



## **GMDC GRAMYA VIKAS TRUST**

C/o. **GUJARAT MINERAL DEVELOPMENT CORPORATION LTD**

(A Govt. of Gujarat Enterprise)

CIN :L14100GJ1963SGC001206

GST :24AAACG7987P1ZT

**TENDER NO. :7/MANDVI/SSKVM/HORTICULTURE WORK/2021**

**ANNUAL CONTRACT FOR TWO YEARS FOR  
HORTICULTURE WORK  
AT SHRI SHAMJI KRISHNA VARMA MEMORIAL  
AT VILLAGE: MASKA, TAL: MANDVI, DIST: KUTCHH**

### **TECHNICAL BID-I I**

## **GMDC GRAMYA VIKAS TRUST**

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## GENERAL CONDITIONS OF CONTRACT

### 1. Definitions

1.(1) The Contract Document consists of the Agreement, the General Conditions of the Contract, Special conditions of the contract, Specifications and Bills of Quantities including all modifications thereof incorporated in the document before the execution and the Contract Drawings prepared by the Architect and the Consultant from time to time. These form the contract.

1.(2) Owner/Client/Employer : GMDC GRAMYA VIKAS TRUST

(GMDC-GVT)

Contractor : Successful Tenderer

Architect:

Consultant ----- :

Engineer :

The Clerk of Work: : Same as Engineer

Engineer In-charge : Engineer of GMDC /GMDC-GVT-GVT

Site In-charge : Contractor's Senior Engineer

Are those mentioned as such in the Agreement and shall include their legal representatives, assigns or successors.

1.(3) "The Site" shall mean the site of the Contract work including any building and erections thereon and any other land allotted by the Employer GMDC-GVT , Ahmedabad for Contractor's use.

1.(4) The term "Sub-Contractor", as employed herein, includes those having a direct contract with the Contractor and it includes one who furnishes material worked to a special design according to the plans or specifications of this work but does not include one who merely furnishes material not so worked.

Any one doing work on a piece rate basis shall be deemed a Sub-Contractor.

1.(5) Written notice shall be deemed to have been duly served if delivered in person to the individual or to a member of the firm or to an office of the corporation for whom it is intended, or if delivered at or sent by registered mail to the last business address known to him who gives the notice.

1.(6) The term "Work", of the Contractor or Sub-Contractor includes labour or material or both.

1.(7) All time limits stated in the Contract Document are the essence of the contract.

1.(8) The law of the place of work shall govern the construction under this contract.

1.(9) The date of virtual completion of a project or specified area of a project is the date when construction is sufficiently completed, in accordance with the Contract Documents as



modified by any change or variation orders agreed to by the parties, so that GMDC-GVT can occupy the project for the use it was intended.

## **2. Contract Document**

2. The following documents shall constitute the Contract Document:

Conditions of Tendering  
Form of Tender  
Articles of Agreement  
General and Special Conditions of Contract  
Specifications  
Scope of Work  
Bills of Quantities

The Contract Document is complementary. What is called for in any one shall be as binding as if called for by all.

The Contract Document shall remain in the custody of GMDC-GVT so as to be available at all reasonable times for the inspection of the Contractor. Immediately after the execution of the Contract one copy of the Contract Document shall without charge be supplied by GMDC-GVT to the Contractor

After the award of the Contract the Contractor shall without charge be supplied with all such further drawings and details as may be prepared by the Engineer and the Architect, from time to time as the work proceeds as are reasonably necessary either to explain or amplify the Contract Drawings or to enable the Contractor to carry out and complete the work in accordance with these Conditions.

The Contractor shall keep one copy of the Specifications, Descriptive schedule or other like document referred to in this clause and one copy of the Contract Drawings and such other drawings and details supplied to him from time to time and referred to in this clause and written instructions referred to in clause and sub-clause 9, 16(1), 16(2) and 30 upon the site so as to be available to the Engineer or the Architect or GMDC-GVT at reasonable times.

None of the document herein before mentioned shall be used by the Contractor for any purpose other than this Contract.

