

**TENDER
FOR
MITIGATIONS OF MANGAN LANDSLIDE AT NORTH
DISTRICT HEADQUARTERS- MANGAN, NORTH SIKKIM**

VOLUME I

**DETAILS OF TENDER & CONDITIONS OF
CONTRACT**

Tender Documents consist of three parts as under:

Part I

- **Expression of Interest (EOI)**
- **Instruction to Bidders (ITB)**
- **Particular Conditions of Contract (PCC)**
- **General Conditions of Contract (GCC)**
- **Special Clauses of Contract**

:: Name of Client::

Director

Land Revenue & Disaster Management Department (LR&DMD)

Govt. of Sikkim, Gangtok, Sikkim



Land Revenue & Disaster management Department
Government of Sikkim, Gangtok

Ref. No: 54 /SSDMA/LR&DMD/GoS/2020

Dated:01.06.2020

EXPRESSION OF INTEREST

1. Offers are hereby invited by the undersigned on behalf of the Governor of Sikkim from bonafide firms specialized in executing the under-mentioned project on Item -Rate basis :

Package No	Name of works	Bid security 2.5% of the bid value (Rs. In Lakhs)	Bid value (Rs in Lakhs)	Cost of tender/ bid form (Rs in Lakhs)	Completion period
1	2	3	4	5	6
1	Mitigation of Mangan Landslide at North District Headquarters - Mangan, North Sikkim	20.60	822.95	0.50	24 months

2. The intending firms may purchase the Tender documents from the Office of the Land Revenue & Disaster management Department, Government of Sikkim during office hours on payment of Rs. 50,000.00 (Fifty thousand (Non Refundable in the form of Account Payee Demand Draft of any Scheduled Nationalized Bank drawn in favour of Accounts Officer, Director, Land Revenue & Disaster Management Department (LR&DMD) payable at Gangtok.
3. The tenderers are requested to go through the offer documents and visit the location and apprise themselves of the site conditions fully before submission of offer.
4. The Earnest Money amount of Rs. 20,60,000.00 (Twenty lakh and sixty thousand) only should be submitted along with the offer documents in the form of Temporary Deposit Receipt or Bank Guarantee from any Scheduled Nationalized Bank in favour of Director, Land Revenue & Disaster management Department, Govt. of Sikkim, payable at Gangtok.
5. For any queries of clarifications, the following officers of the Department may be contacted:
- i) The Director, Land Revenue & Disaster Management Department (LR&DMD) Tashiling Secretariat Block-B, Gangtok, East Sikkim
 - ii) The Under Secretary, Land Revenue & Disaster Management Department (LR&DMD) Tashiling Secretariat Block-B, Gangtok, East Sikkim.
6. The Director, Land Revenue & Disaster Management Department (LR&DMD) reserves the right to accept or reject any or all tenders without assigning any reason whatsoever.

7. The date and time of submission of financial bid documents is as under:

i)	Date of Publishing	:	04.06.2020
ii)	e-mail bidding documents	:	05.06.2020
iii)	Last date & Time for seeking clarification regarding bids.	:	17.06.2020 upto 1500 hrs
iv)	Last date for Submission of Financial bids	:	19.06.2020 upto 1600 hrs
v)	Date of opening of Financial bids	:	20.06.2020 at 1100 hrs

8. The bidders must e-mail their offers along with scanned copy of tender form cost and EMD in the email-ID ssdma01@gmail.com. The hard copies of all the documents including copy of Cost of Tender form and EMD in original must be handed over to the Office of the Director in person on **19.06.2020 upto 1600hrs**.



Director Director
Land Revenue & Disaster Management Department
Govt. of Sikkim,
Tashiling, Secreariat,
Gangtok 737101, Sikkim

No

Dt.....

FORMAT FOR ARTICLES OF AGREEMENT

(On Stamp Paper of Rs. 5000.00)

This ARTICLE OF AGREEMENT made on thisday of2020, BETWEEN THE GOVERNOR OF SIKKIM through the Director, Land Revenue & Disaster Management Department (LR&DMD) Gangtok 737101 hereinafter referred to as the "DEPARTMENT" (which expression shall unless excluded by or repugnant to the context mean and include his executors, administrators, assigns or agent) of the ONE PART and
....., hereinafter referred to as the "CONTRACTOR" (which expression shall unless excluded by or repugnant to the context mean and include his executors, administrators, assigns or agent) of the OTHER PART.

WHEREAS THE DEPARTMENT invited lump-sum Tender for executing "Mitigation of Mangan Landslide at North District Headquarters - Mangan, North Sikkim" and the tender of the "CONTRACTOR" has been accepted by the "DEPARTMENT" vide their letter No.....dated for a lump-sum amount of Rs.
.....).

WHEREAS THE CONTRACTOR has agreed to undertake executing the works on the terms and conditions as stipulated in the tender document and subsequent amendments thereto for a lump-sum amount of Rs..... for successful completion of works.

NOW THIS AGREEMENT WITNESSED AND IT IS HEREBY AGREED AS FOLLOWS:

1. In pursuance of the Agreement aforesaid and in consideration of the payment of the sum of Rs..... (Rupees only) and / or such sum as may be payable to the "CONTRACTOR", the "CONTRACTOR" shall upon and subject to the said terms & conditions, execute and complete the work shown upon in the said drawings and described in the said scope of works as provided for in the said conditions.
2. The time shall be considered as one of the essence of the contract, and time for completion of this contract shall be 24 (twenty-four) months from the date of issue of work order as stipulated in the contract condition.

3. The parties hereto shall respectively and faithfully abide by and submit themselves to the terms and conditions and stipulations contained in this agreement and perform and discharge their part of contract accordingly.
4. This Agreement has been arrived at between the parties after due consideration of the correspondences, documents, meetings and negotiation from time to time. The following documents will form part of this Agreement :
 - a) Expression of Interest
 - b) Letter of acceptance
 - c) Formal Work Order
 - d) Instruction to Bidders (ITB)
 - e) Particular Conditions of Contract (PCC)
 - f) General Conditions of Contract (GCC)
 - g) Special Clauses of Contract
 - h) Declaration of Tenderer
 - i) Time Schedule
 - j) Technical Specification
 - k) Site Plan & drawings
 - l) Financial Bid
5. The contract shall be executed within the purview of Indian Laws applicable within the State of Sikkim.

IN WITNESS WHEREOF the parties have hereunto set their respective hands and seals at on the date, month and year first above written.

SIGNED, SEALED AND DELIVERED

Signed on behalf of the Contractor

Signed on behalf of the Department

Designation

Designation

Land Revenue and Disaster Management
Department,
Govt. of Sikkim,
Gangtok – 737 101

In the presence of the witness

In the presence of the witness

Name :

Name :

Designation :

Designation :

LETTER OF ACCEPTANCE

No.....

Date.....

To

.....

.....

.....

Sub : Mitigation of Mangan Landslide at North District Headquarters - Mangan, North Sikkim

Dear Sir,

Your tender for executing "**Mitigation of Mangan Landslide at North District Headquarters - Mangan, North Sikkim**" is hereby accepted by the Competent Authority of the Govt. of Sikkim, Gangtok for a sum of Rs.....Rupees.....

.....
.....) only

The letter referred to below shall form part of this contract agreement

a)

b)

c)

You are requested to sign the contract agreement along with other documents within 7 days from the date of issue of this letter of acceptance.

Date :

For & on behalf of,
Land Revenue & Disaster management
Department, Govt. of Sikkim, Gangtok,
Sikkim

Designation: Competent Authority of the Govt. of Sikkim

FORMAL WORK ORDER
(ISSUE OF NOTICE TO PROCEED WITH THE WORK)

No.....

Dated.....

To

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

Sub: "Mitigation of Mangan Landslide at North District Headquarters - Mangan, North Sikkim"

Dear Sir,

Pursuant to your signing of the Contract Agreement for executing "Mitigation of Mangan Landslide at North District Headquarters - Mangan, North Sikkim" at total lump-sum Contract price of Rs.....(Rupees), you are hereby instructed to proceed with the execution of the said work in accordance with the contract documents, approved drawings, specification etc. within 15 (fifteen) days of issuing of this letter or handing over of site, whichever is later.

Time of Completion : 24 (Twenty-four) months from the day of issue of this Formal Work Order (F.W.O) or from the date of handing over the site or from the date of payment of advance whichever is later.

Yours sincerely,

Director
Sikkim State Disaster management Authority (SSDMA)
Land Revenue & Disaster management Department
Govt. of Sikkim, Gangtok, Sikkim

INSTRUCTION TO BIDDERS

1.0 General Rules & Information

- 1.1 Rates quoted by the contractor for the lump sum tender in figures and words shall be accurately filled in, so that there is no discrepancy in the rates written in figures and words. However, if a discrepancy is found, the rates which correspond with the amount worked out by the contractor shall unless otherwise proved be taken as correct. If the amount of an item is not worked out by the contractor or it does not correspond with the rates written either in figures or in words then the rates quoted by the contractor in words shall be taken as correct. Where the rates quoted by the contractor in figures and in words tally but the amount is not worked out correctly, the rates quoted by the contractor will unless otherwise proved be taken as correct and not the amount.
- 1.2 On acceptance of the tender, the name of the accredited representative(s) of the contractor who would be responsible for taking instructions from the Department or their authorized representative shall be communicated in writing to the Land Revenue & Disaster management Department, Govt. of Sikkim, Gangtok.
- 1.3 The rate quoted shall be inclusive of taxes.
- 1.4 The tender for the work shall not be witnessed by a Contractor or Contractors who himself/themselves has/have tendered or who may and has/have tendered for the same work. Failure to observe this condition would render, tenders of the contractors tendering, as well as witnessing the tender liable to summary rejection.
- 1.5 Any tender received by the department after the due date stated for submission of the tender, in EOI, shall be returned unopened to the tenderer.
- 1.6 In the event of specified date for submission of the tender being declared a holiday, bandh, strike etc., the tender will be received up to appointed time on the next working day.
- 1.7 The department may extend the due date of submission of the tender by issue of extension notice and, in case any amendment is remained to be issued and issue of such amendments shall be communicated in writing/fax/email to all eligible purchaser of tender documents. Prospective tenderers shall acknowledge receipt of each corrigendum / addendum by email to the department.
- 1.8 The tender submitted must be complete in all respect. All pages are to be signed and rates to be quoted for lump-sum portion as well as for item-rate portion if any for the tender, should both be in words and figure. Incomplete tender shall be rejected.
- 1.9 Unsealed tender shall be summarily rejected.
- 1.10 No tenderer can submit more than one bid for the same work.
- 1.11 Eligible tenderer shall be furnished with the tender documents on payment of cost of tender document, and the tender duly filled in, is to be submitted in sealed cover to the client as per time and date fixed for the purpose, writing the word "TENDER" on the outside of sealed cover envelope with address of the client and name of the tenderer, name of work in block capital letters.
- 1.12 The tenderer shall be responsible for execution of the entire foundation system as per approved drawings, design & specification, and shall guarantee the stability of the foundation system, against the risk of settlement upto the permissible limit or any other types of damages to the structure. Sub soil investigation reports along with bore log details showing the nature of soil will be available with the Land Revenue & Disaster management Department, for reference of the tenderer, which will indicate the sub-soil strata expected and are meant only as guidance to the tenderer. However, the department does not take any

responsibility for variation in strata, which may be encountered while actually executing the foundation work. In case of variation of sub-soil strata, the Contractor must immediately inform the department in writing for remedial measures.

