

GOVERNMENT OF WEST BENGAL
Office of the Superintending Engineer, Eastern Circle, I. & W. Directorate
8th Floor, Jalasampad Bhawan, Salt Lake, Kolkata – 700091

Memo No. 2492

Dated :- 31.08.2018

CORRIGENDUM No. 1 FOR e-N.I.T. NO. – WBIW/SE/EC/NIT-10(e)/2018-19

Name of Work - Dredging in River Muriganga in P.S. Kakdwip & Sagar, District South 24-Parganas.
Tender ID : 2018_IWD_187876_1

The following corrections have been made in the Notice Inviting e-Tender No. - WBIW/SE/EC/NIT-10(e)/2018-19, on regarding "GENERAL TERMS AND CONDITIONS OF CONTRACT (GCC)" and In "TERMS OF REFERENCE of CHANNEL DETAILS" which are as below:

1. Due to technical snag (In terms of software problem) "GENERAL TERMS AND CONDITIONS OF CONTRACT (GCC)" as published in e-NIT No. WBIW/SE/EC/NIT-10(e)/2018-19 will be replaced by corrected "GENERAL TERMS AND CONDITIONS OF CONTRACT (GCC)". Corrected copy of "GENERAL TERMS AND CONDITIONS OF CONTRACT (GCC)" is annexed into this corrigendum.

2. In "TERMS OF REFERENCE" Clause 2.1 CHANNEL DETAILS (Channel -2) **will be read**

as "Channel -2 of approximate dimension of 3.8 km (length) x 50m** (bottom width) x 2.5m (depth), is designated in front of Jetty No.3 to carry passenger from jetty 4, jetty 5 and nearby jetties to Kachuberia, for movement of smaller steel/wooden passenger vessels.

** Designed bottom width is 50m, however at curvatures and intersection point with other channels width has been suitably widened."

In place of

Channel Details(Channel -2) "Channel -2 of approximate dimension of 3.8 km (length) x 30m** (bottom width) x 2.5m (depth), is designated in front of Jetty No.3 to carry passenger from jetty 4, jetty 5 and nearby jetties to Kachuberia, for movement of smaller steel/wooden passenger vessels.

** Designed bottom width is 30m, however at curvatures and intersection point with other channels width has been suitably widened."

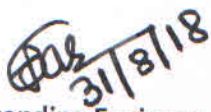
3. In "TERMS OF REFERENCE" Clause 2.1 CHANNEL DETAILS (Chanel-3) **will be read**

as "Channel-3 of approximate dimension of 1.4 km (length) x 30m (bottom width) x 2.5m (depth), connecting all the Jetties and more or less running parallel to river water flow direction, from LCT Jetty to Jetty No.1, via the VIP Jetty and Jetty Nos. 1, 2, 3, 4 & 5"

in place of

"Channel-3 of approximate dimension of 1.4 km (length) x 50m (bottom width) x 2.5m (depth), connecting all the Jetties and more or less running parallel to river water flow direction, from LCT Jetty to Jetty No.1, via the VIP Jetty and Jetty Nos. 1, 2, 3, 4 & 5"

All other terms and conditions will remain unchanged.


Superintending Engineer
Eastern Circle, I & W Dte.

WB WORKS CONTRACT FORM NO.
2911(ii) TERMED AS GENERAL TERMS
AND CONDITIONS OF CONTRACT (GCC)
TO BE READ WITH SPECIAL TERMS &
CONDITIONS OF CONTRACT (SCC)

GENERAL TERMS AND CONDITION OF CONTRACT (GCC)

Issued to (Bidder):

Postal Address with Contact No. & e-mail.....

Price – Free of Cost

**West Bengal Form No. 2911 (ii) FOR WORKS OF TENDER VALUE
Above Rs. 200.00 lakh**

Tender No., Sl. No of 2018-19

TENDER AND CONTRACT FOR WORKS GENERAL RULES AND DIRECTIONS FOR GUIDANCE OF BIDDERS/CONTRACTORS

Applicable for e-tenders of value above Rs. 200.0 Lakh

1. All works of tender value above Rs.5.00 lakh proposed for execution through this contract document is to be notified and published in the form of notice inviting e-tender (e-NIT) in the designated official tender website of Government of West Bengal having URL <https://wbtenders.gov.in>, and uploaded simultaneously in the URL www.wbiwd.gov.in, the official website of Irrigation & Waterways Department. Thus the tender may be seen and downloaded by logging into the “e-procurement” link provided therein, digitally signed by the concerned Tender Inviting Authority and its corresponding abridged notice also published on the same date in the print media.
2. This e-Notice Inviting Tender (e-NIT) will state the work to be carried out, the date for encrypting (submitting) and decrypting (opening) of e-tenders, the time allowed for carrying out the work; amount of earnest money to be deposited with the e-tender; procedure for submission of EMD, amount of security to be furnished by the successful bidder/contractor, security/ performances security to be deducted from running account bills, copies of specifications, Bill of Quantities, design and drawings and any other document required in connection with the work, digitally signed for the purpose of identification by the Tender Inviting Authority.
3. Intending contractors/bidders are required to download the e-tender documents directly from the website stated above. Tender is required to be submitted on-line by the intending bidders by authorized e-Tokens provided as DSC. This is the only mode of e-submission of tender and document/s. All information posted in the website consisting of e-NIT, WB Form No. 2911(ii), Tender Bill of Quantities (BOQ), corrigenda notices and drawings etc. if any shall form a part of the e-tender. Details of procedure of submission have been explained under “General Terms & Conditions” and Annexure attached with the notice of e-tender (e-NIT).
4. All the documents uploaded by the Tender Inviting Authority forms an integral part of the tender contract/agreement. Contractors/bidders are required to upload the entire set of tender documents along with other related documents as asked for in the e-tender through the above website/s within the stipulated date and time as given in the e-NIT. Tenders are to be submitted in two folders at a time for each work, one being the ‘Technical Proposal’ and the other ‘Financial Proposal’. The contractor/ bidder shall carefully go through all the documents and prepare to upload the scanned documents in Portable Document Formats (PDF) in the designated link in the web portal as their Technical Bid. He/she needs to fill up the rates of items/percentage in the BOQ downloaded for the work in the designated cell and upload the same again in the designated link in the portal as their Financial Bid. Documents uploaded are virus scanned and digitally signed using the Digital Signature Certificate (DSC). Contractors/bidders should especially take note of all the addenda and corrigenda related to the e-tender and upload all of these documents also as a part of their tender document.

Refer to SCC 1.1
(SCC is Special
Terms &
Conditions of
Contract)

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5. Documents uploaded by the contractors/bidders with all information & rates comprising Technical and Financial bids cannot be changed after last/end date for submission of the e-tender.
- Refer to SCC 1.2 6. Deed of Consortium/Partnership Firm, and documents of their registration in the form of certified copy of 'Form No. VIII,' issued under the Indian Partnership Act, 1932 (Act-IX of 1932), IT, VAT clearances & PAN (Permanent Account Number) as per RBI guidelines/above Rs. 50,000/- may be compulsorily furnished for all contracts and all other statutory clearances defined in the e-NIT.
7. The tender evaluation and accepting authorities reserve the right to reject any or all the tenders without assigning any reasons and he/she will not be bound to accept either the lowest tender or any of the tenders.
8. Withdrawal of e-Tender once the bid has been submitted online and after passing of end date for submission which has been accepted for further processing is not allowed. EMD will be forfeited by the Government and the bidder/contractor penalized in terms of provisions in the notice of the tender.
- Refer to SCC 1.3 9. Generally Bids will be valid for 120 days from the date of opening of the financial proposal. However, extension of bid validity may be suitably considered by the Tender Inviting Authority, if required, subject obtaining a written confirmation of the contractor/bidder (s) to that effect.

TENDER FOR WORKS

I/We on behalf of the Governor hereby tender for the execution of the work specified in the underwritten "Memorandum" within the time specified in such "Memorandum" at the rates specified therein, and in accordance, in all respects within the Rules contained in clauses 1 to 40 herein after, in all of the Annexed conditions of Contract, including Special Terms and Conditions of Contract (SCC) and with such other conditions mentioned in the Bid document, including the Terms of Reference as are provided for, by and in all other respects in accordance with such conditions so far as applicable.

