMISSIBLE TO THE CONTRACTOR'S
LABOUR IN HLL LIFECARE LIMITED.**

Name and address of the
contractor _____

Name and location of the
work _____

1. Name of the woman and her husband's name.
2. Designation
3. Date of appointment.
4. Date with months and years in which she is employed.
5. Date of discharge / dismissal, if any.
6. Date of production of certificates in respect of pregnancy.
7. Date on which the woman informs about the expected delivery.
8. Date of delivery / miscarriage / death.
9. Date of production of certificates in respect of delivery / miscarriage.
10. Date with the amount of maternity/ death benefit paid in advance of
expected delivery.
11. Date with amount of subsequent payment of maternity benefit.
12. Name of the person nominated by the woman to receive the payment of
the maternity benefit after her death.
13. If the woman dies, the date of death, the name of the person to whom
maternity benefit amount was paid, the month thereof and the date of
payment.
14. Signature of the contractor for authenticating entries in the register.
15. Remarks column for the use of inspecting officer.

Appendix 'III'

LABOUR BOARD

Name of work:_____

Name of Contractor:_____

Address of Contractor:_____

Name and address of HLL Genet:_____

Name of HLL Labour Officer :_____

Address of HLL Labour Officer:_____

Name of Labour Enforcement Officer:_____

Address of Labour Enforcement Officer:_____

Sl.No	Category	Minimum wage Fixed	Actual wage paid	Number Present	Remarks

Weekly holiday_____

Wage period _____

Date of payment of Wages_____

Working hours_____

Rest interval_____

Appendix 'IV'

Form-XIII (See Rule 75)
Register of Workmen Employed by Contractor

Name and address of
 contractor_____

Name and address of establishment under which contract is carried
 on_____

Nature and location of
 Work_____

Name and address of Principal
 Employer_____

Sl. No.	Name and surname of Workman	Age and Sex	Father's/ Husband's Name	Nature of employment / designation	Permanent home address of the workman (Village and Tehsil, Taluka and District)	Local Address	Date of commencement of employment	Signature or thumb impression of the workman	Date Termination of employment.	Reasons For termination.	Remarks
1	2	3	4	5	6	7	8	9	10	11	12

Appendix 'V'

Form-XVI (See Rule 78(2)(a))
Muster Roll

Name and address of the
contractor_____

Name and address of establishment under which contract is carried
on_____

Nature and location of
work_____

Name and address of Principal
Employer_____

For the month of fortnight_____

Sl. No.	Name of workman	Sex	Father's/ Husband's name	Dates					Remarks
1	2	3	4	5					6
				1	2	3	4	5	

Appendix 'VI'

Form –XVII (See Rule 78(2)(a))
Register of Wages

Name and address of the contractor_____

Name and address of establishment under which contract is carried
on_____Nature and location of
work_____Name and address of Principal
Employer_____

Wages period_____ Monthly/fortnightly

Sl.No.	Name of workman	Serial No.in the register of workman	Designation Nature of work done	No. of days worked	Units of work done	Daily rate of wages/piece rate	Basic Wages
1	2	3	4	5	6	7	8

Dearness allowances	Overtime	Other cash payments(Indic ate nature)	Total	Deductions if any, (indicate nature)	Net amount paid	Signature or thumb impression of the workman	Initial of contractor or his representative
9	10	11	12	13	14	15	16

Appendix 'VII'
(Observe)

Wage Card No. _____

Wage CardName and address of the
contractor _____

Date of issue _____

Name and location of
work _____

Designation _____

Name of Workman _____

Month/fortnight _____

Rate of Wages _____

	DATE																														
	1.	2.	3.	4.	5.	6.	7.	8.	9.	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Morning																															
Evening																															
Initial																															

Rate _____

Amount _____

Received from _____ the sum of Rs. _____
on account of my wages.

Signature

Appendix 'VII'
(Reverse)

Form-XIX
(See rule 78(2)(b))
Wages Slip

Name and address of the contractor_____

Name and Father's/Husband's name of workman_____

Nature and location of work_____

For the Week/Fortnight/Month ending_____

1. No. of days worked _____

2. No. of units worked in case of piece rate workers_____

3. Rate of daily wages/piece rate_____

4. Amount of overtime wages_____

5. Gross wages payable_____

6. Deduction, if any_____

7. Net amount of wages paid_____

Initials of the Contractors or his representative

Appendix 'VIII'

Form-XIV
(See rule 76)
Employment Card

Name and address of the contractor_____

Name and address of establishment under which contract is carried
on_____

Nature of work and location of
work_____

Name and address of Principal
Employer_____

1. Name of Workman_____
2. SI No. in the register of workman employed_____
3. Nature of employment/designation_____
4. Wage rate (with particulars of unit in case of piece work)_____
5. Wages period_____
6. Tenure of employment_____
7. Remarks_____