- 1.13 Tenderers are advised to confirm compliance to tender condition and not to stipulate any deviation or exception from the requirement of tender documents. Conditional tender shall not be accepted for evaluation and shall be rejected.
- 1.14 Although the details presented in this tender document consisting of conditions of contract, scope of works, specifications, drawing, payment schedule etc. have been compiled with all reasonable care, it is the tenderer's responsibility to ensure that the information provided are adequate and clearly understood. Claims and objections due to ignorance of existing conditions will not be considered after submission of tender and during the implementation. Tenderer's submission of tender is the responsibility of the tenderer and no relief or consideration can be given for errors and omissions.
- 1.15 In case it is noticed that rate/rates quoted by the tenderer for lump sum prices are unusually high or unusually low it will be sufficient cause for rejection of the tender, unless the department is convinced about the reasonableness after scrutiny of the analysis for such rates to be furnished by the tenderer on demand within 7(seven) days of issue of letter in this regard to the tenderer, proof of issue of letter shall be final & no claim whatsoever shall be entertained later on their respect by the department.
- 1.16 The Tenderer shall examine the site & thoroughly acquaint themselves with the condition of site, nature of soil strata and may go through the geo-technical report available with the department for proposed design of foundation etc. and all other information prior to submission of tender.

2.0 Submission of Proposal

- 2.1 The tenderer should submit their proposal for Financial Bid for executing "Mitigation of Mangan Landslide at North District Headquarters - Mangan, North Sikkim". The envelope should be clearly marked: "DO NOT OPEN, EXCEPT IN PRESENCE OF THE EVALUATION COMMITTEE".
- 2.2 Proposals must contain no interlineations or overwriting except as necessary to correct errors made by the Contractors themselves, in which cases all corrections must be initialed by the person signing the proposal.
- 2.3 Conditional Tenders are not acceptable and the Department reserves the right to reject any / all conditional tenders without assigning any reason thereof.

3.0 Financial Bid

- 3.1 The financial bid should include all costs associated with the assignment viz. for executing the proposed project which will also include labour, materials, tools, plants equipment & transport etc.that will be required for the full & entire execution & completion of the works as shown in Volume –II of the Tender Documents.

- 3.2 The financial bid should be prepared and submitted strictly in the prescribed financial bid format as indicated in Vol III of Tender Document, clearly indicating the amount in Indian Rupees both in figures and words and percentages of quoted amount against various items of works for payment schedule, without any assumption or conditions attached to such amounts and percentages.

4.0 Opening and Evaluation of Financial Bid

- 4.1 The Evaluation Committee will determine whether the Financial Bids are complete in all respect as per tender document.
- 4.2 The lowest financial bid in compliance with Clause no. 4.1 will be considered as L1 bidder and shall be awarded the work.

5.0 Negotiations

- 5.1 Negotiation will be held at the Office of the Director, Land Revenue & Disaster Management Department, Secretariat, Tashiling Block B, Gangtok. . The aim is to reach to an agreement on all points and sign the contract.
- 5.2 Prior to the expiry of tender validity period, the department will notify the successful tenderer whose rank will be No.1 (i.e. L-1) as per financial score, in writing by registered letter/ email / facsimile and invite them for negotiation of the Contract.
- 5.3 No Negotiations will be carried out with the other tenderers except the L-1 tenderer. Changes agreed upon during the negotiation will then be reflected in the financial bid.
- 5.4 In case L-1 does not respond for negotiation, the competent authority of Govt. of Sikkim may negotiate with L-2, L-3 etc. as per their ranking, if their price-bids are considered reasonable.
- 5.5 Having selected the tenderer, among other things, on the basis of an evaluation, the department expects to finalize Contract agreement with L-1, within the tender validity period.
- 5.6 The Contract will be awarded to the successful tenderer i.e. L-1, based on the combined evaluation of technical and financial bids. Only in case the L-1 bidder fails on the ground of conditional bids and / or non-signing of agreement within the stipulated time, the other firms based on their final scoring i.e. L-2, L-3 etc. would be invited for negotiation & signing of Contract, as per their rankings.

6.0 Award of Contract

- 6.1 The contract will be awarded following negotiations. After negotiations are completed & the contract is awarded, the department will promptly notify other firms accordingly & return the financial bids along with the Earnest Money deposits of those firms who did not pass the financial evaluation. The decision of Evaluating Committee will be treated as final, binding and cannot be challenged.

TENDER DATA SHEET

- 1.0 Name of the Project** : Mitigation of Mangan Landslide at North District Headquarters - Mangan, North Sikkim
- 2.0 Name of the Client** : Land Revenue & Disaster management Department, Govt. of Sikkim, Gangtok – 737 101
- 3.0 Site Location** : The site is located at (1) Old Mangan Bazar & below SNT complex just adjacent to left bank of Raffong Khola , North Sikkim.
- 4.0 Earnest Money Deposit** : Rs. 20,60,000.00 (Twenty lakh and sixty thousand) only in the form of Temporary Deposit Receipt or Bank Guarantee from any Scheduled Nationalized Bank in favour of Accounts Officer, Land Revenue and Disaster Management Department, Govt. of Sikkim.
- 5.0 Cost of Form** : Rs. 50,000.00 (Fifty thousand)only in the form of Demand Draft in favour of Accounts Officer, LR&DM Deptt, Govt. of Sikkim.
- 6.0 Validity period of tender** : 90 days from date of submission of tender.
- 8.0 Address of submission of Tender document comprising of part I, II & III** : Director
Land Revenue and Disaster Management Deptt.
Govt. of Sikkim, Tashiling, Gangtok-737 101
- 11.0 Date and address of opening of Financial Bid** : As per EOI
Director
Land Revenue and Disaster Management Deptt.
Govt. of Sikkim, Gangtok-737 101
- 12.0 The address for Negotiation** : Director
Land Revenue & Disaster management Department,
Govt. of Sikkim, Tashiling Secretariat, Block B
Gangtok – 737 101

13.0 The decision of Evaluation Committee will be treated as final, binding and cannot be challenged. The department reserves the right to reject any or all tenders without assigning any reason whatsoever to the tenderers.

FORMAT OF SUBMISSION OF TENDER

No.....

Date

From :

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

To,

Director,
Land Revenue & Disaster management Department
Government of Sikkim
Gangtok – 737 101
Sikkim

Sub : Tender for execution of – “Mitigation of Mangan Landslide at North District Headquarters - Mangan, North Sikkim”.

Ref :

Dear Sir,

I/We hereby submit the tender for the subject project, within the time specified and our offer is in full compliance with the terms and conditions of the attached tender.

Earnest money deposit of Rs. 20,60,000.00 (Twenty lakh and sixty thousand) only in the form of Temporary Deposit Receipt or Bank Guarantee No..... valid uptois also furnished herewith payable to Accounts Officer, Land Revenue & Disaster management Department, Government of Sikkim.

Yours sincerely,

Signature of tenderer
Full Name
Title of Signatory

PARTICULAR CONDITIONS OF CONTRACT:

1. The site for construction shall be handed over the contractor free from encumbrance as per the following schedule:

S/N	Site	Time
1.	70 % of construction site.	Within 90 days of the start date.
2.	30 % of construction site.	Within 365 days of the start date.

2. The contractor has to arrange his own dumping yard for disposal of excavated earth. No separate payment shall be made for this item.

GENERAL CLAUSES OF CONTRACT

GENERAL DIRECTIONS AND CONDITIONS OF CONTRACT

Definitions

- 1.1 Terms which are defined in the Contract Data are not also defined in the Conditions of Contract but keep their defined meanings. Capital initials are used to identify defined terms.

The Adjudicator (Synonymous with Dispute Review Expert) is the person appointed jointly by the Employer and the Contractor to resolve disputes in the first instance. All disputes are subject to Gangtok jurisdiction.

Bill of Quantities means the priced and completed Bill of Quantities forming part of the Bid.

The **Completion Date** is the date of completion of the Works as certified by the Engineer.

The **Contract** is the contract between the Employer and the Contractor to execute, complete and maintain the Works.

The **Contractor** is a person or corporate body whose bid to carry out the Works has been accepted by the Employer.

The **Contractor's Bid** is the completed Bidding document submitted by the Contractor to the Employer and includes Technical and Financial bids.

The **Contract Price** is the price stated in the Letter of Acceptance / work order and thereafter as adjusted in accordance with the provisions of the Contract.

Days are calendar days; **months** are calendar months.

A **Defect** is any part of the Works not completed in accordance with the Contract.

The **Defects Liability Period** is the period named in the Contract Data and calculated from the Completion Date.

The **Employer** is the persons named in the contract data who will employ the Contractor to carry out the Works.

The **Engineer** is the person named in the Contract Data (or any other competent person appointed and notified to the contractor to act in replacement of the Engineer) who is responsible for supervising the work, administering the Contract, certifying payments due to the Contractor, awarding extensions of time.

Equipment is the Contractor's machinery and vehicles brought temporarily to the Site to construct the Works.

The **Initial Contract Price** is the Contract Price listed in the Employer's Letter of Acceptance / work order.

The **Intended Completion Date** is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date is specified in the bid documents. The Intended Completion Date may be revised only by the Engineer by issuing an extension of time.

Materials all supplied, including consumables, used by the contractor for incorporation in the Works.

Plant is any integral part of the Works which is to have a mechanical, electrical, electronic or chemical or biological function.

The **Site** is the area defined as such in the Contract Data.

Specification means the Specification of the Works included in the Contract and any modification or addition made or approved by the Engineer.

The **Start Date** is given in the Contract Data. It is the date when the Contractor shall commence execution of the works. It does not necessarily coincide with any of the Site Possession Dates.

Temporary Works are works designed, constructed, installed, and removed by the Contractor which are needed for construction or installation of the Works.

A **Variation** is an instruction given by the Engineer which varies the Works.

The **Works** are what the Contract requires the Contractor to construct, install, and turn over to the Employer, as defined in the Contract Data.

2. Interpretation

In interpreting these Conditions of Contract, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Engineer will provide instructions clarifying queries about the Conditions of Contract.

3. GENERAL RULES

- i) All works proposed for execution by contract will be notified in a form of invitation to tender in official website and in e-procurement portal. Information regarding such tenders shall be published in Sikkim Herald and Other Local News papers.
- ii) This form will state the work to be carried out, as well as the date for submitting and opening tenders and the time allowed for carrying out the work, the amount of earnest money to be deposited with the tender, and the amount of the security deposit to be deposited by the successful bidder and the percentage, if any, to be deducted from bills. Copies of the specifications, designs and drawings or any other documents required in connection with the work signed for the purpose of identification by the Assistant Engineer /Divisional Engineer or equivalent shall also be open for inspection to the contractor at the office of NIT inviting authority.
- iii) In the event of tender being submitted by a registered Firm or Co-operative Society in the State, it must be signed separately by each Partner / Executive Body of Co-operative Society thereof, or in event of the absence of any Partner/ Other executive members , it must be signed on his behalf by a person holding a power of attorney authorizing him to do so, such power of attorney to be produced with the tender, and it must disclose that the firm / Co- operative society is duly registered under the provisions of Law.
- iv) Receipts for the payment made on account of a work when executed by a Firm / Co- operatives Society must also be signed by all the partners, except where the contractors are described in their tenders as Firm, in which case the receipts must be signed in the name of the Firm / Co- operative by one of the partners or by any person authorized on their behalf.