MEMORANDUM

- | | |
|--|--|
| <p>(a) If several sub-works are included, they should be detailed in a separate list</p> | <p>(a) General description of work : Dredging in River Muriganga in P.S. Kakdwip & Sagar, District South 24 Parganas</p> |
| | <p>(b) Estimated cost put to Tender ... Rs. 95,24,42,972.00</p> |
| | <p>(c) Earnest money Deposit ... Rs. 50,00,000.00</p> |
| | <p>(d) Security Deposit (including earnest money) ... Rs 10% of tendered value</p> |
| Refer to SCC 1.4 | <p>(e) <u>Percentage, if any, to be deducted from bill</u> ... <u>Rs</u>

 (Rupees.....)
 Percentage.....)</p> |
| Refer to SCC 1.5 | <p>(f) <u>Time allowed for the work from date of written order to commence</u><u>calendar Months.</u></p> |

A suitable Table/Chart' is to be inserted herein the contract form, W.B Form No. 2911 for enabling the bidders to tender their financial offers in the off-line manual tenders only.
 OR,
For e-tenders, contractors/bidders are required to tender their offered rates in the tender BOQ. Tendering a financial bid in the West Bengal Form Nos. 2911(ii), the e-tender will make the bidder liable to summarily rejection.

Should this tender be accepted, I/we hereby agree to abide by and fulfill all of the terms and provisions of the said conditions of contract annexed hereto so far as applicable, or in default thereof to forfeit and pay to the Governor or his/her successions in office, the sums of money mentioned in the said conditions.

**Give particulars and numbers*

Strike out (a) or (b) as applicable.

Refer to SCC 1.7 A sum of Rs * has been furnished through online net banking/RTGS/NEFT transfer as earnest money deposit [(a) the full value of which is to be absolutely forfeited to the Governor or his/her successors in office, without prejudice to any other rights or remedies of the said Governor or his

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successors in office. Should I/we not deposit the full amount of security specified in the above 'Memorandum' in accordance with clause I(A) of the said conditions of contract, the said sum of Rs shall be retained by the Government as on account of such security as aforesaid:(b) the full value of which shall be retained by Government on account of the security deposit specified in clause I (B) of the said conditions of contract].

Dated the _____ Day of _____ 20
X Witness T

Address
Occupation

The above tender is here by accepted by me for and on behalf of the Governor of the State of west Bengal

XX

Dated the _____ Day of _____ 20

CONDITIONS OF CONTRACT

Refer to SCC 1.8

Security deposit

Prescribed percentage of tender value as EMD and balance is

to be deducted from all progressive R/A bills totaling 10% of tendered value as actually done as Security/ Performance security.

Clause 1. The person/persons whose tender may be accepted (hereinafter shall be called the contractor) shall 1(A) [within 10 days of receipt of 'Letter of Acceptance' (LoA) from the Tender Accepting Authority, deposit with the Sub-Divisional Officer (AE)/ Divisional Officer (EE), a sufficient sum, which together with the Earnest Money deposited by him/her with his/her tender, will make the full security/performance security amounting to 10% of the tendered amount and in such a case, there shall be no further deductions from the progressive bills so long as value of work does not exceed the tendered amount] or, 1(B) [permit the Divisional officer at the time of making any payment to him for work done under the contract to deduct such sum which together with the Earnest Money already deposited and converted into security deposit, shall amount to 10% of the value of works executed at the material point of time and paid during the progressive running accounts bills, so that total deduction together with Earnest Money constitute 10% of the tendered value of work actually done].

Provided, that always in the event of the contractor depositing a lump sum, by way of security deposit as contemplated at 1(A) above, and if, the sum so deposited together with the Earnest Money does not amount to 10% of the executed value of work, it shall be lawful for the Divisional Officer at the time of making payment for work done under the contract, to make the full 10(Ten) percent by deducting a sufficient sum from every such payment as last aforesaid.

Compensation of all other sums of money payable by the contractor to the Government under the terms of the contract may be deducted from the security deposit.

In case of excess/and supplementary work over the tendered amount, additional security @ of 10% of such additional amount are to be deposited for all such excess/ and supplementary works beyond the tendered amount before payment of final bill.

However, even through the earnest money deposited exceeds the prescribed percentage, due to reduction of tendered amount due to any reasons whatsoever, such additional earnest money shall be deemed to have been converted into security and further deductions from progressive bills shall be made, taking into consideration the enhanced component of earnest money is converted into security.

In case of tenders, where payment of additional performance guarantee have been specified in the tender notice (NIT), such guarantee deposited within the prescribed time, shall also be converted into security and deductions from progressive bills shall be made considering such guarantee in addition to the earnest money to ensure that the total security withheld by the Government including performance guarantee shall not exceed 10% of the tendered amount. All compensation or all other sums of money payable by the contractor to the Government under the terms of his/her contract may be deducted from, or paid by sale of a sufficient part of his/her security deposit, or from the interests arising there from, or from any sum which may be due or may

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become due to the contractor by the Government, on any account whatsoever, and in the event of his/her security deposit being reduced, by reason of any such deduction or sale as aforesaid, the contractor shall within ten days thereafter make good in appropriate mode, as decided by the Government as aforesaid, any sum or sums which may have been deducted from, or realized by sale of his/her security deposit or any part thereof.

In cases of all open tenders, for each contract work, an earnest money amounting to 2% of the estimated cost put to tender, so long as the estimated cost put to tender is up to Rs.25.00 crore and amounting to Rs. 50.00 lakh plus 1% of the excess of estimated cost over Rs.25.00 crore, in case where such estimated cost put to tender is beyond Rs.25.00 crore, will have to be deposited by all bidders, whether they are (a) bonafide contractors quoting for open e-tenders individually or as a combined unit, (b) outside State bonafide contractors, and (c) Unemployed Engineers' Co-operatives, except those otherwise exempted by the State Government on specific orders there for.

In case of excess works over the tendered amount, additional security is to be deposited for the amount of such excesses beyond the tendered amount as per prescribed rate, before payment of final bill in case of contractors opting for paying advance security and receiving payment against progressive bills without any deduction.

Security deduction will not normally be required for hiring of inspection vehicles and boats etc, supply of tools & plants, furniture and computer peripherals. Separate agreement may be required in those cases, particularly for consultancy and RFP for EPC, which shall be made in standard formats to be approved by the appropriate Government.

Clause 2. The time allowed for carrying out the work as entered in the tender shall be strictly observed by the contractor, and which shall be reckoned from the date on which the order to commence work is given to the contractor. The work shall throughout the stipulated period of the contract be proceeded with all due diligence. Time being deemed to be the essence of contract on the part of the contractor, the contractor shall be bound in all cases, to achieve the 'Milestones' as defined under Clause 5 and specified in the NIT into various 'Identifiable and quantifiable construction related stages' pertaining to the work. In the event of the contractor failing to comply with any of the conditions related to achieving the 'Milestones' within the specified time period prescribed for such 'Milestone' plus one month, he/she shall be liable to pay compensation.

Compensation
for delay

Refer to SCC 1.9

If the contractor fails to commence and/or maintain required progress viz. Milestones defined in the Notice Inviting Tender over the total time allotted for its full completion and in terms of clause 5 or fails to complete the work and clear the site on or before the end of contract period or extended date of completion, he/she shall, without prejudice to any other rights or remedy available under the law on account of such breach, pay as agreed compensation to the implementing Department. This will also apply to items or group of items for which a separate period of completion has been specified.

- i. Compensation for delay of work: **@ 2% (Two percent) of the tendered value of work arrived for each month of delay to be computed on per day basis subject to the ceiling limit of security deposit already withheld or due to be withheld during imposition of the said clause and minimum payable compensation equivalent to the Earnest Money deposited (EMD).**

Provided always, that the total amount of compensation for delay, to be paid under this clause shall not exceed 10 % of the tendered value of work or the tendered value of the item or group of items of the work, for which a separate period of completion is originally given.

Action
when whole
of security
deposit is
forfeited

The amount of compensation may be adjusted or set-off against any sum payable to the Contractor under this contract, if the contractor catches up with the progress of work subsequently, part of full of the desired progress as per the contract in accordance with the decision of the Tender Accepting Authority, under powers delegated by appropriate Government to be communicated by the Engineer-in-Charge, the withheld amount shall be released. However, no interest, whatsoever, shall be payable on such withheld amount.