Signature of contractor

Appendix 'IX'

Form-XV (See Rule 77)
Service Certificate

Name and address of the contractor_____

Nature and location of work_____

Name and Address of workman_____

Age or date of birth_____

Identification marks_____

Father's/Husband's name_____

Name and address of establishment in/under which contract is carried on_____

Name and address of Principal Employer_____

Sl.No.	Total period for which employed		Nature of work done	Rate of Wages (with particulars of unit in case of piece work)	Remarks
	From	To			
1	2	3	4	5	6

Signature

Appendix 'X'**LIST OF ACTS AND OMISSIONS FOR WHICH FINES CAN BE IMPOSED**

In accordance with rule 7 (v) of the HLL Contractors Labour Regulations to be displayed prominently at the site of work both in English and local Language.

1. Willful insubordination or disobedience, whether along or in combination with other.
2. Theft fraud or dishonestly in connection with the contractors beside a business or property of HLL.
3. Taking or giving bribes or any illegal gratifications.
4. Habitual late attendance.
5. Drunkenness fighting, riotous or disorderly or indifferent behavior.
6. Habitual negligence.
7. Smoking near or around the area where combustible or other materials are locked.
8. Habitual indiscipline.
9. Causing damage to work in the progress or to property of the HLL or of the contractor.
10. Sleeping on duty.
11. Malingering or showing down work.
12. Giving of false information regarding name and father's name etc.
13. Habitual loss of wage cards supplied by the employers.
14. Unauthorized use of employer's property of manufacturing or making of unauthorized articles at the work place.
15. Bad workmanship in construction and maintenance by skilled workers which is not approved by the HLL and for which the contractors are compelled to undertake rectification.
16. Making false complaints and/or misleading statements.
17. Engaging on trade within the premises of the establishment.
18. Any unauthorized divulgence of business affairs of the employees.
19. Collection or canvassing for the collection of any money within the premises of an establishment unless authorized by the employer.
20. Holding meeting inside the premises without previous sanction of the employers.
21. Threatening or intimidating any workman or employer during the working hours within the premises.

Appendix 'XI'

Form-XII (See Rule 78(2)(d))
Register of Fines

Name and address of the contractors_____

Name and address of establishment under which contract is carried
on_____

Nature and location of work_____

Name and address of Principal Employer_____

Sl.No.	Name of workman	Father's/Husband's name	Designation/nature of employment	Act/Omission For which fine imposed	Date of Offence
1	2	3	4	5	6

Whether workman Showed cause against fine	Name of person in whose presence employees explanation was heard	Wage period and wages payable	Amount of fine imposed	Date on which fine realized	Remarks.
7	8	9	10	11	12

Appendix 'XII'

Form-XX(See Rule 78(2)(d))
Register of Deduction for Damage or Loss

Name and address of the contractors_____

Name and address of establishment under which contract is carried
 on_____

Nature and location of work_____

Name and address of Principal Employer_____

Sl.No.	Name of workman	Father's/Husband's name	Designation/nature of employment	Particulars of damage or loss	Date of damage or loss
1	2	3	4	5	6

Whether workman showed cause against fine	Name of person in whose presence employees explanation was heard	Amount of deduction imposed	No. of installments	Date of recovery		Remarks
				First installment	Last installment	
7	8	9	10	11	12	13

Appendix 'XIII'

Form-XXII (See Rule 78(2)(d))
Register of Advances

Name and address of the
contractors _____

Name and address of establishment under which contract is carried
on _____

Nature and location of
work _____

Name and address of Principal
Employer _____

Sl. No.	Name of workman	Father's/Husband's name	Designation nature of employment	Wage period and wages payable	Date and Amount of Advance given	Purpose(s) for which Advance made	Number of Installments by which advance to be repaid	Date and amount of each installments repaid	Date on which last Installments was repaid	Remarks
1	2	3	4	5	6	7	8	9	10	11

Appendix 'XIV'

Form-XXIII (See Rule 78(2)(e))
Register of Overtime

Name and address of the
contractors_____

Name and address of establishment under which contract is carried
on_____

Nature and location of
work_____

Name and address of Principal Employer

Sl.No.	Name of workman	Father's/husband's name	Sex	Designation /nature of employment	Date on which Overtime worked	Total overtime worked or production incase	Normal rate of wages	Overtime rate of wages	Overtime earnings	Rate on which overtime wages paid	Remarks
1	2	3	4	5	6	7	8	9	10	11	12