- v) Any person who submits a tender shall fill up the usual printed form, stating the rate he is willing to undertake each item of the work. Bidders, who propose any alteration in the work specified in the said form of invitation of tender or in the time allowed for carrying out the work, or which contain any other condition of any sort, will be liable to rejection. No single tender shall include more than one work. Tenders shall have the name and number of the work to which they refer written outside the envelope containing tender papers.
- vi) In order to make the tender process more competitive and to properly evaluate the rates offered by the contractors, it is necessary that there must be at least three participants / tenders in each tender. Tenders received in less than three valid tenders shall be summarily rejected and fresh tender shall be invited. However, in case receipt of less than three tenders in the subsequent re-tender, the NIT inviting authority has the discretion to accept or reject the tenders.
- vii) The officer inviting tender, will open tenders in the presence of any intending contractors who may be present at the time, and will enter the amounts of the several tenders in a comparative Statement in a suitable form. In the event of a tender being accepted or not, a receipt for the earnest money submitted along with tender therewith shall be given to the contractor for the purpose of identification, sign the relevant register. In the event of a tender being rejected, the earnest money forwarded with the unaccepted tender, shall be returned to the contractor without any interest.
- viii) The accepting authority reserves the right to reject any or all the tenders without assigning any reasons thereto.
- ix) The receipt of an Accountant or clerk for any money paid by the contractor as Earnest Money will not be accepted. The contractor is required to furnish requisite bank receipt or challan issued by the DDO or the Tendering Authority.
- x) In addition to the Conditions of Contract enumerated in this Manual, the special clauses incorporated in the Notice Inviting Tenders of the Work by the Tender calling authority shall also be constructed as the Conditions of Contract for the work.

STANDARD CONDITIONS OF CONTRACT

Definitions:

1. Contract means the documents forming the tender and acceptance thereof and the formal agreement executed between the competent authority on behalf of the Governor of Sikkim and the Contractor, together with the documents referred to therein including these conditions, the specifications, designs, drawings and instructions issued from time to time by the Engineer-in Charge and all these documents taken together, shall be deemed to form one contract and shall be complementary to one another.
2. In the contract, the following expressions shall, unless the context otherwise requires, have the meanings, hereby respectively assigned to them:-
 - ❖ *The expression works or work shall, unless there be something either in the subject or context repugnant to such construction, be construed and taken to mean the works by or by virtue of the contract contracted to be executed whether temporary or permanent, and whether original, altered, substituted or additional.*
 - ❖ *The Site shall mean the land/or other places on, into or through which work is to be executed under the contract or any adjacent land, path or street through which work is to be executed under the contract or any adjacent land, path or street which may be allotted or used for the purpose of carrying out the contract.*

- ❖ *The Contractor shall mean the individual, firm or company, whether incorporated or not, undertaking the works and shall include the legal personal representative of such individual or the persons composing such firm or company, or the successors of such firm or company and the permitted assignees of such individual, firm or company.*
 - ❖ *The Governor means the Governor of Sikkim.*
 - ❖ *The Engineer-in-charge means the Engineer / Officer who shall supervise and be in-charge of the work and who shall sign the contract on behalf of the Governor of Sikkim as per the contract data.*
 - ❖ *Government or Government of Sikkim shall mean the Governor of Sikkim.*
 - ❖ *Accepting Authority shall mean the authority, to whom the power is delegated by the Government from time to time.*
 - ❖ *Excepted Risk are risks due to riots (other than those on account of contractor's employees), war (whether declared or not) invasion, act of foreign enemies hostilities, civil war, rebellion revolution, insurrection, military or usurped power, any acts of Government. Damages from aircraft, acts of God, such as earthquake, lightening and unprecedented floods and other causes over which the contractor has no control and accepted as such by the Accepting Authority or causes solely due to use or occupation by Government of the part of the works in respect of which a certificate of completion has been issued or a cause solely due to Government's faulty design of works.*
 - ❖ *Department means Land Revenue & Disaster management Department or any Department of Government of Sikkim which invites tenders on behalf of the Governor as specified in delegation of power notified by the Government from time to time.*
 - ❖ *Tendered value means the value of the entire work as stipulated in the letter of award, Scope and Performance.*
3. Where the context so requires, words imparting the singular only also include the plural and vice versa. Any reference to masculine gender shall whenever required include feminine gender and vice versa.
 4. Headings and marginal notes to these General Conditions of Contract shall not be deemed to form part thereof or be taken into consideration in the interpretation or construction thereof or of the contract.
 5. The Work to be carried out under the Contract shall, except as otherwise provided in these conditions, include all labour, materials, tools, plants, equipment and transport which may be required in preparation of and for and in the full and entire execution and completion of the works. The descriptions given in the Schedule of Quantities (Schedule) shall, unless otherwise stated, be held to include wastage on materials, carriage and cartage, carrying and return of empties, hoisting, setting, fitting and fixing in position and all other labours necessary in and for the full and entire execution and completion of the work as aforesaid in accordance with good practice and recognized principles.

6. Sufficiency of Tender

The Contractor shall be deemed to have satisfied himself before tendering as to the correctness, the sufficiency of his tender for the works and of the rates and prices quoted in the

Schedule of Quantities, which rates and prices shall, except as otherwise provided, cover all his obligations under the Contract and all matters and things necessary for the proper completion and maintenance of the works.

7. Discrepancies and Adjustment of Errors.

Several documents forming the contract are to be taken as mutually explanatory of one another, detailed drawings being followed in preference to small scale drawing and figured dimensions in preference to scale and special conditions in preference to general Conditions. In the case of discrepancy between the schedule of Quantities, the Specifications and/or the Drawing order of preference shall be observed:-

- i) Description of Schedule of Quantities.
- ii) Particular Specification and Special Condition, if any.
- iii) Drawings.

- ❖ If there are varying or conflicting provisions made in any one document forming part of the contract, the accepting Authority shall be the deciding authority with regard to the intention of the document and this decision shall be binding to the contractor.
- ❖ Any error in description, quantity or rate in Schedule of Quantities or any omission there from shall not vitiate the contract or release the Contractor from the execution of the whole or any part of the works comprised there in according to drawings and specifications or from any of his obligations under the contract.
- ❖ The bidders shall give declaration under the officials' secret Act, 1923 for maintaining secrecy of the tender documents, drawings or other records connected with the work given to him. The unsuccessful bidders shall return all the drawings given to them, without which, the Temporary Deposit Receipt submitted along with tenders shall not be returned.
- ❖ In the case of any tender where unit rate of any item/items appear unrealistic, such tender will be considered as unbalanced and in case the bidder is unable to provide satisfactory explanation such a tender is liable to be disqualified and rejected.
- ❖ The contractor whose tender is accepted will be required to furnish by way of security deposit for the fulfillment of his contract an amount equal to 5 % of the tendered value of the work. The security will be collected by deductions from the running bills of the contractor at the rates mentioned above and the earnest money, if deposited in cash at the time of tenders, will be treated as a part of the security deposit.
- ❖ On acceptance of the tender, the name of the accredited representative (s) of the contractor who would be responsible for taking instructions from the Engineer-in-Charge shall be communicated in writing to the Engineer-in-Charge.
- ❖ Value Added Tax , purchase tax, turnover tax or any other taxes and levies on material in respect of this contract shall be payable by the Contractor and Government will not entertain any claim whatsoever in respect of the same.
- ❖ The contractor shall give a list of both gazetted and non-gazetted employees related to him working in the implementing department where.

- ❖ The tender for the work shall not be witnessed by a contractor or contractors who himself/themselves has/have tendered or who may has/have tendered for same work. Failure to observe this condition would render, tenders of the contractors tendering, as well as witnessing the tender, liable to summary rejection.

9 Signing of contract

The successful bidder / contractor, on acceptance of his tender by the Accepting Authority, shall, within 15 days from the stipulated date of start of the work sign the contract consisting of notice inviting tender, all the documents including drawings, if any, forming the tender as issued at the time of invitation of tender and acceptance thereof together with any correspondence leading thereto.

10 Insurance

The Contractor shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles stated in the Contract Data for the following events which are due to the Contractor's risks before signing of an agreement:

- (a) Loss of or damage to the Works, Plant and Materials;
 - (b) Loss of or damage to Equipment;
 - (c) Loss of or damage of property (except the Works, Plant, Materials and Equipment) in connection with the Contract; and
 - (d) Personal injury or death.
- Policies and certificates for insurance shall be delivered by the Contractor to the Engineer for the Engineer's approval before the Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.
 - If the Contractor does not provide any of the policies and certificates required, the Employer may effect the insurance which the Contractor should have provided and recover the premiums the Employer has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.
 - Alterations to the terms of insurance shall not be made without the approval of the Director.
 - Both parties shall comply with any conditions of the insurance policies.

11. Safety

The Contractor shall be responsible for the safety of all activities on the Site.

12 Discoveries

Anything of historical or other interest or of significant value unexpectedly discovered on the Site is the property of the Employer. The Contractor is to notify the Engineer of such discoveries and carry out the Engineer's instructions for dealing with them.

13 Identifying Defects

The Engineer-in-charge shall check the Contractor's work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor's responsibilities. The Engineer-in-charge may instruct the Contractor to search for a Defect and to uncover and test any work that the Engineer considers may have a Defect

14 Tests

If the Engineer-in-charge instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect the test shall be a Compensation Event.

15 Correction of Defects

The Engineer-in-charge shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion and is defined in the Contract Data. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.

Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Engineer-in-charge in the notice.

16 Uncorrected Defects

If the Contractor has not corrected a Defect within the time specified in the Engineer-in-charge's notice, the Engineer-in-charge will assess the cost of having the Defect corrected, and the Contractor will pay this amount.

17 Bill of Quantities

The Bill of Quantities shall contain items for the construction, installation, testing, and commissioning work to be done by the Contractor.

The Bill of Quantities is used to calculate the Contract Price. The Contractor is paid for the quantity of the work done at the rate in the Bill of Quantities for each item.

18 Tax

The rates quoted by the Contractor shall be deemed to be inclusive of the sales and other taxes i/c labour cess that the Contractor will have to pay for the performance of this Contract. The Employer will perform such duties in regard to the deduction of such taxes at source as per applicable law.

CLAUSES OF CONTRACT

CLAUSE-1: Recovery of Security Deposit

The person/persons whose tender (s) may be accepted (hereinafter called the contractor) shall permit the Government at the time of making any payment to him for work done under the contract to deduct a sum at the rate 5% of the gross amount of each running bill.

All compensations or the other sums of money payable by the contractor under the terms of this contract may be deducted from, his security deposit or from any sums which may be due to or may become due to the contractor by the Government on any account whatsoever and in the event of his security deposit being reduced by reason of any such deductions, the

contractor shall within 10 days make good, any sum or sums which may have been deducted from, his security deposit or any part thereof. The security deposit shall be collected from the running bills of the contractor at the rate mentioned above and the earnest money deposited at the time of tenders will be treated a part of the security deposit. The Security Deposit of the contractor should be refunded after the prescribed maintenance period as stipulated in the agreement or after the final bill has been prepared and passed for payment, whichever is later. The Government of Sikkim shall not pay any interest on security deposits.