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Contractor remains liable to pay compensation, if action is not taken under Clause 3

Clause 3. Subject to other provisions contained in this clause, the Engineer-in-charge with the prior approval of Tender Accepting Authority, may, without prejudice to his/her any other rights, remedy against the contractor in respect of any delay, inferior workmanship, any claims for damages and/or any other provisions of the contract or otherwise, and whether the date of completion has or has not been elapsed, by notice in writing, absolutely determine the contract in any of the following cases:

- i. If the contractor has been given by the Engineer-in-charge a notice in writing to rectify, reconstruct or replace any defective work or that work is being performed in an inefficient or otherwise improper or un-workman like manner, shall omit to comply with the requirements of such notice for a period of seven days thereafter;
- ii. If the contractor has without reasonable cause suspended the progress of work, or has failed to proceed with the work with due diligence so that, in the opinion of the Engineer-in-charge he/she will be unable to secure completion of the work by the schedule date for completion, and continues to do so after a notice of seven days in writing from the Engineer-in-charge;
- iii. If the contractor fails to complete the work within the stipulated date or the Milestones/items of work within individual dates of completion, if any, stipulated on or before such date(s) of completion and does not complete them or reach the defined Milestones within the period specified in the notice given in writing in that effect by the Engineer-in-charge;
- iv. If the contractor persistently neglects to carry out his/her obligations under the contract and/or commits default by not complying with any of the terms & conditions of the contract and does not remedy it, or take effective steps to remedy it, within seven days after a notice in writing is given to him/her in that effect by the Engineer-in-charge;
- v. If the contractor being an individual, or a firm, or any partner thereof, shall at any time be adjudged insolvent or have a 'Receiving Order' or Order for administration of his/her Estate made against him/her, or take any proceedings for liquidation or composition (other than a voluntary liquidation for the purpose of amalgamation or reconstruction) under any Insolvency Act for the time being in force, or make any conveyance or assignment of his/her effects or composition or arrangement for the benefit of his/her creditor or purport to do so, or if any application be made under Insolvency Act for the time being in force for the sequestration of his/her Estate, or if a trust deed is executed by him/her for benefit of his/her creditors;
- vi. If the contractor being a Company pass a resolution or the court delivers an order of judgement that the Company shall be wound up, or if a receiver or a manager on behalf of a creditor be appointed, or if a circumstance arise which entitle the Court or the creditor to appoint a receiver or a manager or which entitle the court to issue a winding up order;
- vii. If the contractor shall suffer an execution order being levied on his/her goods and allows it to be continued for a period of 21 days;
- viii. If the contractor assigns without prior written approval of the Tender Accepting Authority, transfers, sublets (engagement of labour on piece work basis or of labour with materials not to be incorporated in the work, shall not be deemed to be subletting) or otherwise parts with or attempts to assign, transfer, sublet or otherwise parts with the entire work or any portion thereof without prior written approval of the Engineer-in-charge;
- ix. AND THEREFORE, the contractor has made himself/herself liable for action under any of the cases aforesaid, the Engineer-in-charge on behalf of the Government with the prior approval of Tender Accepting Authority, shall have the powers to adopt any of the following actions, as he/she may deem best suited to the interest of the Government:-
 - a) To determine the contract as aforesaid, of which rescission notice in writing and costs to be recovered for works since executed subject to a minimum of the amount of Earnest Money deposited by the contractor under the hand of Engineer-in-charge, shall be the conclusive evidence. Upon such determination, the Earnest Money Deposit, Security Deposit already recovered for executed works and performance guarantee, if any under the contract shall be liable to be forfeited and shall be absolutely at the disposal of the Government.
 - b) After giving notice to the contractor to measure up the work executed and to take such whole or the balance or part thereof, as shall be un-executed out of his/her hands, and to give it to another contractor to complete the balance work. The contractor, whose contract is determined or rescind as above, shall not be

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allowed to participate in the tendering process for the balance work.

- c) To employ labour paid by the implementing Department, and to supply materials, to carry out the works or any part of the work, debarring the contractor and debiting the cost of labour and price of materials (of the amount of which cost and price determined by certificate of the Engineer-in-Charge shall be final and conclusive against the contractor) and crediting him/her with the value of the work done, in all respects in the same manner and at the same rates as if it had been carried out by the contractor under the terms of his/her contract; the certificate of the Executive Engineer as to the value of the work done shall be final and conclusive against the contractor.

Contractors
remains liable to
pay
compensation if
action not taken

In the event of above course being adopted by the Engineer-in-charge, the contractor shall have no claim of compensation for any loss sustained by him/her by reason of his/her having purchased or procured any material or entered into any engagement or made any advances on any account or with a view to execute the work or the performance of the contract. In case, action is taken under any of the provisions aforesaid, the contractor shall not be entitled to recover or be paid any sum for any work thereof actually performed under this contract, unless and until the Engineer-in-charge has certified in writing that the performance of such work and value payable in respect thereof, and he/she shall only be entitled to be paid the value so certified.

Refer to SCC 1.10

Clause 3A. In case, the work cannot be started due to reasons not within the control of the contractor within 1/8th (one eighth) of the stipulated time for completion of the work, which is accepted as a valid & justified reason by the Tender Accepting-Authority, either party viz. Contractor & the Engineer-in-Charge may close the contract with the approval of Tender Accepting Authority. In such an eventuality, the earnest money deposited and the security of the contractor shall be refunded, but no payment on account of interests, loss of profit or damages etc. shall be payable at all.

Clause 3B. In case of a continuing work cannot be completed due to reasons beyond the control of the contractor, like Force Majeure enumerated later under Clause 5.2, the contract may be terminated as stated in clause 3A above by the Engineer-in-Charge with the consent of the contractor and approval of the Tender Accepting Authority.

Power to take
possession of or
require removal of or
sell Contractor's plant

Clause 4. In cases in which any of the powers conferred upon the Engineer-in-Charge under Clause 3 hereof shall have become exercisable and the same had not been previously exercised. Non exercising thereof shall not constitute as a waiver of any of the conditions hereto, and such powers shall, notwithstanding be exercisable in the event of any future case of default by the contractor, for which by any clause or clauses hereof, he/she is declared liable to pay compensation amounting to whole of his/her security deposit, and the liability of the contractor for past and future compensation shall remain unaffected. In the event of the Engineer-in-Charge putting in force either of the powers under ix (a) or (c) vested with him/her under the preceding clause, he/she may if he/she so desire, take possession of all or any tools & plant, materials and stores, in or upon the work, or the site thereof, or belonging to the contractor, or procured by him/her and intended to be used for execution of the work, or any part thereof, paying or allowing for the same in account at the contract rates or in case of these not being applicable, at current market rates to be certified by the Engineer-in-Charge whose certificate thereof, shall be final and binding. Otherwise, the Engineer-in-Charge may deliver notice in writing to the contractor or his/her clerk, foreman or other authorized agent, requiring him/her to remove such tools & plant, materials or stores from the premises within a time to be specified in such notice; and in the event of the contractor failing to comply with any such requisition, the Engineer-in-Charge may remove them at the contractor's expense or sale them by public auction or private sale on account of the contractor and at his/her risk, in all respects, and the certificate of the Engineer-in-Charge as to the expense of any such removal, and the amount of the proceeds and expense of any such sale shall be final and conclusive against the contractor.

Extension
of time

Clause 5. The time allowed for execution of a work as specified in the 'Schedule of work' or in the extended time in accordance with the terms & conditions shall be the essence of the contract. Execution of work shall commence from such time period as mentioned in the said schedule, or from the date of handing over of the site to the contractor whichever is later. If the contractor commits default in commencing execution of the work as aforesaid within thirty days, without justifiable reasons included under Force Majeure or other such reasons beyond the control of the contractor, in which case to be reported

Refer to SCC 1.11

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within seven days by the contractor, considered valid and cogent by the Engineer-in-Charge, the Engineer-in-Charge shall after passing of thirty days from the date of scheduled commencement of work as per work order, with the prior approval of the tender accepting authority, without prejudice to any other rights to remedy available in law, be at liberty to apply clause 2 and subsequently clause 3 of the tender contract.

Refer to SCC 1.12

5.1 As soon as possible after the contract is executed, signed and agreed, the contractor shall submit a 'Time and Progress Chart' for each broad activity **(Milestone)** and get it approved by the Engineer-in-charge. The chart shall be prepared in direct relation to the time slated in the Notice Inviting Tender (NIT) document, for completion of items or groups of items of the work. It shall indicate the forecast of the dates of commencement and completion of various trades of sections of the work. This may be amended, as necessary, by an agreement between the Engineer-in-charge and the contractor within the limitations of time imposed in the NIT document. (Further, to ensure good progress during execution of work, the contractor shall in all cases, in which the time allowed for any work exceeds one month (save and except for special jobs for which a separate programme has been agreed upon) to complete the work as per defined 'Milestones' given in such 'Schedule of Work' defined clearly in the NIT itself into various 'Identifiable and quantifiable construction related stages' related with the type and nature of work ,and that the 'total time' allowed for completion of the work' is to be broken up against achievement of those stages during the construction/ progress of work to ensure a periodic monitoring of progress and enable the contractor and the Engineer-in-Charge to take corrective measures from time to time.)