Upon final payment under clause 31(6) of these Conditions, the Contractor shall forthwith return to the Engineer and the Architect all Drawings, Details, Specifications, Descriptive Schedule and other Document of like nature which bears his name or that of the Engineer and/or the Architect.

## **3. Type of Contract**

The Contract shall be fixed item-rate contract. The Contractor shall be paid for the actual quantity of work done, measured at site, at the rates quoted by him in the Contract Bills.

Contractor's rates shall remain unchanged although the actual quantities may be different from those shown in the Bill of quantities. The quoted item rates shall be inclusive of all the liabilities / responsibilities relating to contract labour laws / Insurance / Provident Funds and any statutory liability etc. and no variation in prices will be effected for that purpose. Any rise in the quoted item rates due to escalation in cost of materials, labour, increase in any existing taxes or imposition of any new taxes



etc shall have to be borne by the Contractor and the rates shall not be subject to any change whatsoever.

The basis of price is firm and free from any kind of escalation including statutory levies throughout the validity of the agreed rates. No escalation towards any variation in cost of labour, plant & machinery, currency fluctuations, Petroleum products, Electricity will be considered during the validity of contract. The prices are inclusive supply of all material The prices are inclusive of all applicable taxes (Except service tax) duties, levies, transportation, insurance and workman's compensation. **The prices are inclusive of work contract tax if applicable.**

The unit rates will be valid for a period of as defined in the LOI/PO/Work order from the date of work order.

No extra claim/compensation will be entertained for idle time.

The rates agreed in schedule of rates shall cover for all charges and expenses.

Quantities mentioned in the Bill of quantities are indicative ones, which have been estimated based on assumed details. The Contractor must verify & workout the actual requirements based on the construction drawings which shall be issued to contractor before ordering of materials and / or starting the job and the Owner / Consultant shall not be responsible for delay in completion and any extra cost to the Contractor due to shortfall or excess purchases done by the Contractor.

#### **4. Schedule of Quantities**

The schedule of Quantities given in the Contract Bill are provisional and are meant to indicate the intent of the work and to provide a uniform basis for tendering. GMDC-GVT reserves the right to increase or decrease any of the quantities to any extent or to totally omit any item of work and the Contractor shall not claim any extras or damages on these grounds.

Any error in description or in quantity or omission of items from the Contract Bill shall not vitiate this Contract but shall be treated as a variation.

#### **5. Drawings (Not applicable for Housekeeping tender)**

##### **5.(1) Tender Drawings**

Tender drawings describe the general nature of works. However, there may be substantial variation in these and detailed execution drawings issued to the Contractor from time to time. Such variations will not vitiate the Contract.

##### **5.(2) Further Drawings and Instructions**

The Engineer, the Architect and GMDC-GVT shall have full power and authority to supply to the Contractor from time to time, during the progress of the works, such further drawings and instructions as shall be necessary for the purpose of the proper and adequate execution and maintenance of the Works. The Contractor shall carry out and be bound by the same.

### 5.(3) Disruption of Progress

The Contractor shall give written notice to GMDC-GVT or the Engineer or the Architect whenever planning or progress of the Works is likely to be delayed or disrupted unless any other drawing or order, including a direction, instruction or approval, is issued by the Engineer of GMDC-GVT within a reasonable time. The notice shall include details of the drawings or order required and of why and by when it is required and of any delay or disruption likely to be suffered if it is late.

## 6. Contract Sum

6. The Contract Sum shall not be adjusted or altered in any way whatsoever otherwise than in accordance with the express provisions of these conditions, and subject to clause 5(4)B of these Conditions. Any error whether of Arithmetic or not in the computation of the Contract Sum shall be deemed to have been accepted by the parties hereto.

## 7. Contract Bills

- 7.(1) The quality and quantity of the work included in the Contract Sum shall be deemed to be that which is set out in the Contract Bills. Nothing contained in the Contract Bill shall override, modify or affect in any way whatsoever the application or interpretation of that which is contained in these conditions.
- 7.(2) Any error in description or in quantity or omission of items from the Contract Bills shall not vitiate this Contract but shall be corrected and deemed to be a variation required by the Engineer.