CLAUSE-2: Compensation for Delay

If the contractor fails to maintain the required progress in terms of clause 5 or to complete the work and clear the site on or before the contract or extended date of completion, he shall without prejudice to any other right, or remedy available under the law to the Government, on account of such breach, pay as agreed compensation, the amount calculated at the rate of 1% per week for completed works or stipulated below or such smaller amount as the Director (whose decision in writing shall be final and binding) may decide on the amount of tendered value of the work for every completed week that the progress remains below that specified in Clause 5 or that the work remains incomplete.

Provided that the total amount of compensation for delay to be paid under this condition shall not exceed 10% of the Tendered Value of work.

The amount of compensation may be adjusted or set-off against any sum payable to the Contractor under this or any other contract with the Government which includes earnest money and security deposit.

CLAUSE-3: When Contract can be Determined

Subject to other provisions contained in this clause, the Engineer-in-Charge may, without prejudice to his any other rights or remedy against the contractor in respect of any delay, inferior workmanship any claims for damages and/ or any other provisions of this contract or otherwise, and whether the date of completion has or has not elapsed, by notice in writing absolutely determine the contract in any of the following cases:

- i) If the contractor having been given by the Engineer-in-Charge a notice in writing to rectify, reconstruct or replace any defective work or that the work is being performed in an inefficient or otherwise improper or un-workman like manner shall omit to comply with the requirement of such notice for a period of seven days thereafter.
- ii) If the contractor being a company shall pass a resolution or the court shall make an order that the company shall be wound up or if a receiver or a manager on behalf of a creditor shall be appointed or if a receiver or a which entitle the court or the creditor to appoint a receiver or a manager or which entitles the court to make a winding up order.
- iii) If the contractor, has, without reasonable cause, suspended the progress of the work or has failed to proceed with the work with due diligence so that in the opinion of the Engineer-in-Charge (which shall be final and binding) he will be unable to secure completion of the work by the date for completion and continues to do so after a notice in writing of seven days from the Engineer-in-Charge.
- iv) If the contractor fails to complete the work within the stipulated date of completion and does not complete them within the period specified in a notice given in writing in that behalf by the Engineer-in-Charge.

v) If the contractor persistently neglects to carry out his obligations under the contract and/or commits default in complying with any of terms and conditions of the contract and does not remedy it or take effective steps to remedy it within 7 days after a notice in writing to him in that behalf by the Engineer-in-Charge.

vi) If the contractor commits any acts mentioned in Clause 24 hereof:

When the contractor has made himself liable for action under any of the cases aforesaid, the Engineer-in-Charge on behalf of the Governor of Sikkim powers:

- a) To determine or rescind the contract as aforesaid (of which termination or rescission notice in writing to the contractor under the hand of the Engineer-in-Charge shall be conclusive evidence). Upon such determination or rescission the full security deposit recoverable under the contract shall be liable to be forfeited and shall be absolutely at the disposal of the Government. If any portion of the security deposit has not been paid or received it, would be called for and forfeited.
- b) To employ labour paid by the Department and to supply materials to carry out the work or any part of the work debiting the contractor with the cost of the labour and the price of the materials (of the amount of which cost and price certified by the Engineer-in-Charge shall be final and conclusive) against the contractor and crediting him 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 contract. The certificate of the Divisional Officer or equivalent as to the value of the work done shall be final and conclusive against the contractor provided always that action under the sub-clause shall only be taken after giving notice in writing to the contractor. Provided also that if the expenses incurred by the department are less than the amount payable to the contractor at his agreement rates, the difference shall not be paid to the contractor.
- c) After giving notice to the contractor to measure up the work of the contractor and to take such whole or the balance or part thereof as shall be un-executed out of his hands and to give it to another contractor to complete in which case any expenses which may be incurred in excess of the sum which would have been paid to the original contractor if the whole work had been executed by him (of the amount of which excess the certificate in writing of the Engineer-in-Charge shall be final and conclusive) shall be borne and paid by the original contractor and may be deducted from any money due to him by Government under his contract or on any other account whatsoever or from his security deposit or the proceeds of sales thereof or a sufficient part thereof as the case may be. If the expenses incurred by the department are less than the amount payable to the contractor at his agreement rates, the difference shall not be paid to the contractor.

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

Provided further that if any of the recoveries to be made, while taking action as per (b) and/or (c) above, are in excess of the security deposit forfeited, these shall be limited to the amount by which the excess cost incurred by the Department exceeds the security deposit so forfeited.

CLAUSE-4: Contractor liable to pay Compensation even if action not taken under Clause 3

In any case in which any of the powers conferred upon the Engineer-in-Charge by Clause 3 thereof, shall have become exercisable and the same are not exercised. The non-exercise thereof shall not constitute a waiver of any of conditions hereof and such powers shall notwithstanding be exercisable in event of any future case of default by the contractor and the liability of the contractor for compensation shall remain unaffected. In the event of the Engineer-in-Charge putting in force all or any of the powers vested in him under the preceding clause he may, if he so desires after giving a notice in writing to the contractor, take possession of (or at the sole discretion of the Engineer-in-Charge which shall be final and binding on the contractor) use as on hire (the amount of the hire money being also in the final determination of the Engineer-in-Charge) all or any tools, plant, materials and stores, in or upon the works, or the site thereof belonging to the contractor, or procured by the contractor and intended to be used for the execution of the contractor, or procured by the contractor/ and intended to be used for the execution of the work/or any part thereof, paying or allowing for the same in account at the contract rates. Or, in the 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 on the contractor, otherwise the Engineer-in-Charge may by notice in writing to the contractor or his representative of the works, foreman or other authorized agent to remove such tools, plant, materials. Or stores from the premises (within a time to be specified in such notice) 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 sell them by auction or private sale on account of the contractor and his risk in all respects and the certificate of the Engineer-in-Charge as to the expenses of any such removal and amount of the proceeds and expenses of any such removal and the amount of the proceeds and expenses of any such sale shall be final and conclusive against the contractor.

CLAUSE 5: Time and Extension for Delay

The time allowed for execution of the works as specified in the letter of award or the extended time in accordance with these conditions shall be the essence of the contract. The execution of the works shall commence from the 15th day or such time period as mentioned in the letter of award after the date on which the Engineer-in-Charge issues written orders to commence the work or from the date of handing over of the site whichever is later. If the Contractor commits default in commencing the execution of the work as aforesaid, Government shall without prejudice to any other right or remedy available in law, be at liberty to forfeit the earnest money absolutely.

- 5.1 To ensure good progress during the execution of the work, the contractor shall in all cases complete 1/8th of the whole of work before 1/4th of the whole time allowed in the contract has elapsed 3/8th of the work before one half of such time has elapsed and 3/4th of the work before 3/4th of such time has elapsed.
- 5.2 If the work (s) be delayed by:-
- a) Force majeure, or
 - b) Abnormally bad weather, or
 - c) Serious loss or damage by fire, or
 - d) Civil commotion, local commotion of workmen, strike.
 - e) Delay on the part of other contractors or tradesmen engaged by the Engineer-in-Charge in executing work not forming part of the contract, or
 - f) Non-availability of stores, which are the responsibility of Government to supply or

- g) Non-availability or break down of Tools and Plant to be supplied or supplied by Government. or
- h) Any other cause which, in the absolute discretion of the authority executing the contract is beyond the Contractor's control.

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

- 5.3 Request for extension of time, to be eligible for consideration, shall be made by the Contractor in writing fourteen days of the happening of event causing delay on the prescribed form. The Contractor may also, if practicable, indicate in such a request the period for which extension is desired.
- 5.4 In any such case the authority executing the contract may give a fair and reasonable extension of time for completion of the work. Such extension shall be communicated to the contractor by the Engineer-in-Charge in writing, within 3 months of the date of receipt of giving a fair and reasonable extension by the Engineer-in-Charge and this shall be binding on the contractor.

CLAUSE 6: Measurement of work done

The Engineer-in-Charge shall, except as otherwise provided, ascertain and determine by measurement the value in accordance with the contract of work done.

- ❖ All measurements of the items having financial value shall be entered in Measurement Book and/or level field book so that a complete record is obtained of all works performed under the contract.
- ❖ All measurements and levels shall be taken jointly by the Engineer-in-Charge or his authorized representative and by the contractor or his authorized representative from time to time during the progress of the work and such measurement shall be signed and dated by the Engineer-in-Charge and the contractor or their representative in token of their acceptance. If the contractor objects to any of the measurements recorded, a note shall be made to that effect with reason and signed by both the parties.
- ❖ If for any reason the contractor or his authorized representative is not available and the work of recording measurements is suspended by the Engineer-in-Charge or his representative, the Engineer-in-Charge and the Department shall not entertain any claim from contractor for any loss or damages on this account. If the contractor or his authorized representative does not remain present at the time of such measurement after the contractor or his authorized representative has been given a notice in writing three (3) days in advance or fails to countersign or to record objection within a week from the date of the measurement, then such measurements recorded in his absence by the Engineer-in-Charge or his representative shall be deemed to be accepted by the contractor.
- ❖ The contractor shall, without extra charge, provide all assistance with every appliance, labour and other things necessary for measurements and recording levels.
- ❖ The contractor shall give not less than seven day's notice to the Engineer-in-Charge or his authorized representative in-charge of the work before covering or otherwise pacing beyond the reach of measurement any work in order that the same may be measured and correct dimensions thereof be taken before the same is covered up or placed beyond the reach of

measurement and shall not cover up and place beyond reach of measurement any work without consent in writing of the Engineer-in-Charge or his authorized representative in-charge of the work who shall within the aforesaid period of seven days inspect the work, and if any work shall be covered up or placed beyond the reach of measurements without such notice having been given or the Engineer-in-Charge's consent being obtained in writing the same shall be uncovered at the contractor's expense, or in default thereof no payment or allowance shall be made for such work or the materials with which the same was executed.

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

CLAUSE 7: Payment on Intermediate Certificate to be regarded as Advances

No payment shall be made for work, estimated to cost Rupees Fifty Thousand or less, till after the whole of the work shall have been completed and certificate of completion given. For works estimated to cost over Rupees twenty thousand, the interim or running account bills shall be submitted by the contractor for the work executed on the basis of such recorded measurements on the format of the Department in triplicate on or before the date of every month fixed for the same by the Engineer-in-Charge. The contractor shall not be entitled to be paid any such interim payment if the gross work done together with net payment/adjustment of advances for material collected, if any, since the last such payment is less, than the amount specified in Schedule 'F', in which case the interim bill shall be prepared on the appointed date of the month after the requisite progress is achieved. Engineer-in-Charge shall arrange to have the bill verified by taking or causing to be taken, where necessary, the requisite measurements of the work. In the event of the failure of the contractor to submit the bills, Engineer-in-Charge shall prepare or cause to be prepared interest shall be payable to the contractor. Payment on account of amount admissible shall be made by the Engineer-in-Charge certifying the sum to which the contractor is considered entitled by way of interim payment at such rates as decided by the Engineer-in-Charge.