5.2 If the work(s) be delayed by:

Force majeure, due to war, internal emergency and other conditions such as abnormally bad weather, flood, cyclone natural calamity or serious loss or damage by fire or civil commotion, strike or lockout affecting procurement of construction materials or any of the trades employed in the work, or any other cause which in the absolute discretion of the Engineer in charge is beyond the contractor's control, then upon happening of any such event causing delay, the contractor shall immediately give notice thereof in writing to the Engineer-in-charge but shall nevertheless use constantly his/her best endeavors to prevent or make good the delay and shall do all that may be reasonably required to the satisfaction of the Engineer-in-charge to proceed with the works.

Refer to SCC 1.13

5.3 Request for rescheduling of 'Milestones' of various activities and extension of time, to be eligible for consideration, shall be made by the contractor in writing within fourteen days of the happening of the event causing delay in the prescribed form. The contractor may also, if practicable, indicate in such a request the period for which extension is desired.

Refer to SCC 1.14

5.4 If any such case the Engineer-in-Charge, with the approval of Tender Accepting Authority may give a fair and reasonable extension of time, and reschedule the activity wise 'Milestones' for completion of the work. Such extension shall be communicated to the contractor by the Engineer-in-charge with the approval of Tender Accepting Authority in writing within maximum 1 (one) month of the date of receipt of such request.

Final
Certificate

Refer to SCC 1.15

Clause 6. (On completion of work, the contractor shall be furnished with a certificate by the Engineer-in-Charge of such completion, but no such certificate shall be given, nor shall the work be considered to be completed until and unless the contractor shall have removed from the work premises on which the work is executed, all scaffolding, surplus materials and rubbish, and cleaned off the dirt from wood works, doors, windows, floors, or other parts of any building, upon or about which the work is executed, or of which he may have had possession for the purpose of the execution thereof, nor until the work shall have been measured by the Engineer-in-charge whose measurements shall be binding and conclusive against the contractor. If the contractor shall fail to comply with the requirements of this clause as to removal of scaffolding, surplus materials and rubbish and cleaning off dirt on or before the date fixed for completion of the work, the Engineer-in-charge may at the expense of the contractor remove such scaffolding, surplus materials and rubbish, and dispose of the same as he/she thinks fit, and clean off such dirt as aforesaid; and the contractor shall forthwith be bound to pay the amount of all

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Refer to SCC 1.16	<p><u>expense so incurred, and shall have no claim in respect of any such scaffolding or surplus materials as aforesaid, except for any sum actually realized by the sale thereof.)</u></p> <p>Clause 7. <u>No running account bill payment shall be normally made for works of tendered value up to Rs 25.00 lakh, till after the whole of the work shall have been completed and certificate of completion given. For works of tendered value above Rs 25.00 lakh, for running account bill payment, the contractor shall on submitting a bill of at least Rs 25.00 lakh there for, be entitled to receive a payment proportionate to the part thereof, approved and passed by the Engineer-in-charge, whose certificate of such approval and passing of the sum so payable shall be final and conclusive against the contractor. Payment for unmeasured bill against materials supplied to site may also be given on certification of the Assistant Engineer/SDO. But all such intermediate payments shall be regarded as payments by way of advance against the final measured bill payment only and not as payments for work actually done and completed, and shall not preclude the bad, unsound, and imperfect or unskillful work which is to be removed and taken away and reconstructed, or re-erected or to be considered as an admission of the due performance of the contract, or any part thereof, in any respect, or the accruing of any claim, nor shall it conclude, determine or affect in any way the powers of the Engineer-in-charge under these conditions or any of them as to the final settlement and adjustment of the accounts or otherwise or in any other way vary or affect the contract. The final bill shall be submitted by the contractor within one month of the date fixed for completion of the work, otherwise the Engineer-in-charge's certificate of the measurement and of the total amount payable for the work accordingly shall be final and binding on all parties.</u></p>
Payment on inter-mediate certificates to be regarded as advances	
Refer to SCC 1.17	<p>Clause 8. <u>Works bill shall be submitted by the contractor each month, after fulfilling above clause, on or before the date fixed by the Engineer-in-charge, for all works executed during the previous month, and the Engineer-in-charge shall take or cause to take the requisite measurement for the purpose of having the same verified, and the claim as far as admissible adjusted, if possible, before the expiry of fourteen days from the presentation of the bill. If the contractor does not submit the bill within the time fixed as aforesaid, the Engineer-in-charge may depute a Junior Engineer to measure up the said work in presence of the contractor, whose countersignature in the measurement book will be sufficient warrant; and the Engineer-in-charge may prepare a bill from such list which shall be binding on the contractor in all respects.</u></p> <p><u>Within 10(Ten) days of completion of work, the contractor shall give notice of such completion to the Engineer-in-charge and within 14(Fourteen) days of receipt of such notice, the Engineer-in-charge shall inspect the work, and if there is no defect in the work, he/she shall furnish to the contractor a final certificate of completion. Otherwise, a provisional certificate of physical completion indicating defects (a) to be rectified by the Contractor and/or (b) for which payment will be made at reduced rates, shall be issued. Such reduced rate is to be imposed with the approval of Superintending Engineer concerned.</u></p>
Bills to be submitted monthly	
Refer to SCC 1.18	<p>Clause 8A. <u>When annual repair and maintenance work is carried out, the splashes and droppings from white washing, colour washing, painting etc., on walls, floors, windows shall be removed and the surface cleaned simultaneously with the completion of these items of work in the individual rooms, quarters or premises etc where the work is done without waiting for the actual completion of all the other items of work in the contract. In case, the contractor fails to comply with the requirements of this clause, the Engineer-in-Charge shall have the right to get this work done at the cost of the contractor either Departmentally or through any other contractor. Before taking such action, the Engineer-in-Charge shall give ten days notice in writing to the contractor.</u></p>
Refer to SCC 1.19	<p>Clause 8B. <u>The contractor shall submit completion plan/drawing as required in the 'General Specification' for electrical works as applicable within 30 days of completion of the work.</u></p> <p>Clause 9. <u>The contractor shall submit all bills in printed forms to be obtained on application in the office of the Engineer-in-charge, and the charges in the bills shall always be entered at the rates specified in tender or in case of any extra work ordered in pursuance of these conditions, and not mentioned or provided for in the tender at rates therein after provided for such work.</u></p>

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Payments of contractor's bills to Banks

Clause 9A (1) Payments due to the contractor may, if so desired by him/her be made to his bank through e-Pradan, details of which has to be directly furnished to the Engineer-in-charge

- (i) An authorization in the form of a legally valid document, e.g. irrevocable Power-of-Attorney conferring authority on the Bank to receive payment; and
- (ii) His/her own acceptance of the correctness of the accounts made out as being due to him/her by the Government, or his/her signature on the bill or other claims preferred against the Government, before settlement by the Engineer-in-charge of the account or claim by payment to the Bank.

While the on-line receipt given by such Banks shall constitute a full and sufficient discharge/acquittance for the payment, the contractor should wherever possible present his/her bills duly receipted and discharged through his/her Banker/s.

- (2) In the case of bills, which the contractor presents for payment direct, and which are not endorsed in favour of the Bank, while efforts will be made to secure payment to the financing Bank, payments made to the contractor should be accepted as full acquaintance so far as the Government is concerned. As a part of the arrangement, the financing Bank should give the Government a letter to this effect.

Note 1. The procedure will not affect the usual rights of the Government to deduct from contractor's bill, (whether endorsed in favour of a Bank or not) any sum due to Government of account of penalties, over-payments etc., on this or any other contract with the Governor of the State of West Bengal.

Note 2. Nothing contained herein shall operate to create in favour of the Bank any rights claims or equities vis-à-vis the Governor.

Stores supplied by Government

Refer to SCC 1.20

Clause 10. If the specification or estimate of the work provides for use of any special description of material to be supplied by the Engineer-in-Charge, (such materials & stores and the prices to be charged there for as hereinafter mentioned being so far as practicable for the convenience of the contractor, but not so as in any way to control the meaning or effect of this contract specified in the schedule or 'Memorandum' hereto annexed), the contractor shall be supplied with such materials and stores as is required from time to time to be used by him/her for the purpose of the contract only, and the value of the full quantity of materials and stores so supplied at the rates specified in the said schedule or Memorandum may be set off or deducted from any sums then due, or thereafter to become due to the contractor under the contract, or otherwise or against or from the security deposit, or the proceeds of sale thereof; if the same is held in Government securities, the same or a sufficient portion thereof being in this case sold for the purpose. All materials supplied to the contractor shall remain the absolute property of Government, and shall not on any account be removed from the site of the work, and shall at all times be open for inspection by the Engineer-in-charge. Any such material unused and in perfectly good condition at the time of the completion or determination of the contract shall be returned to the Engineer-in-charge's store, if by a notice in writing under his/her hand, he/she shall so require; but the contractor shall not be entitled to return any such material unless with such consent, and shall have no claim for compensation on account of any such material so supplied to him/her as aforesaid being unused by him, or for any wastage or damage to any such material.