## 8. Scope and Intent

- 8.(1) **Scope :** The general character and the scope of the work is illustrated and defined by the Specifications and the Bills of Quantities herewith attached and by the Drawings. If the Contractor shall find any discrepancy in or divergence between the Contract Drawing and/or the Contract Bills he shall immediately give to the Engineer a written notice specifying the discrepancy or divergence and the Engineer shall issue instruction in regard thereto.
- 8.(2) **Extent :** The Contractor shall carry out and complete the work in every respect in accordance with this Contract and with the direction of and to the reasonable satisfaction of the Engineer.
- 8.(3) **Intent :** The intention of the Document is to include all labour and materials, Sample & mock up items , taxes and Government duties, equipment and transportation necessary for the proper execution of the work.

## 9. Engineers Instructions

- 9.(1) The Contractor shall forthwith comply with and duly execute any works comprised in such instructions issued to him by Engineer in regard to any matter in respect of which the Engineer is expressly empowered by these Conditions to issue instructions provided always that verbal instructions, directions and explanations given to the



Contractor or his work representative by the Engineer shall, if involving a variation, be confirmed in writing.

If within seven days after receipt of a written notice from the Engineer, requiring compliance with an instruction the Contractor does not comply herewith, then GMDC-GVT may employ and pay other persons to execute any work whatsoever which may be necessary to give effect to such instructions and all cost incurred with such employment shall be recoverable from the Contractor by GMDC-GVT as debt or may be deducted by him from any monies due or to become due to the Contractor under this Contract.

- 9.(2) Upon receipt of what propose to be an instruction issued to him by the Engineer, the Contractor may request the Engineer to specify in writing the provision of these conditions which empowers the issue of the said instruction. The Engineer shall forthwith comply with any such request, and if the Contractor shall thereafter comply with the said instruction, then the issue of the instruction shall be deemed for all purposes of this Contract to have been empowered by the provision of these Conditions specified by the Engineer in answer to the Contractor's request.
- 9.(3) All instructions issued by the Engineer shall be in writing. Any instruction issued orally shall be of immediate effect, but shall be confirmed in writing by the Contractor to the Engineer within seven days, and if not dissented from in writing by the Engineer to the Contractor within seven days from receipt of the Contractor's confirmation, shall take effect as from the expiration of the latter said seven days.

Provided always:

9.(3)A. That if the Engineer within seven days of giving such an oral instruction shall himself confirm the same in writing, then the Contractor shall not be obliged to confirm as aforesaid, and the said instruction shall take effect as from the date of the Engineer's confirmation and

9.(3)B. That if neither the Contractor nor the Engineer shall confirm such an oral instruction in the manner and at the time aforesaid but the Contractor shall nevertheless comply with the same, then the Engineer may confirm the same in writing at any time prior to the issue of the Final Certificate, and the said instruction shall thereupon be deemed to have taken effect on the date on which it was issued.

## **10. . Site**

- 10.(1) Visit : Before tendering, the Contractor shall have visited and examined the site and satisfied himself as to the nature of the existing roads or other means of communication and the character of the soil and of the excavations, the correct dimensions of the work and the facilities for obtaining any special articles called for in the Contract Document and shall have obtained generally his own information on all matters affecting the continuation and progress of the works.

No extra charge made in consequence of any misunderstanding or incorrect information on any of these points, or on the grounds of insufficient description, will be allowed. Should the Contractor after visiting the site, find any discrepancies, omissions, ambiguities or conflicts in or among the Contract Document, or to be in doubt as to their meaning, he shall bring the questions to the Engineer's attention, not later than seven days before the last date for submission of the tender.



11.(2) Possession : The Contractor shall be allowed admittance to the site on the 'Date of Commencement' stated in the Appendix and he shall thereupon and forthwith begin the work and shall regularly proceed with and complete the same on or before the 'Date of Completion' stated in the Appendix subject nevertheless to the provision for extension of time hereafter contained.