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

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

CLAUSE 8: Completion Certificate and Completion Plans

Within ten days of the completion of a work, the contractor shall give notice of such completion to the Engineer-in-Charge and within thirty days of the receipt of such notice the Engineer-in-Charge shall inspect the work and if there is no defect in the work shall furnish the contractor with a final certificate of completion, otherwise (a) provisional certificate of physical completion indicating defects to be rectified by the contractor and/or (b) for which payment will be made at reduced rates, shall be issued. But no final certificate of completion shall be issued, nor shall the work be considered to be complete until the contractor shall have removed from the premises on which the work shall be exacted all scaffolding, surplus materials, rubbish and all huts and sanitary arrangements required for his/their work people on the site in connection with the execution of the works as shall have been erected or constructed by the contractor (s) and cleaned off the dirt from all wood work, doors, windows, walls, floor or other parts of the building, in, upon, or about which the work is to be executed or of which he may have been measured by the Engineer-in-Charge. If the contractor shall fail to comply with the requirement of this Clause as to removal of scaffolding, surplus materials and rubbish and all huts and sanitary arrangements as aforesaid and cleaning off dirt on or before the date fixed for the completion of work, the Engineer-in-Charge may at the expense of the contractor remove such scaffolding, surplus materials and rubbish etc and dispose of the same as he thinks fit and clean off such dirt as aforesaid except for any sum actually realized by the sale thereof.

CLAUSE 8 A: Contractors to Keep Site Clean

The contractor undertakes to have the site cleaned and free from debris and all rubbish to the satisfaction of the Engineer-in-Charge.

CLAUSE 9: Payment of Final Bill

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

- ◆ If the Tendered value of work is up to Rs. 15 lakhs: 3 months
- ◆ If the Tendered value of work above Rs. 15 lakhs: 6 months.

CLAUSE 9 A: Payment of contractor's Bill to Banks for overdrafts.

Payments due to the contractor may, if so desired by him, be made to his bank, instead of direct to him provided that the contractor furnishes to the Engineer-in-Charge and the Drawing and Disbursing Officer (1) an authorization in the form of a legally valid document such as a power of attorney conferring authority on the bank; to receive payments and (2) his own acceptance of the correctness of the amount made out as being due to him by Government or signature on the bill or other claim preferred against Government before settlement by the Engineer-in-Charge of the account or claim by payment to the bank. While the receipt given by such bank; shall constitute a full and sufficient discharge for the payment, the contractor shall wherever possible present his bills duly receipted and discharged through his bank. Nothing

herein contained shall operate to create in favour of the bank; any rights or equities vis-à-vis the Governor of Sikkim

CLAUSE 10: Materials supplied by Government

Materials which Government will supply are shown in Schedule 'B' which also stipulates quantum, place of issue and rate(s) to be charged in respect thereof. The Contractor shall be bound to procure them from the Engineer-in-Charge.

As soon as the work is awarded, the contractor shall finalize the programme for the completion of work as per clause 5 of this contract and shall give his estimates of materials required on the basis of drawings/or schedule of quantities of the work. The Contractor shall give in writing his requirement to him, Engineer-in-Charge which shall be issued to him keeping in view the progress of work as assessed by the Engineer-in-Charge, in accordance with the agreed phased programme of work indicating monthly requirements of various materials. The contractor shall place his indent in writing for issue of such materials at least 7 days in advance of his requirement.

Such materials shall be supplied for the purpose of the contract only and the value of the materials so supplied at the rates specified in the aforesaid schedule shall be set off or deducted, as and when materials are consumed in items of work sum then due or which may therefore become due to the contractor under the contract or otherwise or from the security deposit. At the time of submission of bills the contractor shall certify that balance of materials supplied is available at site is available at site in original good condition.

The contractor shall submit along with every running bill (on account or interim bill) materials wise reconciliation statements supported by complete calculations reconciling total issue, total consumption and certified balance (diameter/section-wise in the of steel) and resulting variations and reasons therefore. Engineer-in-Charge shall (whose decision shall be final and binding on the contract) be within his rights to follow the procedure of recovery in clause 42 any stage of the work if reconciliation is not found to be satisfactory.

The contractor shall bear the cost of getting the materials issued, loading, transporting to site, unloading under cover as required, cutting assembling and joining several parts together as necessary. Notwithstanding anything to the contrary contained in any other clause of the contract all stores/ materials so supplied to the contractor or procured with the assistance of the Government shall remain the absolute property of government and the contractor shall be the trustee of the stores/materials, and the said stores/materials shall not be removed/disposed off from the site of the work on any account and shall be at all times open to inspection by the Engineer-in-Charge or his authorized agent. Any such stores/materials remaining unused shall be returned to the Engineer-in-Charge in as good a condition in which they originally supplied at a place directed by him, at a place of issue or any other place specified by him as he shall require, but in case it is decided not to take back the stores/materials the contractor shall have no claim for compensation on any account of such stores/materials so supplied to him as aforesaid and not used by him or for any wastage in or damage to in such stores/materials.

On being required to return stores/materials, the contractor shall hand over the stores/materials on being paid or credited such price as the Engineer-in-Charge shall determine, having due regard to the condition of the stores/materials. The price allowed for credit to the contractor, however, shall be at the prevailing market rate not exceeding the amount charged to him, excluding the storage charge, if any. The decision of the Engineer-in-Charge shall be final and conclusive. In the event of breach of the aforesaid condition, the contractor shall in addition to throwing himself open to account for contravention of the terms of the licenses or permit and/ or for criminal breach of trust, be liable to Government for all advantages or profits resulting or which in the usual course would have resulted to him by reason of such breach. Provided that

the contractor shall in no case be entitled to any compensation or damages on account of any delay in supply or non-supply thereof all or any such materials and stores provided further that the contractor shall be bound to execute the entire work if the materials are supplied by the Government within the original scheduled time for completion of the work plus 50% thereof or schedule time plus 6 months whichever is more if the time of completion of work exceeds 12 months but if a part of the materials only has been supplied within the aforesaid period then the contractor shall be bound to do so much of the work as may be possible with the materials and stores supplied in the aforesaid period for the completion of the rest of the work, the contractor shall be entitled to such extension of time as may be determined by the Engineer-in-Charge whose decision in this regard shall be final and binding on the contractor.

The contractor shall see that only the required quantities of materials are got issued. Any such material remaining unused and in perfectly good/original condition at the time of completion or determination of the contract shall be returned to the Engineer-in-Charge at the store from which it was issued or at a place directed by him a notice in writing. The contractor shall not be entitled for loading, transporting, unloading and stacking of such unused materials except for the extra lead, if any involved, beyond the original place of issue.

CLAUSE 10 A: Materials to be provided by the contractor

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

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

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

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

The Engineer-in-Charge shall have full powers to require the removal from the premises of all materials which in his opinion are not in accordance with the specifications and in case of default, the Engineer-in-Charge shall be at liberty to employ at the expense of the contract,

other persons to remove the same without being answerable or accountable for any loss or damage that may happen or arise to such materials. The Engineer-in-Charge shall also have full powers to require other proper materials to be substituted thereof and in case of default the Engineer-in-Charge may cause same to be supplied and all costs which may attend such removal and substitution shall be borne by the Contractor.

CLAUSE 11: DELETED

CLAUSE 12: Dismantled Material Govt. Property

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

CLAUSE 13: Work to be executed in accordance with Specifications, Drawings, and Orders etc.

The contractor shall execute the whole and every part of the work in the most substantial and workman like manner both as regards materials and otherwise in every respect in strict accordance with the specifications. The contractor shall also conform exactly, fully and faithfully to the design, drawings and instructions in writing in respect of the work signed by the Engineer-in-Charge and the contractor shall be furnished free of charge one copy of the contract documents together with specifications, designs, drawings and instructions as are not included in the standard specification of the Sikkim Land Revenue & Disaster management Department or in any Bureau of Indian Standard or any other, published standard or code or, Schedule of Rates or any other printed publication referred to elsewhere in the contract.

The contractor shall comply with the provision of the contract and with the care and diligence execute and maintain the works and provide all labour and materials, tools and plants including for measurements and supervision of all works, structural plants and other things of temporary or permanent nature required for such execution and maintenance in so far as the necessity for providing these, is specified or is reasonably inferred from the contract. The contractor shall take full responsibility for adequacy, suitability and safety of all the works and methods of construction.

CLAUSE 14: Deviations/ Variations Extent and Pricing

The Engineer-in-Charge shall have power to:

- (i) make alteration in, omissions from, additions to, or substitution for the original specification, drawings, designs and instructions that may appear to him to be necessary or advisable during the progress of the work, and
- (ii) to omit a part of the works in case of non-availability of a portion of the site or for any other reasons and the contractor shall be bound to carry out the works in accordance with any instructions given to him in writing signed by the Engineer-in-Charge and such alterations omissions, additions or substitutions shall form part of the contract as if originally provided therein and any altered additional or substituted work which the

contractor may be provided to do in the manner specified above as part of the works, shall be carried out by the contractor on the same conditions in all respects including price on which he agreed to do the main work except as thereafter provided.

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

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

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

- i) If the rate for altered, additional or substituted item of work is specified in the substituted items at the same rate. In the case of composite tenders, where two or more schedules of quantities may form part of the contract, the applicable rate shall be taken from the schedule of quantities of that particular part in which the deviation is involved, failing that at the lowest applicable rate for the same item of work in the other schedules of quantities.
- ii) If the rate for any altered, additional, or substituted items of work is not specified in the schedule of quantities, the rate for that item shall be derived from the rate for the nearest similar item specified therein. In case of composite tenders where two or more schedule of quantities form part of the contract, the rate shall be derived from the nearest similar item in the schedule of quantities of the particular part of works in which the deviation is involved failing that from the lowest of the nearest similar items in other schedule of quantities.
- iii) If the rate for altered, additional or substituted item of work cannot be determined in the manner specified in sub-paras (i) and (ii) above, then such item of works shall be carried out at the rate entered in Schedule of Rates plus/minus the percentage by which the tendered amount of the works actually awarded is higher or lower than the corresponding estimated amount of the works actually awarded.
- iv) If the rate for altered, additional or substituted item of work cannot be determined in the manner specified in sub para (i) to (ii) above, then the rate for such item of work shall be derived from the Schedule of Rates specified in sub-para (iii) above plus/minus the percentage mentioned in that sub-para. In the case of materials issued by the Government, issue rates of materials, with storage charges recovered, enhanced by two and a half per cent for profits and overheads shall be determined on the basis of market rate (s) prevailing during the fortnight following the date of the order plus ten percent for profit and overhead.
- v) If the rate for any altered, additional or substituted item of work cannot be determined in the manner specified in sub-paras (i) to (iv) above the contractor shall, within 15 days of the date of receipt of the order to carry out the said work, inform the Engineer-in-Charge of the rate which he proposes to claim for such item of work, supported by analysis of the rate claimed, and the Engineer-in-Charge shall, within three months thereafter giving due consideration to the rate claimed by the contractor, determine the rate on the Engineer-in-Charge within the stipulated period of time, the rate which he proposes to claim, the rate for such item shall be determined by the Engineer-in-Charge on the basis of market rate (s).