Work to be executed in accordance with specifications, drawings, orders etc.

Clause 11. The contractor shall execute the whole and every part of work in the most substantial and workman like manner, and both, as regards to materials and otherwise, in every respect, in strict accordance with the specifications. The contractor shall also confirm exactly, fully and faithfully to the design and drawings, and instructions in writing relating to the work signed by the Engineer-in-Charge and lodged in his/her office, to which the contractor shall be entitled to have access at such office, or on the site of the work for the purpose of inspection during office hours, and the contractor shall, if he/she so require, be entitled at his/her own expense to make or cause to be made copies of the specifications, and of all such design, drawings and instructions as aforesaid.

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Alteration in specification and designs do not invalidate contract	Clause 12. <u>The Engineer-in-Charge shall have powers to make any alteration in, omission from, addition to, or substitution for, the original specifications, drawings, designs and instructions, that may appear to him/her to be necessary or recommended by Superintending Engineer or the Chief Engineer during the progress of work, and the contractor shall be at all times be bound to carry out these works, in accordance to any instructions which may be given to him/her in writing, signed by the Engineer-in-charge, and such alterations omissions, additions or substitutions, shall not invalidate the contract but shall be deemed to have formed a part of the work included in the original tender and any altered, additional or substituted work which the contractor may be directed to do in the manner specified above as a part of the work shall be carried out by the contractor on the same conditions in all respects on which he/she agreed to do the main work, and at the same rates, if any, may be specified in the tender for the main work. Time for the completion of the work shall be extended in the proportion that the altered, additional or substituted work bears to the original work contract, and the certificate of the Engineer-in-charge shall be conclusive as to such proportion. And, if the altered, additional or substituted work includes any class of work, for which no rate is specified in the contract, then such class of work shall be carried out at the rates entered in the schedule of rates of concerned works Department applicable in the district, which was in force at the time of acceptance of the contract, minus/plus the percentage which the total tendered amount bears to the estimated cost of the entire work put to tender; and if the altered, additional or substituted work is not entered in the said schedule of rates, payment thereof shall be made by the Engineer-in-charge by determining the rates on analysis worked out from (a) the basic rates of materials and labour provided in the aforesaid schedule of rates, or (b) the current market rates of materials and labour when even basic rates for the work are not available in the schedule. In cases when such rates are determined on analysis by the Engineer-in-charge under (a) above, the stipulated percentage above or below schedule of rates as provided in the contract shall also apply, and in case of rates worked out on analysis under (b) above, payment shall be made at the rates so determined without application of the said stipulated percentage. In the event of any dispute regarding rates determined on analysis for any altered, additional or substituted work under this clause, the decision of the Superintending- Engineer shall be final and binding.</u>
Refer to SCC 1.21	
Extension of time in consequence of alterations	
Rates for works not in tender BOQ/SoR	
Refer to SCC 1.22	Clause 12A. <u>In the case of any altered additional or substituted work, which the contractor is required under the preceding clause 12 to do, at rates specified in the tender for the main work, or on the basis of rates in the schedule of rates of the district and which involve employment of additional materials (notwithstanding anything contrary to the preceding clause), the contract may, within fifteen days from the receipt of the order, claim revision of the rates in respect of such additional materials and the Engineer-in-Charge may revise such rates having regard to the increase in the market price of such materials. In the event of a dispute the decision of the Tender Accepting Authority shall be final and binding and this contract shall be construed as if the said revised rates for the said additional materials had been incorporated in this contract as being applicable to such work.</u>
No compensation for alternation in or restriction of work to be carried out.	Clause 13. If at any time after the commencement of the work the Governor shall for any reason whatsoever not require the whole thereof as specified in the tender to be carried out, the Engineer-in-charge shall give notice in writing of the fact to the contractor, who shall have no claim to any payment or compensation whatsoever on account of any profit or advantage which he might have derived from execution of the work in full, but which he/she did not derive in consequence of the full amount of the work not having been carried out; neither shall he/she have any claim for compensation by reason of any alterations having been made in the original specifications, drawings, designs and instructions which shall involve any curtailment of the work as originally contemplated.
Action and compensation payable in case of bad work	Clause 14. If it shall appear to the Engineer-in-charge or his/her subordinate engineer in-charge of the work, that any work has been executed with unsound, imperfect, or unskillful workmanship, or with materials of any inferior description, or that any materials or articles provided by him, for the execution of the work are unsound, or of a quality inferior to that contracted for, or otherwise not in accordance with the contract, the contractor shall on demand in writing from the Engineer-in-charge specifying the work, materials or articles complained of

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notwithstanding that the same may have been inadvertently passed, certified and paid for, forthwith rectify or remove and re-construct the work so specified in whole or in part, as the case may require, or as the case may be removed the materials or articles so specified and provide other proper and suitable materials or articles at his own proper charge and cost; and in the event of his failing to do so within a period to be specified by the Engineer-in-charge in his demand aforesaid, then the contractor shall be liable to pay compensation at the rate of one percent on the amount of the estimate put to tender/on up to date executed work value for every day not exceeding ten days, while his/her failure to do so shall continue and in the case of any such failure, the Engineer-in-charge may rectify or remove, and re-execute the work or remove and replace with others, the materials or articles complained of as the case may be at the risk and expense in all respects of the contractor.

Contractor or his/her responsible agent to be present

Refer to SCC 1.23

Clause 15. All work under or in course of execution or executed in pursuance of the contract shall at all times be open to inspection and supervision of the Engineer-in-charge and all his/her subordinates, the and also Superintending Engineer and the Chief Engineer and the contractor shall at all times during the normal working hours, and at all other times at which reasonable notice of the intention of the Engineer-in-charge or his/her subordinates to visit the work site shall have been given to the contractor, either himself/herself be present to receive orders and instructions, or have a responsible agent duly accredited in writing present for that purpose. Orders given to the contractor's agent shall be considered to have the same force as if it had been given to the contractor himself/herself.

Notice to be given before work is covered up

Refer to SCC 1.24

Clause 16. The contractor shall give, not less than five days notice in writing to the Engineer-in-charge or his/her subordinate in-charge of the work, before covering up or otherwise placing beyond the reach of measurement any work, in order that the same is so covered up or placed beyond the reach of measurement, and shall not cover up or placed beyond the reach of measurement any work without the consent in writing of the Engineer-in-charge or his/her subordinate, in-charge of the work; and if any work shall be covered up or placed beyond the reach of measurement without such notice having been given or consent obtained the same shall be uncovered at the contractor's expense, or, in default thereof no payment or allowance shall be made for such work or the materials with which the same was executed.

Refer to SCC 1.25

Contractor liable for damage done and for imperfections for 180 days

Clause 17. If the contractor or his/her workers or authorized representatives shall break, deface, injure or destroy any part of the structure in which they may be working or any building, road, road curbs, fence, canals, water pipes, cables, drains, electric or telephone posts or wires, trees, grass or grassland or cultivated ground contiguous to the premises on which the work or any part of it is being executed, or if any damage shall happen to the work from any cause whatever or any imperfections become apparent in it at any time, whether during its execution or within a period of six months after issuance of a certificate of its completion by the Engineer-in-Charge, the contractor shall make the same good at his/her own expense, or in default, the Engineer-in-Charge may cause the same to be made good by other workers, and deduct the expenses (of which the certificate of the Engineer-in-Charge shall be final and binding) from any sums, whether under the contract or otherwise, that may be then, or at any time thereafter become due to the contractor by the Government or from his/her security deposit, or the proceeds of sale thereof, or of a sufficient portion thereof, and if the cost in the opinion of the Engineer-in-Charge whose opinion shall be final and conclusive against the contractor, making such damage or imperfections good shall exceed the amount of such security deposit and/or such sums, it shall be lawful for the Government to recover the excess costs from the contractor in accordance with the procedure prescribed by any law for the time being in force.