CLAUSE 15: Foreclosure of contract due to abandonment or Reduction in Scope of work

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

CLAUSE 16: Cancellation of Contract in Full or Part

16.1 If Contractor:

- (i) at any time makes default in proceeding with the works or any part of the work with the due diligence and continues to do so after a notice in writing of 7 days from the Engineer-in-Charge; or
- ii) Commits default to complying with any of the terms and conditions of the contract and does not remedy it or take effective steps to remedy it within 7 days after a notice in writing is given to him in that behalf by the Engineer-in-Charge; or
- iii) Fails to complete the works and does not complete them within the period specified in a notice given in writing in that behalf by the Engineer-in-Charge; or
- iv) Shall offer or give or agree to give to any person in Government service or to any other person on his behalf any gift or consideration of any kinds as an inducement or reward for doing or forbearing to do or for having done or forborne or do any act in relation to the obtaining or execution of this or any other contract for Government; or
- v) Shall enter into a contract with Government in connection with which commission has been paid or agreed to be paid him or to his knowledge, unless the particulars of any such commission and the terms of payment thereof have been previously disclosed in writing to the Accepting Authority/Engineer-in-Charge ; or
- vi) Shall obtain a contract with Government as a result of wrong tendering or other non-bonafide methods of competitive tendering; or

Being an individual, or if a firm, any partner thereof shall at any time be adjudged insolvent or have a receiving order or order for administration of his estate made against him or shall take any proceedings for liquidation or composition (other than a voluntary liquidation for the purpose of amalgamation or reconstruction) under any Insolvency Act for the time being in force or make any conveyance or assignment of his effects or composition or arrangement for the benefit of his creditors or purposes so to do, or if any application be made under any Insolvency Act for the time being in force for the sequestration of his estate or if a trust deed be executed by him for benefit of his creditors; or

Being a company, shall pass a resolution or the court shall make an order for the winding up of the company, or a receiver or manager on behalf of the debenture holders or otherwise shall be appointed or circumstances shall arise which instituted the court or debenture holders to appoint a receiver or manager; or

Shall suffer an execution being levied on his goods and allow it to be continued for period of 21 days; or

Assigns, transfers, sublets or otherwise parts with or attempts to assign, transfer sublet or otherwise parts with the entire works or any parting thereof without the prior written approval of the Accepting Authority; or The Accepting authority may, without prejudice to any other right or remedy which shall have accrued or shall accrue hereafter to Government, by a notice in writing to cancel the contract as whole or only such items of work in default from the Contract.

The Engineer-in-Charge shall on such cancellation by the Accepting Authority have powers to (i) take possession of the site and any materials, constructional plant, implements, stores, etc., thereon; and/or (ii) carry out the incomplete work by any means at the risk and cost of the contractor.

On cancellation of the contract, in full or in part, the Engineer-in-Charge shall determine what amount, if any, is recoverable from the contractor for completion of the works or part of the works or in case the works or part of the works is not be completed, the loss or damage suffered by Government. In determining the amount, credit shall be given to the contractor for the value of the work executed by him up to the time of cancellation, the value of contractor's materials taken over and incorporated in the work and use of plant and machinery belonging to the contractor.

Any excess expenditure incurred or to be incurred by Government in completing the works or part of the works or the excess loss or damages suffered or may be suffered by Government as aforesaid after allowing such credit shall without prejudice to any other right or remedy available to Government in law be recovered from any moneys due to the contractor on any account, and if such moneys are not sufficient the contractor shall be called upon in writing and shall be liable to pay the same within 30 days.

If the contractor shall fail to pay the required sum within the aforesaid period of 30 days the Engineer-in-Charge shall have the right to sell any or all of the contractors' unused materials, constructional plant, implements, temporary buildings, etc. and apply the proceeds of sale thereof towards the satisfaction of any sums due from the contractor under the contract and if thereafter there be any balance outstanding from the contractor, it shall be recovered in accordance with the provision of the contract.

Any sums in excess of the amounts due to Government and unsold materials, constructional plant, etc., shall be returned to the contractor, provided always that if cost or anticipated cost of completion by Government of the works or part of the works is less than the amount which the contractor would have been paid had he completed the works or part of the works, such benefit shall not accrue to the contractor.

CLAUSE 17: Suspension of work

- (i) The contractor shall, on receipt of the order in writing of the Engineer-in-Charge (whose decision shall be final and binding on the contractor), suspend the progress of the works or any thereof for such time and in such manner as the Engineer-in-Charge may consider necessary so as not to cause any damage or injury to the work already done or endanger the safety thereof the following reasons.
 - a) On account of any default on the part of the contractor or;
 - b) For proper execution of the works or part thereof for reasons other than the default of the contractor; or

- c) For safety of the works or part thereof.

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

- (ii) If the suspension is ordered for reasons (b) and (c) in sub-para (i) above:

The contractor shall be entitled to an extension of time equal to the period. Every such suspension plus 25% for completion of the item or group of items of work for which a separate period of completion is specified in the contract and of which the suspensions work forms a part, and;

If the total period of all such suspensions in respect of an item or group of items or work for which a separate period of completion is specified in the contract exceeds thirty days, the contractor shall, in addition, be entitled to such compensation as the Engineer-in-Charge may consider reasonable in respect of salaries and/ or wages paid by the contractor to his employees and labour at site, remaining idle during the period of suspension, adding thereto 2% to cover indirect expenses of the contractor. Provided the contractor submits his claim supported by details, to the Engineer-in-Charge within fifteen days of the expiry of the period of 30 days.

If the works or part thereof is suspended on the orders of the Engineer-in-Charge for more than three months at a time, except then suspension is ordered for reason (s) in sub-para (i) above, the contractor may after receipt of such order serve a written notice on the Engineer-in-Charge requiring permission within fifteen days from receipt by the Engineer-in Charge of the said notice, or part thereof in regard to which progress has been suspended and if such permission, is not granted within that time, the contractor, if he intends to treat the suspension, where it affects whole only a part of the works as an omission of such part by Government or where it affects whole of the works, as an abandonment of the works by Government, shall within ten days of expiry of such period of 15 days give notice in writing of this intention to Engineer-in-Charge . in the event of the contractor treating the suspension as an abandonment of the contract by Government, he shall have no claim to payment of any compensation on account of any profit or advantage which he might have derived from the execution of the work in full but which he could not derive in consequence of the abandonment. He shall, however, be entitled to such compensation, as the Engineer-in-Charge may consider reasonable, in respect of salaries and/ or wages paid by him to his employees and labour at site, remaining idle in consequence adding to the total thereof 20% to cover indirect expenses of the contractor provided the contractor submits his claim supported by details to the Engineer-in-Charge within 30 days of the expiry of the period of 3 months. Provided, further, that the contractor shall not be entitled to claim any compensation from the Government for the loss suffered by him on account of delay by the Government in the supply of materials, where such delay is covered by difficulties relating to the supply of wagons, force majeure, including non-allotment of such materials by controlling authorities, acts of God, acts of enemies of the state/country or any reasonable cause beyond the control of the Government.

CLAUSE 18: Action in case Work not done as per Specifications

All works under or in course of execution or executed in pursuance of the contract shall, at all times be open and accessible for inspection and supervision of the Engineer-in-Charge, his authorized subordinates in charge of the work and all the superior officers, and the contractor shall, at all times, during the usual working hours and at all other times at which reasonable notice of the visit of such officers has been given to the contractor, either himself be present to receive orders and instructions or have a responsible agent duly accredited in writing, present

for same force as purpose. Orders given to the Contractor's agent shall be considered to have the same force as if they had been given to the contractor himself.

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

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

CLAUSE 19: Contractor Liable for Damages, defects during maintenance period

If the contractor or his working or servants shall break, deface, injure or destroy any part of building in which they be working, or any building, road, road kerb, fence enclosure, water pipe, cables, drains, electric or telephone post or wires, trees, grass or grassland, or cultivated ground contiguous to the work while in progress, from any cause whatever or if any defect, shrinkage or other faults appear in the work within twelve months (six months in the case of work costing Rs. Ten lacs and below except road work) after a certificate final or otherwise of its completion shall have been given by the Engineer-in-Charge as aforesaid arising out of defect or improper materials or workmanship the contractor shall upon receipt of a notice in writing on that behalf make the damages good at his own expense or in default the Engineer-in-Charge cause the same to be made good by other workmen and deduct the expense from any sums that may be due or at any time thereafter may become due to the contract, or from his security deposit. The security deposit of the contractor shall not be refunded before the expiry of twelve months (six months in the case of work costing Rupees ten lacs and below except road work) after the issue of the certificate final or otherwise, of completion of work. Or till the final bill has been prepared and passed, whichever is later. Provided that in the case of road work if in the opinion of the Engineer-in-Charge, half of the security deposit is sufficient to meet all liabilities of the contractor under this contract, half of the security deposit will be refundable after six months and the remaining half after twelve months of the issue of the said certificate of completion or till the final bill has been prepared and passed, whichever is later.

CLAUSE 20: Contractor to supply Tools and Plants etc.

The contractor shall provide at his own cost all materials (except such special materials if any, as may in accordance with the contract be supplied by the Engineer-in-Charge's stores), plant, tools, appliances, implements, ladders, cordage, tackle, scaffolding, altered or substituted and whether included in the specifications or other documents forming part of the contract or

referred to in these conditions or not, or which may be necessary for the purpose of satisfying or complying with the requirements of the Engineer-in-Charge as to any matter as to which under the conditions he is entitled to require together with carriage therefore to and from the work. The contractor shall also supply without charge the requisite number of persons with the means and materials, necessary for the purpose of setting out work, and counting, weighting and assisting the measurement for examination at any time and from time to time of the work or materials. Failing his so doing, the same any be provided by the Engineer-in-Charge at the expense of the contractor and the expenses may be deduction, from any money due to the contractor, under this contract or otherwise and/or from his security deposit.

CLAUSE 21: Recovery of Compensation paid to workmen

In every case in which by virtue of the provisions sub-section (1) of Section 12, of the Workmen's Compensation Act, 1923, the Government is obliged to pay compensation to a workman employed by the contractor, in execution of the works, Government will recover from the contractor the amount of the compensation so paid; and without prejudice to the right of the Government under sub-section (2) of Section 12, of the said Act, Government 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 Government to the contractor whether under sub-section (1) Section 12, of the said Act, except on the written request of the contractor and upon his giving to Government might become liable in consequence of contesting such claim.

CLAUSE 22: Ensuring Sikkim Labour Protection Act 2005:

In every case in which by virtue of the provisions of the Sikkim Labour protection Act, and Government shall be at liberty or to recover such amount or any part thereof by deducting it from the security deposit or from any sum due by Government to the contractor whether under this contract or otherwise.

- (i) The Contractor must employ local people or people whose nationality is not in about for execution of works in Sikkim. Hiring of labourers from outside the State should be resorted to only when it is inevitable.
- (ii) The labours employed by the contractor must be of Indian Origin only.
- (iii) The contractor here obtain a certificate of Registration under the Sikkim Labour Protection Act, 2005 (20 to 2005) and the Rules made there under and contractor other protections of the Act and the Rules as may to time regarding materials of wages and others
- (iv) No labour below the age of fourteen years shall be employed on the work and the contractor shall pay not less than the fair wages to labourer engaged by him on the work
- (v) The contractor shall comply with the provisions of the payment of Wages act, 1936, Minimum Wages Act, 1948, Employees Labour (Regulation and Abolition) Act 1970, or the modifications thereof or any other laws relating thereto and the rules made hereunder from time to time by the State Government.

CLAUSE 23: Responsibility of Contractor

It shall be the responsibility of the contractor to see that the building under construction is not occupied by any unauthorized persons during construction, and is handed over to the Engineer-in-Charge with vacant possession of complete building. If such building thought completed is occupied illegally, the Engineer-in-Charge shall have the option to refuse to accept the said building/buildings in that position. Any delay, in acceptance on the account will be treated as the delay in completion and for such delay a levy up to 5% tendered value of work may be imposed by the Engineer whose decision shall be final both with regard to the justification and quantum and be binding on the contractor.

However, the Director, through a notice, may require the contractor remove the illegal occupation any on or before construction and delivery.

CLAUSE 24: Work not to be sublet. Action in case of Insolvency:

The contractor shall not assign or sublet any work, in part or in whole without written approval of the Engineer- in Charge, should the contractor become insolvent or commence any insolvency proceedings against him or make any composition with his creditors or attempt to do so, or if any bribe, gratuity, gift, loan, perquisite, record or advantage pecuniary or otherwise, shall either directly or indirectly, be given, promised or offered by the contractor, or any of his servants or agent to any public officer or person shall become in any way directly or indirectly interested in contract, the Engineer –in-Charge, on behalf of the Governor of Sikkim, shall have power to adopt any of courses specified in Clause 3 hereof as he may deem best suited in interest of Government and in the event of any of these courses being adopted consequences specified in the said clause 3 shall ensue.

CLAUSE 25: Reasonable compensation

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

CLAUSE 26: Changes in Firm's Constitution to be intimated

Where the contractor is a partnership firm, the previous approval in writing of the Engineer-in-Charge shall be obtained before any change is made in the constitution of the firm.

CLAUSE 27: Work to be executed as per direction of Engineer-in –Charge

All works to be executed under the contract shall be executed under the direction and subject to the approval in all respects of the Engineer-in-Charge who shall be entitled to direct at what point or points and in what manner they are to be commenced and from time to time carried on.

CLAUSE 28: Settlements of Disputes and Arbitration

Except where otherwise provided in the contract, all questions and disputes relating to the meaning of the specifications, design, drawings and instructions here-in before mentioned and as to the quality of workmanship or materials used on the work or as to any other and as to any other question, claim, right, matter or thing whatsoever in any way arising out of or relating to the contract, designs, drawings, specifications, estimates, instructions. Orders or these conditions or otherwise arising during the progress of the work or after the cancellation, termination completion or abandonment thereof shall be dealt with as mentioned hereinafter:

- i) If the contractor considers any work demanded of him to be outside the requirements of the contract, or disputes any drawings, record or decision given in writing by the Engineer-in-Charge on any matter in connection with or arising out of the contract or carrying out of the work, to be unacceptable, he shall promptly, within 15 days, request the Superintending Engineer to give in writing instructions or decision within a period of one month from the receipt of the contractor's letter.
- ii) If the Superintending Engineer or equivalent fails to give his instructions or decision in writing within the foreside period or if the contractor is dissatisfied with the instruction or decision of the Superintending Engineer or equivalent , the contractor may, within 15 days of the receipt of Superintending Engineer's or equivalent's decision, appeal to the Director who shall afford an opportunity to the contractor to be heard, if the latter so desires, and to offer

evidence in support of his appeal. The Director shall give his decision within 30 days of receipt of contractor's appeal. If the contractor is dissatisfied with this decision, the contractor shall within a period of 30 days from receipt of the decision, give notice to the Director for appointment of arbitrator failing which the said decision shall be final binding and conclusive and not referable to adjudication by the arbitrator.

- iii) Except where the decision has become final, binding and conclusive in terms of Sub-para (i) above disputes or difference shall be referred for adjudication through arbitration by a sole arbitrator appointed by the Director, in charge of the work or if there be no Director, the Administrative Head shall function in this behalf. If the arbitrator so appointed is unable or unwilling to act or resigns his appointment or vacates his office due to any reason whatsoever, another sole arbitrator shall be appointed in the manner aforesaid. Such person shall be entitled to proceed with the reference from the stage at which it was left by his predecessor.

It is a term of this contract that the part invoking arbitration shall give a list of disputes with amounts claimed in respect of each such dispute along with the notice for appointment of arbitrator and giving reference to the rejection by the Director of the appeal.

It is also a term of this contract that no person other than a person appointed by the Director or the administrative Head of the aforesaid should act as arbitrator and if for any reason that is not possible, the matter shall not be referred to arbitration at all.

It is also a term of this contract that if the contractor does not make any demand for appointment of arbitrator in respect of any claims in writing as aforesaid within 120 days of receiving the intimation from the Engineer-in-Charge that the final bill is ready for payment, the claim of the contractor shall be deemed to have been waived and absolutely barred and the Government shall be discharged and released of all liabilities under the contract in respect of these claims.

The arbitration shall be conducted in accordance with the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) or any statutory modifications or reenactment thereof and the rules made there under and for the time being in force shall apply to the arbitration proceeding under this clause.

It is also a term of this contract that the arbitrator shall adjudicate on only such disputes as are referred to him by the appointing authority and give separate award against each dispute and claim referred to him in all cases where the total amount of the claims by any part exceeds Rs. 1, 00, 000/- the arbitration shall give reasons for the award.

It is also a term of the contract that if any fees are payable to the arbitrator these shall be paid equally by both the parties.

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

- iv) All dispute i/c court cases to be settled within the Gangtok jurisdiction.

CLAUSE 29: Contractor not to cause public inconvenience

The contractor shall not deposit materials on any manner which will seriously cause inconvenience to the public. The Engineer-in-Charge may direct the contractor to remove any materials which are considered by him to be a danger or cause inconvenience to the public, to be removed at the contractor's cost.

CLAUSE 30: Lump sum Provision in Tender

When the estimate on which a tender is made includes lump sum in respect of parts of the work, the contractor shall be entitled to payment in respect of the items of work 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, the Engineer-in-Charge may at his discretion pay the lump-sum amount entered in the estimate, and the 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 the clause.

CLAUSE 31: Action where Specifications are not specified

In the case of any work for which there is no such specification as referred to in clause 11, such work shall be carried out in accordance with the Bureau of Indian Standards Specifications. In case there is no such specification in Bureau of Indian Standards, the work shall be carried out as per manufacturers' specifications, if not available then as per standard specifications. In case there are no such specifications, the works should be carried out as per the requirements and direction of the Engineer-in-Charge.

CLAUSE 32: With-holding and lien in respect of sums due from contractor

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

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

- ii) Government shall have the right to cause an audit and technical examination of the work and the final bills of the contractor including all supporting vouchers, abstract, etc., to be made after payment of the final bill and if as a result of such audit and technical examination any sum is found to have been overpaid in respect of any work done by the contractor under the contract, or any work claimed to have been done by him under the contract, and found not to have been executed, the contractor shall be liable to refund the amount of over-payment and it shall be lawful for the Government to recover the same from him in the manner prescribed in sub-clause (i) of this clause or in any other manner legally permissible; and if it is found that the contractor was paid less than what was due to him under the contract in respect of any work executed by him under it, the amount of such under payment shall be duly paid by the Government to the contractor, without any interest thereon whatsoever, provided that the Government shall not be entitled to recover any sum overpaid, nor the contractor shall be entitled to payment of any sum paid short where such payment has been agreed upon between the Superintending Engineer or Divisional Engineer on one hand and the contractor on the other under any term of the contract permitting payment for work after assessment by the Superintending Engineer or the Executive Engineer.

CLAUSE 33: Lien in respect of claims in other Contracts

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

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

CLAUSE 34: Return of Surplus Materials

Notwithstanding anything contained to the contrary in this contract, where any materials for the execution of the contract are procured with the assistance of the Government either by issue from the Government stocks or purchase made under orders or permits or license issued by the Government the contractor shall hold the said materials economically and solely for the purpose of the contract and not dispose of them without the written permission of the Government and return, if required by the Engineer-in-Charge, all surplus or unserviceable materials that may be left with him, after the completion of the contract or at its termination, for any reason, whatsoever, on being paid or credited such price as the Engineer-in-Charge shall determine having due regard to the condition of the materials. The price allowed to the contractor shall not exceed the amount charged to him excluding the element of storage charges. The decision of the Engineer-in-Charge shall be final and conclusive. In the event of breach of the aforesaid condition the contractor shall in addition to throwing himself open to action for contravention of the terms of the license or permit and/or for criminal breach of trust, be liable to the Government for all moneys, advantages or profits resulting or which in the usual course would have resulted to him by reason of such breach.

CLAUSE 35: Hire of Plant and Machinery

- i) The contractor shall arrange at his own expense all tools, plant, machinery and equipment (hereinafter referred to as T and P) required for execution of the work except for the plant and Machinery available with the Government such tools and plant will be lent to the contractor at prescribed rates.
- iii) Hire charges will include service of operating staff as required and also supply of lubricating oil and stores for cleaning purposes. Only power fuel of approved type etc., for running the plant and machinery be provided by the contractor who shall also be responsible for the safeguard and security of plant and machinery. The contractor shall on or before the supply of plant and machinery sign an agreement indemnifying the Department against any loss or damage caused to the plant and machinery either during transit or site of work.

CLAUSE 36: Deleted.

CLAUSE 37: Employment of Technical Staff and employees

Contractors Superintendence, Supervision, Technical Staff and Employees.

- i) 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, qualifications, experience, age, address and other particulars along with certificates, of the principal technical representative to be in charge of the work. Such qualification and experience shall not be lower than specified in the Enlistment Rules. The Engineer-in-Charge shall within 15 days of receipt of such communication intimate in writing his approval or otherwise of such a representative to the contractor. Any such approval may at any time, be withdrawn and in case of such withdrawal the contractor shall appoint another such representative according to the provisions of this clause from the date of decision of the tender. 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 within fifteen days of start of work.

If the contractor (or any partner in case of firm/company) himself has such qualifications, it will not be necessary for the said contractor to provide principal technical representative, but he shall have to designate and appoint a responsible agent to represent him and to be present at the work in his absence. All the provisions applicable to the principal technical representative under the clause shall also be applicable in such a case to contractor or his responsible agent. Instructions given to the principal technical representative or 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 responsible authorized agent shall be actually available at site at least on two working days every week during the important stages of execution of work, at the time of recording of measurements of works and whenever so required by the Engineer-in-Charge by a notice as aforesaid and shall also note down instructions conveyed by the Engineer-in-Charge or his designated representative in the site order book and shall affix his signature in token of noting down the instruction and in token of acceptance of measurements. There shall be no objection if the representative/agent looks after more than one work and not more than three works in the same station provided these details are disclosed to the Engineer-in-Charge and he shall be satisfied that the provisions and the purpose of this clause are fulfilled satisfactorily.

If the Engineer-in-Charge, whose decision in this respect is final and binding on the contractor, is convinced that no such technical representative or agent is effectively appointed or is

effectively attending or fulfilling the provision of this clause, a recovery shall be effected from the contractor as per the conditions of contract and the decision of the Engineer-in-Charge as recorded in the site order book and measurements recorded in Measurement Book shall be final and binding on the contractor. Further, if the contractor fails to appoint a suitable technical representative or responsible agent and if such appointed persons are not effectively present or do not discharge their responsibilities satisfactorily, the Engineer-in-Charge shall have full power to suspend the execution of the work until such date when a suitable agent is appointed and the contractor shall be held responsible for the delays so caused to the work. The contractor shall submit a certificate of employment of the technical representative/responsible agent along with every running account bill/final bill and shall produce evidence, if required, at any time, by the Engineer-in-Charge.