Clause 18A. In every case in which by virtue of the provisions under sub-section (1) of Section 12, of the Workmen's Compensation Act, 1923, the implementing Department is obliged to pay compensation to a workman employed by the contractor, in execution of the works. The implementing Department will recover from the contractor the amount of compensation so paid; and without prejudice to the rights of the Department under sub-section (2) of section 12, of the said Act, implementing Department shall be at liberty to recover such amount or any part thereof by deducting it from the security deposit or from any sum due by implementing Department to the contractor whether under this contract or otherwise. The implementing Department shall not be bound to contest any claim

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made against it under sub-section (1) Section 12, of the said Act, except on the written request of the contractor and upon his/her giving to the implementing Department full security for all costs for which the Department might become liable in consequence of contesting such claims.

Clause 18B. In every case in which by virtue of the provisions under 'The Contract Labour (Regulation & Abolition) Act 1970', and its amendments and rules, the implementing Department is obliged to pay amount of wages to a workman employed by the contractor in execution of the works, or to incur any expenditure in providing welfare and health amenities required to be provided under the above said Act and the rules framed by Government from time to time for the protection of health and sanitary arrangements for workers employed by contractors, executing Department will recover from the contractor, the amount of wages so paid or the amount of expenditure so uncured; and without prejudice to the rights of the executing Department under sub-section(2) of Section 20, and sub-section (4) of Section 21, of the Contract Labour (Regulation and Abolition) Act, 1970, executing Department shall be at liberty to recover such amount or any part thereof by deducting it from the security deposit or from any sum due by Executing Department to the contractor whether under this contract or otherwise and the executing Department shall not be bound to contest any claim made against it under sub-section (1) of Section 20, sub-section (4) of section 21, of the said Act, except on the written request of the contractor and upon his/her giving to the implementing Department full security for all costs for which the Department might become liable in contesting such claim.

Clause 19. The contractor shall obtain a valid license under the Contract Labour (Regulation and Abolition) Act, 1970, before the commencement of the work, and continue to have valid licenses until the completion of the work. The contractor shall also abide by the provisions of the Child Labour (Prohibition and Regulation) Act, 1986, Fatal Accident Act, 1855, personal injuries (Compensation Insurance) Act, 1970.

The contractor shall also comply with the provisions of the 'Building and Other Construction Workers (Regulation of Employment & Conditions of Service) Act, 1996' and 'The Building and Other Construction Workers Welfare Cess Act, 1996'. Failure to fulfill these requirements shall attract penal provisions of the contract, arising out of the resultant non-implementation of such provisions.

Labour **Clause 19A.** No labour/s below the age of eighteen years shall be employed in the work and the contractor shall abide by the provisions of the Child Labour (Prohibition & Regulation) Act, 1986 Employment of female labour/s in works in the neighborhoods of sensitive barracks should be avoided as far as possible.

Payment of minimum Wages to Labour **Clause 19B.** The contractor shall pay to labours employed by him/her either directly or through sub-contractors, wages not less than fair wages as defined in by the Labour Commissioner of the State Government under 'Minimum Wages Act, 1948', Contractor's Labour Regulations or as per the provisions of the Contract Labour (Regulation and Abolition) Act, 1970, wherever applicable.

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/her.

In respect of all labourers directly or indirectly employed in the works for performance of the contractor's part of the contract, the contractor shall comply with or cause to be complied with the contractor's Labour Regulations made by the State Government/ Government of India, from time to time in regard to payment of wages, wage period, deductions from wages, recovery of wages not paid and deductions made without authority, maintenance of wage books or wage slips, publication of scale of wage and other terms of employment, inspection and submission of periodical returns and all other matter likewise in nature or as per the provisions of the Contract Labour (Regulation and Abolition) Act, 1970, and the inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, Minimum Wages Act, 1948, wherever applicable.

a) The Engineer-in-Charge concerned shall have the right to deduct from the money due to the contractor any sum required or estimated to be required for making good the loss suffered by a worker or workers by reason of non-fulfillment of the conditions of the contract for the benefit of the workers, non-payment of wages or of deductions

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made from his/her/their wages which are not justified by their terms of the contract or non-observance of the regulations.

- b) Under the provision of Weekly Holidays Act, 1986, the contractor is bound to allow to the labours, directly or indirectly employed in the work, one day rest for 6 days of 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 labourer and pay the same to the persons entitled thereto from any money due to the contractor by the Engineer-in-charge concerned.

The contractor shall also comply with the provisions of the 'Employees Liability Act, 2008', Workmen's Compensation Act and 'Maternity Benefits Act' or the amendments thereof or any other law relating thereto, and the rules made there under from time to time.

The Contractor shall indemnify and keep indemnified the implementing Department against payments to be made under and for the observance of the laws aforesaid and PW Contractor's Labour Regulations without prejudice to this right to claim indemnity from his/her sub-contractors.

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.

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

The contractor shall ensure that no amount by way of commission or otherwise is deducted or recovered by the Dafadar from the wage of workers.

Clause 19C. In respect of all labours directly or indirectly employed in the work for the performance of the contractor's part of this contract, the contractor shall at his/her own expenses, arrange for the safety provisions as framed from time to time by the competent authority, and shall at his/her own expense provide all facilities in connection therewith. In case the contractor fails to make arrangement, and fail to provide necessary facilities as aforesaid; he/she 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 their behalf, from the contractor.

Clause 19D. 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.

The number of labourers employed by him/her on the work, their working hours, and the wages paid to them;

Accidents that had occurred during the said fortnight showing the circumstances under which it had happened, and the extent of damage and injury caused by them, and the number of female workers who have been allowed maternity benefits according to Clause 19F of the contract and the amount paid to them;

Failing which the contractor shall be liable to pay to the Department, 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 would be binding on the contractor.

Clause 19E. In respect of all labours directly or indirectly employed in the work for the performance of the contractor's part of this contract, the contractor shall comply with or cause to be compiled with all the rules framed by the appropriate Government from time to time for the protection of health and sanitary arrangements of workers employed by the contractor.

Clause 19F. In the event of the contractor(s) committing a default or breach of any of the provisions of the Contractor's Labour Regulations and Rules for the protection of health and sanitary arrangement 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 Regulations and Rules which is materially incorrect, he/she shall, without prejudice to any other liability, pay to the Department a sum not exceeding Rs. 200/- for

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every default, breach or furnishing, making, submitting, filing such materially incorrect statements and in the event of the contractors 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 five per cent of the tendered value. 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 to the provisions of the Contractor's Labour Regulations and Rules, The Minimum Wages Act, 1948 and Contract Labour (Regulation and Abolition) Act 1970, for the protection of health and sanitary arrangements for 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 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 / observe the said Rules and to provide the amenities to the work-people 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/her own expense and to approved standards all necessary hutments and sanitary arrangements required for his / her / 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 hutments and sanitary arrangements be remodeled and/or reconstruct such hutments and sanitary arrangements according to approved standards, and if the contractor(s) shall fail to remodel or reconstruct such hutments 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 hutments and sanitary arrangements according to approved standards at the cost of the contractor(s).

Clause 19G. The contractor shall comply with all the provisions of The Minimum Wages Act, 1948, Contract Labour (Regulation and Abolition) Act, 1970, Employees Liability Act, Industrial Dispute Act and Maternity Benefit Act, 1961, as amended from time to time and rules framed there under and other labour laws affecting contract labour that may be brought into force by the appropriate authority from time to time.

Clause 19H. The Engineer-in-charge may require the contractor to remove from the site of work; any person or persons engaged/assigned or employed by the contractors upon the work who may be determined as insane or incompetent or misconducts himself/herself, and the contractor shall forthwith comply with such requirements.

Clause 19I. It shall be the responsibility of the contractor to see that the building/structure under construction is not occupied by anybody unauthorized during construction, and is handed over to the Engineer-in-charge with vacant possession free from encumbrances in entirety, If such buildings/structures through completed is occupied illegally, then the Engineer-in-Charge shall have the option to refuse to accept the said building/structure 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 tendered value of work may be imposed by the Engineer-in-charge whose decision shall be final both with regard to the justification and quantum and shall be binding on the contractor.

However, the Engineer-in-charge, thorough a notice, may require the contractor to remove the illegal occupations, any time on or before construction and delivery.

Clause 20. No work shall be done on Sundays without the prior sanction of the Engineer-in-charge.