- ii) The contractor shall provide and employ on the site only such technical assistants who 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 labourer as is necessary for proper and timely execution of the work.

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

CLAUSE 38: Levy/Taxes payable by contractor

- i) Value Added Tax, Income Tax as per the provision of Law or any other taxes on materials, royalties and other cess imposed by the Government in respect of this contract shall payable by the contractor based on the rate applicable at the time of payment and not as per the relevant Schedule of Rates or Analysis of Rates and the Government shall not entertain any extra claim whatsoever in this respect.
- ii) The contractor shall deposit royalty and obtain necessary permit for supply of the red bajri, stone, aggregates, sand etc. from local authorities.
- i) If pursuant to or under any law, notification or order any royalty, cess or the like becomes payable by the Government of India and does not at any time, become payable by the contractor to the State Government/local authorities in respect of materials used by the contractor in the works, then in such a case, it shall be lawful to the Government of India and it has the right and be entitled to recover the amount paid in the circumstances as aforesaid from dues of the contractor.

CLAUSE 39: Conditions for reimbursement of levy/taxes if levied after receipt of tenders

- i) All tendered rates shall be inclusive of all taxes and levies payable under respective statutes. If any tax or levy is imposed by Government 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, the contractor shall be reimbursed the amount so paid, provided such payments, are adjusted from the contracted amount of the Contractor entailing no additional financial burden to the State Government. This procedure is prescribed in order to avoid attributable 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 Government and/or the Engineer-in-Charge from time to time.

CLAUSE 40: Termination of Contract on death of contractor

Without prejudice to any of the rights or remedies under this contract, if the contractor dies, the authority executing contract on behalf of the Government of Sikkim shall have the option of terminating the contract without compensation to the contractor.

CLAUSE 41: Relation working in Land Revenue & Disaster management Department or any other Departments, then the contractor is not allowed to participate in the tender:

The contractor shall not be permitted to participate in tender for works in the circle (responsible for award and execution of contracts) in which his near relative is posted as Accountant or as an officer in any capacity between the grades of the Superintending Engineer or equivalent, Assistant Engineer or equivalent and Junior Engineer or equivalent (all inclusive). He shall also intimate the name of persons working with him in any capacity or are subsequently employed by him and who are near relatives to any of the above officials. Any breach of this condition by the contractor, shall render him liable to be removed from the approved list of contractors of the Government.

NOTE: By the term “near relatives” it means wife, husband, parents and grandparents, children and grand children, brothers and sisters, uncles, aunts and cousins and their corresponding in-laws.

CLAUSE 42: No Gazetted Engineer to work as Contractor within two years of retirement:

No Engineer of Gazetted rank or other Gazetted Officer, employed in Engineering or Administrative duties in Engineering Department of the Government shall work as a contractor or employee of a contractor for a period of two years, after his retirement from Government Service without the prior 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 the Government as aforesaid, before submission of the tender or engagement in the contractor's service, as the case may be.

CLAUSE 43: Deleted.

CLAUSE 44: Compensation for Losses

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 certificate from him to that effect obtained. In the event of 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 compensation shall be assessed by a Committee of Officers appointed by Head of Department and the assessment of the Committee

duly accepted by the Government shall be final and binding on the contractor. The contractor shall be paid for the damages/destruction suffered and for restoring the materials 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 failure of structure including the scaffolding / shuttering other than the natural causes unless the contractor had taken all such precautions against it as are deemed necessary and directed by the Engineer-in-Charge. 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, the Government shall not be responsible.

In the event of the contractor having to carry out reconstruction as aforesaid, he shall be allowed such extension of time for its completion as is considered reasonable by the Divisional Officer.

CLAUSE 45: Releases of Running and Final Bills

When the contractor submits the bill for the work done which is in progress or after completion of the work, the contractor shall apply for the Labour Clearance Certificate to the Labour Department under intimation to the Engineer-in-Charge. The Engineer-in-Charge, on receipt of the labour clearance, shall forward the bills to the paying authorities duly enclosing the certificate. However, if the contractor fails to obtain the clearance certificate from the Labour Department within three months, the Divisional Engineer shall inform the Labour Department about the work and shall not release the payment till the clearance is received. If no communication is received within six months, it will be deemed to have received the clearance certificate and the bills will be released if otherwise due.

Security Deposit of the work shall not be refunded till the contractor produces a clearance certificate from the Divisional Engineer.

The contractor is required to submit the cash memo / bill from the authorized firm for all the materials privately arranged for the work.

The contractor is also required to produce the clearances' from Store Division and Mechanical Division before release of payment wherever applicable.

The contractor is required to submit all the permits / royalty documents in original as a proof of materials actually been transported from designated quarry as per the distance indicated in the schedule of quantity and payment made by him.

CLAUSE 46: USES OF EXPLOSIVES

The contractor shall be responsible for safe custody of explosive materials issued from the departmental store as per standing norms issued from time to time as per the provisions in the Indian Explosive Act 1883 and as amended from time to time. The contractor is bound to follow the various guideline issued by the department or the other competent authorities from time to time. The contractor is required to maintain various records as per the provision of Indian Explosives Act and Rules.

- a) Transportation, handling, storage and use of explosive (if necessary) shall be in accordance with the provision of the India Explosive Act and General Guideline, Circulars issued by the department and other competent authorities on the subject from time to time.

- b) The rules and regulations issued by the Roads & Bridges Department or any other competent authority shall strictly be adhered to with regard to transportation, storages, handling, and use of explosives at all times. Proper daily record of receipt and issue of explosives shall be maintained by the contractor.

CONTRACTOR

DIRECTOR

Sikkim State Disaster Management Authority (SSDMA)

Land Revenue & Disaster management Department

Govt. of Sikkim, Gangtok

SPECIAL CLAUSES OF CONTRACT

Clause 1 : Site Order Book

The Contractor should keep a site order book for recording necessary instructions by Inspecting Engineering Officers of the work. The instructions recorded in the site order book must be followed after obtaining approval of the Engineer-in-Charge without any delay. The contractor must submit to the Engineer-in-Charge concerned a true copy of the notes in the site order book, whenever any new inspection note is recorded. The Contractor shall not add any other Clause of his own other than those mentioned in this document.

Clause 2 : Quality Control Register

Quality Control Register to be maintained by the Contractor at site.

Clause 3: Register for time activity

Register for time activity as per Schedule and progress in bar chart to be mentioned at site by the Contractor.

Clause 4 : Register of Labour, Plants & Machineries at Site

Contractor is to maintain one register of labour engaged and one register of Plants & Machineries used at site daily as per format given by the Engineer-in-Charge. These register are to be produced to the Inspecting Officer as and when asked for. No machinery or tools or plants brought to site for this work shall be removed from the site without permission from the Engineer-in-Charge.

Clause 5 : Compliance of Technical Specification

The Contractor must ensure compliance of all provisions of the Technical Specifications and Special Conditions of Contract as contained in Volume II of tender document and also ensure quality assurance by use of appropriate materials, workmanship, inspection & testing process during the period of construction.

The presence of the supervisory staff must be ensured by the Contractor during the working hours. Presence of any staff of the department does not absolve the contractor of his responsibility about quality of work.

Clause 6 : Jurisdiction of dispute

Both the parties agree with each other that the jurisdiction of any matter or any dispute relating to this agreement shall be at Gangtok the place of occurrence.

CONTRACTOR

DIRECTOR
Land Revenue & Disaster
management Department
Govt. of Sikkim, Gangtok



**LAND REVENUE & DISASTER MANAGEMENT DEPARTMENT
GOVT. OF SIKKIM, GANGTOK**

DECLARATION OF TENDERER

I/We do undertake that the work shall be completed within 24 (Twenty-four) months from the 15th day or such time period as mentioned in the letter of award to proceed with the work or from the date of handing over of site or from the date of payment of advance, whichever is later or such extended time as may be allowed under sub clause 5A of General Clauses of Contract, failing which Clause No. 2 of the General Clauses of Contract will apply.

I/We further agree that the above tender shall remain open for the acceptance of the Department for a period of ninety days from the date of opening of tender.

I/We do further declare that I/We have inspected the site and are fully conversant with all aspects of the site and appraise of the condition of the site in regard to the executing this contract.

I/We have also carefully gone through the "Tender drawings, the detailed specification and the scope of work" which forms the basis of execution of all works and accordingly have quoted our rates, as per financial bid & payment schedule. Our Tender is offered taking due consideration of all factors, and if the same be accepted, I/We promise to abide by all the stipulations of the Contract documents and carry out and complete the work to the satisfaction of the Department.

Signature of Tenderer
Full Name
Title of Signatory

Date :

Annexure I

PROFORMA OF BANK GUARANTEE FOR SECURITY DEPOSIT (ON NON JUDICIAL PAPER OF APPROPRIATE VALUE)

Bank Guarantee No. & date

Guaranteed Amount : Rs.

Date of Expiry :

Name of Work : Executing "Mitigation of Mangan Landslide at North District Headquarters - Mangan, North Sikkim".

To,
Director
Land Revenue & Disaster management Department,
Govt. of Sikkim, Tashiling
Gangtok – 737 101
Sikkim

Dear Sir,

M/s.

..... have been awarded the work of
(Hereinafter called the Contractor) by the Land Revenue & Disaster management Department, Govt. of Sikkim, Gangtok.

The Contracts conditions provide that the CONTRACTOR shall pay a sum of Rs.....
(Rupees) as initial full
Security Deposit in the form there in mentioned. The form of payment of Security Deposit includes
guarantee executed by Nationalized Bank, undertaking full responsibilities to indemnify Land
Revenue & Disaster management Department, Govt. of Sikkim, Gangtok, in case of default.

The said has approached us and at their request and in
consideration of the promises we having our office at have agreed to give
such guarantee as hereunder mentioned.

1. We
Hereby undertake and agree with you that if default shall be made by M/s.
....., in performing any of the terms and conditions of the tender or
in payment of any money payable to Department, we shall on demand pay to you in
such manner as you may direct the said amount of Rupees
.....
..... Only or such portion thereof not exceeding the said sum as
you may from time to time require.
2. You will have the full liberty without reference to us and without affecting this
guarantee, postpone for any time or from time to time the exercise of any of the
powers and rights conferred on you under the contract with the said
..... and to enforce or to forbear from

endorsing any powers or rights of by reason of time being given to the said Which under law relating to the sureties would not for provision have the effect of releasing us.

3. Your right to recover the said sum of Rs. (Rupees) will not be affected or suspended by reason of the fact that any dispute or disputes have been raised by the said M/s. and or that any dispute or disputes are pending before any officer, or court.
4. The guarantee herein contained shall not be determined or affected by the liquidation or winding up dissolution or changes of constitution or insolvency of the said Contractor but shall in all respects and for all purposes be binding and operative until payment of all money due to you in respect of such liabilities is paid.
5. This guarantee shall be irrevocable and shall remain valid upto
.....

Yours sincerely,

.....**Bank**
By its Constituted Attorney

**Signature of a person duly authorized to
sign on behalf of the Bank**