Work on Sundays

Refer to SCC 1.26

Work not to be sublet. Contract may be rescinded and security deposit forfeited for subletting, bribing, or if contractor

Clause 21. The contract shall not be assigned or sublet without specific orders from Government in respect of a specified sub-contractor. And if the contractor shall assign or sublet his contract, or attempt so to do, or become insolvent or commence any in insolvency proceedings or make any composition with his creditor, or attempt to do so, or if any bribe, gratuity, gift, loan, perquisite, reward or advantage, pecuniary or otherwise, shall either directly or indirectly be given, promised, or offered by the contractor, or any of his servants or agents to any public officer or person in the employ of Government in any way relating to his office of employment, or if any such officer or person shall become in any way directly or indirectly interested in the contract,

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the Divisional Officer may thereupon by notice in writing rescind the contract, and the security deposit of the contractor shall thereupon stand forfeited and be absolutely at the disposal of Government and the same consequences shall ensue as if the contract had been rescind under the Clause 3 hereof, and in addition the contractor shall not be entitled to recover or be paid for any work therefore actually performed under the contract.

Clause 22. All sums payable by way of compensation under any of these conditions shall be considered as reasonable compensation to be applied to the use of Government without reference to the actual loss or damage sustained and whether or not any damage shall have been sustained.

Changes in
constitution
of firm

Clause 23. Where the contractor is a partnership firm or a consortium, prior approval in writing of the Engineer-in-Charge shall be obtained for any change made in the constitution of the firm/consortium. Where the contractor is an individual or a Hindu Undivided Family (HUF) business concern, such approval as aforesaid shall likewise be obtained, before the contractor enters into any partnership agreement/Memorandum of Articles where under the partnership firm/ consortium would have the right to carry out the works hereby undertaken by the contractor. If previous approval as aforesaid is not obtained, the contract is liable to be rescind.

Works to be
under direction
of Engineer-in-
Charge

Clause 24. All works to be executed under the contract shall be executed under the direction of Engineer-in-Charge. Further instructions/advises, if felt necessary by Superintending Engineer/ Chief Engineer, shall also be binding to be communicated by the Engineer-in-Charge.

Settlement of
disputes-
'Dispute
Redressal
Committee'

Clause 25. Settlement of Disputes and Arbitration :

Except where otherwise provided in the contract, all questions and disputes relating to the meaning of the specifications, designs, drawings and instructions hereinbefore 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 relating to the contracts, designs, drawings, specifications, estimates, instructions, orders or these conditions or otherwise concerning the works, or the executions or failure to execute the same, whether arising during the progress of the work, or after the completion or abandonment thereof shall be dealt with as mentioned hereinafter:

If the contractor considers any work demanded of him/her to be outside the requirements of the contract, or disputes any drawings, record or decision given in writing by the Engineer-in-Charge or any matter in connection with or arising out of the contract or carrying out of the work to be unacceptable, he/she shall promptly within 15 days request the Chairman of the Departmental Dispute Redressal Committee formed by Government, in writing for written instruction or decision. Thereupon, the Dispute Redressal Committee shall give its written instructions or decision within a period of three months from the date of receipt of the contractor's letter.

Above provisions will be applicable irrespective of the value of the works to which the dispute may relate.

Clause 26. The contractor shall fully indemnify and keep indemnified the implementing Department against any action, claim or proceeding relating to infringement or use of any patent or design or any alleged patent or design rights and shall pay any royalties which may be payable in respect of any article or part thereof included in the contract. In the event of any claims made under or action brought against implementing Department in respect of any such matters as aforesaid, the contractor shall be immediately notified thereof implementing Department and the contractor shall be at liberty, at his/ her own expense, to settle any dispute or to conduct any litigation that may arise there from, provided that the contractor shall not be liable to indemnify the implementing Department if the infringement of the patent or design or any alleged patent or design right is the direct result of an order passed by the Engineer-in-Charge in his behalf.

Lump sum as in
estimates

Clause 27. When the estimate on which the tender is made includes lump sums in respect of parts of the work, the contractor shall be entitled to payment in respect of the items of works involved or the part of the work in question at the same rates as are payable under this contract for such items, or if the part of the work in question is not, in the opinion of the Engineer-in-charge capable of measurement, certificate in writing of the Engineer-in-charge shall be final and conclusive against the contractor with regard to any sum or sums payable to him under the provisions of this clause.

Refer to SCC 1.27

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Action where
no specification

Clause 28. In the case of any class of work for which there is no such specifications as referred to under Clause 11, such work shall be carried out in accordance with the latest Bureau of Indian Standards (BIS) & specifications. In case there are no such specifications in Bureau of Indian Standards, the work shall be carried out as per reputed manufacturer's specifications if accepted by the Engineer-in-Charge. If not available, then as per State- Government/Union Government accepted and approved specifications. In case there are no such specifications as required above, the work shall be carried out in all respects in accordance with the instructions and requirements of the Engineer-in-Charge which is approved by the Tender Accepting Authority.

Definition of
works

Clause 29. The expression "works" or "work" where used in these conditions shall, unless there be something either in the subject or context repugnant to such construction be constructed and taken to mean the works by or by virtue of the contract constructed to be executed, whether temporary or permanent and whether original, altered, substituted or additional.

Clause 30. The contractor(s) shall at his/their own cost provide his/their labour with hutting on an approved site, and shall make arrangements for conservancy and sanitation in the labour camp to the satisfaction of the local public Health and Medical Authorities. He/they shall also at his/their own cost make arrangements for the laying of pipe lines for water supply to his / their labour camp from the existing mains wherever available, and shall pay all fees, charges and expenses in connection with there and incidental thereto.

Clause 31. The contractor(s) shall make his / their own arrangements for water required for the work and nothing extra will be paid for the same. This will be subject to the following conditions:-

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

Refer to SCC 1.28

Clause 32. The contractor undertakes to make arrangement for the supervision of the work by the firm supplying the bitumen used. The contractor shall collect the total quantity of bitumen required for the work as per standard formula, before the work is started and shall hypothecate it to the Engineer-in-Charge. If any bitumen remains unused on completion of the work on account of lesser use of materials in actual execution for reasons other than authorized changes of specifications and abandonment of portion of work, a corresponding deduction equivalent to the cost of unused materials as determined by the Engineer-in-Charge shall be made and the material returned to the contractors. Although the materials are hypothecated to Institute, the contractor undertakes the responsibility for their proper watch, safe custody and protection against all risks. The materials shall not be removed from site of work without the consent of the Engineer-in-Charge in writing.

The contractor shall be responsible for rectifying defects noticed within a year from the date of completion of the work and the portion of the security deposit relating to asphaltic work shall be refunded after the expiry of this period.

Contractors
Superintendence
, Supervision,
Technical Staff &
Employees

Clause 33. The contractor shall provide all necessary superintendence during execution of the work and as along thereafter as may be necessary for proper fulfilling of the obligations under the contract.

The contractor shall immediately after receiving letter of acceptance of the tender and before commencement of the work, intimate in writing to the Engineer-in-Charge, the name(s), qualifications, experience, age, address(s) and other particulars along with certificates, of the principal technical representative to be in charge of the work and other technical representative(s) who will be supervising the work. The Engineer-in-Charge shall within 3 days of receipt of such communication intimate in writing his/her approval or otherwise of such representative(s) to the contractor. Any such approval may at any time be withdrawn and in case of such withdrawal, the contractor shall appoint another such representative(s) according to the provisions of this clause. Decision of the tender accepting authority shall be final and binding on the contractor in this respect. Such a principal technical representative shall be appointed by the contractor soon after receipt of the approval from Engineer-in-Charge and shall be available at site before start of work.

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If the contractor (or any partner in case of firm/company) who himself/herself has such qualifications, it will not be necessary for the said contractor to appoint such a principal 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 principal technical representative under the clause will also be applicable in such a case to contractor or his responsible agent. The principal 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/herself to the Engineer-in-Charge and/or at the site of work, as required, to take instructions. Instructions given to the principal technical representative of the responsible agent shall be deemed to have the same force as if these have been given to the contractor. The principal technical representative and/or the contractor or his/her responsible authorized agent shall be actually available at site especially during important stages of execution of work, during recording of 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/her 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.

If the Engineer-in-Charge, whose decision in this respect is final and binding on the contractor, is convinced that no such technical representative(s) is / are effectively appointed or is / are effectively attending or fulfilling the provision of this clause, a recovery (nonrefundable) shall be effected from the contractor as specified in Schedule and the decision of the Engineer-in-Charge as recorded in the site order book and measurement recorded checked / test checked in Measurement Books shall be final and binding on the contractor. Further if the contractor fails to appoint a suitable technical representative and / or other technical representative(s) and if such appointed persons are not effectively present are absent by more than two days without duly approved substitute or do not discharge their responsibilities satisfactorily, the Engineer-in-Charge shall have full powers to suspend the execution of the work until such date as suitable other technical representative(s) is / are appointed and the contractor shall be held responsible for the delay so caused to the work. The contractor shall submit a certificate of employment of the technical representative(s) along with every running account bill/final bill and shall produce evidence if at any time so required by the Engineer-in-Charge.

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

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

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

Refer to SCC 1.29

Clause 34. "Levy / Taxes Payable by Contractor"

- i) Goods & Service Taxes (Central/State/Integrated), Building and other Construction Workers' Welfare Cess or any other tax or Cess in respect of this contract shall be payable by the Contractor and Engineer-in-Charge shall not entertain any claim whatsoever in this respect. However in respect of Service Tax, same shall be paid by the contractor on demand and it will be reimbursed to him/ her if admissible under relevant rules of appropriate Government by the Engineer-in-charge after satisfying that it has been actually and genuinely paid by the contractor.
- ii) The contractor shall deposit Govt. Royalty and obtain necessary permit for supply of the sand, stone chips, red bajri, sand stone, river bed materials etc. from local authorities, if those are directly procured from quarry sites. In case materials are procured from secondary sources, certificates of quarry owners to the effect of payment of royalties and Cess would have to be furnished. In absence of such certificates towards payment of Royalties and Cess such components shall be deducted from the contractor's bills at prescribed rates and deposited through 'GRIPS' portal or otherwise, in the

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designated Govt. Treasuries/PAO. If pursuant to or under any law, notification or order any Royalty, Cess or the like becomes payable by the implementing Department and does not any time become payable by the contractor to the State Government/Local appropriate authorities in respect of any material used by the contractor in the works then in such a case, it shall be lawful to the Department and it will have the right and be entitled to recover the amount paid in the circumstances as aforesaid from dues of the contractor.

Clause 35.

- i) All tendered rates shall be inclusive of statutory taxes and levies payable under respective statutes. However, if any further tax or cess is imposed by Statute, after the last stipulated date for the receipt of tender including extensions if any and the contractor thereupon necessarily and properly pays such taxes/levies /cess, the contractor shall be reimbursed the amount so paid. Provided such payments, if any, is not, in the opinion of the Engineer-in-charge (whose decision shall be final and binding on the contractor) attributable to delay in execution of work within the control of the contractor.
- ii) The contractor shall keep necessary books of accounts and other documents for the purpose of this condition as may be necessary and shall allow inspection of the same by a duly authorized representative of the Department and/or the Engineer-in-Charge and further shall furnish such other information/document as the Engineer-in-Charge may require from time to time.
- iii) The contractor shall, within a period of 30 days of the imposition of any such further tax or levy or excess, give a written notice thereof to the Engineer-in-Charge that the same is given pursuant to this condition, together with all necessary information relating thereto.

Clause 36. Without prejudice to any of the rights or remedies under this contract if the contractor dies, the Engineer-in-charge shall have the option of terminating the contract without compensation to the contractor, but would be liable to clear full dues and claims on work done to his/her legal successor/s.

Clause 37. The contractor shall not be permitted to tender for works in which his near relative is posted as in any capacity between the grades of the Executive Engineer and Junior Engineer (both inclusive). He shall also intimate the names of persons who are working with him/her in any capacity or are subsequently employed by him/her and who are near relatives to any Official in the Institute. Any breach of this condition by the contractor would render him/her liable to be removed from the approved list of contractors of the Department. If however the contractor is registered in any other Department, he/she shall be debarred from tendering in the Department for any breach of this condition.

NOTE: By the term "near relatives" is meant wife, husband, own parents and grandparents, own children and grandchildren, own brothers and sisters, own uncles, aunts and first cousins and their corresponding in-laws.

Clause 38. No engineer of Gazette rank or other Gazette officer employed in engineering or administrative duties in the Government shall work as a contractor or employee of a contractor for a period of one year after his/her retirement from Government service without the previous permission of Government in writing. This contract is liable to be cancelled if either the contractor or any of his employees is found at any time to be such a person who had not obtained the permission of Government as aforesaid, before submission of the tender or engagement in the contractor's service, as the case may be.

Clause 39. The work (whether fully constructed or not) and all materials, machines, tools and plants, scaffolding, temporary buildings and other things connected therewith shall be at the risk of the contractor until the work has been delivered to the Engineer-in-Charge and a certificate from him/her to that effect obtained. In the event of the work or any materials properly brought to the site for incorporation in the work being damaged or destroyed in consequence of hostilities or warlike operation, the contractor shall when ordered (in writing) by the Engineer-in-Charge to remove any debris from the site, collect and properly stack or remove in store all serviceable materials salvaged from the damaged work and shall be paid at the contract rates in accordance with the provision of this agreement for the work of clearing the site of debris, stacking or removal of serviceable material and for reconstruction of all works ordered by the Engineer-in-Charge, such payments being in addition to compensation up to the value of the work originally executed before being damaged or destroyed and not paid for.

In case of works damaged or destroyed but not already measured and paid for, the

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compensation shall be assessed by the Engineer-in-Charge concerned. The contractor shall be paid for the damages/destruction suffered and for the restoring the material at the rate based on analysis of rates tendered for in accordance with the provision of the contract. The certificate of the Engineer-in-Charge regarding the quality and quantity of materials and the purpose for which they were collected shall be final and binding on all parties to this contract.

Provided always that no compensation shall be payable for any loss in consequence of hostilities or warlike operations (a) unless the contractor had taken all such precautions against air raid as are deemed necessary by the Air Force Officers or the Engineer-in-Charge (b) for any material etc. not on the site of the work or for any tools, plant, machinery, scaffolding, temporary building and other things not intended for the work.

In the event of the contractor having to carry out reconstruction as aforesaid, he/she shall be allowed such extension of time for its completion as is considered reasonable by the Engineer-in-charge.

Clause 40. The contractor shall comply with the provisions of the Apprentices Act, 1961 and the Apprenticeship Rules, 1992 and orders issued there under from time to time. If he/she fails to do so, his/her failure will be a breach of the contract and the Engineer-in-Charge may, in his/her discretion, cancel the contract. The contractor shall also be liable for any pecuniary liability arising on account of any violation by him/her of the provisions of the said Act.

INTERPRETATION OF CLAUSES

Governor means the Governor of the State of West Bengal and his/her successors.

The Government means Government in the concerned works Department.

Refer to SCC 1.30 The Department means the Principal Secretary the concerned Department or his/her authorized representative.

The Divisional Officer means the Executive Engineer of the concerned works Department for the time being of the Division concerned, also identified as the Engineer-in-Charge.

The Sub-divisional Officer means the Assistant Engineer of the concerned works Department for the time being of the Sub-division concerned. Junior Engineer equivalent to Section Officer of the Section concerned.

Superintending Engineer in the concerned works Department is the final Authority regarding schedule of rates and also the acceptance of Non-scheduled item rates arrived by market based rate analysis for supplementary items, and the approving authority for reduced rates and part rates. He is also the Tender Accepting Authority for works of value above Rs 45.00 lakh and up to Rs 2.00 crore under existing delegated power.

Refer to SCC 1.31 Chief Engineer in the concerned works Department is the technical head of the Directorate and is also the Tender Accepting Authority and for all works above value of Rs 2.00 crore. Excess work over individual items comprising the original tender may be exceeded beyond 10% with the approval of concerned tender accepting authority and verified by the Superintending Engineer/Chief Engineer subject to the total value of work upon completion is within the technically sanctioned cost and that there is no major deviation from original scope of work in the tender. **Any supplementary tender/item/work in connection with the main tender is to be taken up with the approval of the Tender Accepting Authority not below the rank of Executive Engineer.** Such supplementary tenders above 10% of BOQ are to be executed only with the approval of appropriate Government irrespective of the value of tender.

Words importing the singular number only include the plural number and vice versa.

Irrespective of the accepting authority, Divisional officer shall be the authority signing agreement for all tenders of value more than Rs 3.00 lakh up to any amount on behalf of the State.

Schedule showing (approximately) to be supplied by the Irrigation & Waterways

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Department under clauses 10 and 26 fix work contracted to be executed and the rates at which they are to be charged for.

<u>Particulars</u>	<u>Rates at which the materials will be charged to the contractor</u>			<u>Place of delivery</u>
	Unit	Rs.	P.	

Note 1- The person or firm submitting the tender should see that the rates in the above schedule are filled up by the Engineer-in-charge on the issue of the form prior to the submission of the tender.

(Name in full)
*Signature of contractor/agency
with official seal containing
Principal office address

(Name in full)
*Signature of Divisional Engineer/
Sub-Divisional Officer
on behalf of the Governor of the
State of West Bengal with official seal
containing designation & address

* To be authenticated on each and every page of the contract document by all parties.