11.(3) Treasures : Any Treasures, Coins or objects of Antiquity, which may be found at site shall be the property of GMDC-GVT and handed over to GMDC-GVT.

#### 11.(4) Use of Site

In particular the following provisions shall be deemed to apply to the possession and use of the Site.

A The lands and other places outside the Site which are the property of or under the control of GMDC-GVT shall be used strictly in accordance with the instructions of the Engineer or Clerk of Works.

B The Contractor shall at any time move any vehicle, machine, vessel or any other obstruction within his control that may be required by the Clerk of Works to be moved such things or such obstructions promptly on instructions being given and at his own cost unless the Clerk of Works decides otherwise.

C The Contractor shall maintain access for the inspection, operation and maintenance of any of the plant or the Works belonging to GMDC-GVT which lie within the Site or elsewhere.

D The Contractor shall not use any portion of the Site for any purpose not connected with the Works unless prior written permission of the Clerk of Works shall have been obtained.

## 12. Progress Chart

12.(1) The Contractor shall prepare progress charts and submit the same for approval of the Engineer and for his record within twenty-one days of the Award of the Contract. The charts shall indicate the expected date of commencement and completion of each of the items of the work and shall be in a form approved by the Engineer. The chart shall also indicate the scheduling of samples, Shop Drawings and approvals.

The Contractor shall, whenever required by the Engineer, also provide in writing for his information a general description of the arrangements and method which the Contractor proposes to adopt for execution of the Works.

12(2) If at any time it should appear to the Engineer that the actual progress of the Works does not conform to the programme to which consent has been given under sub-clause 14.1, the Contractor shall produce within a week's time at the request of the Engineer, a revised programme showing the modifications to such programmes necessary to ensure completion of the Work within the Time for Completion.





12.(3) The Contractor shall, if required any time by the Engineer, deliver to the Engineer a return in detail, in such form and at such interval as the Engineer may prescribe showing the status of work by the Contractor at site.

12(4) Records

The Contractor shall, at his own cost, keep all records concerning works and progress of construction. He shall also record daily weather condition.

### **13. Engineer's Status and Decisions**

13.(1) The Engineer shall be GMDC-GVT's representative during the currency of the Contract. The Engineer shall periodically visit the site to familiarise himself generally with the progress and the quality of the work and to determine in general if the work is proceeding in accordance with the Contract Document. He shall not be required to make exhaustive or continuous on site inspections to check the quality or quantity of the work and he shall not be responsible for the Contractor's failure to carry out the construction work in accordance with the Contract Document, and he shall condemn work which fails to conform to the Contract Document. He shall have authority to act on behalf of GMDC-GVT only to the extent expressly provided in the Contract Document. He shall have authority to stop the work whenever such stoppage may be necessary in his reasonable opinion to ensure the proper execution of the Contract.

The Engineer shall be in the first instance the interpreter of the Conditions of this Contract and the judge of its performance. He shall side neither with GMDC-GVT nor with the Contractor but shall use his powers under the Contract to enforce its faithful performance by both. In case of the termination of the appointment of the Engineer GMDC-GVT shall appoint a capable and reputable Engineer against whom the Contractor shall make no reasonable objection and whose status under the Contract shall be that of the former Engineer.

13.(2) Decision :

The Engineer shall within a reasonable time make decisions on all claims of GMDC-GVT or the Contractor and all other matters relating to the execution and progress of the work or the interpretation of the Contract Document.

The Engineer may in his absolute discretion and from time to time issue further Drawings, Details and/or written instructions, written directions and written explanations in regard to:

- A. Variation or modifications of the design.
- B. The quality or quantity of works or the additions or omission or substitution of any work.
- C. Any discrepancy in or divergence between the Drawings and / or specifications
- D. The removal and/or re-execution of any works executed by the Contractor.
- E. The dismissal from the works of any persons employed thereon.
- F. The opening up for inspection of any work covered up.
- G. The amending and making good of any defects under Defects Liability Period.
- H. The removal from the site of any materials brought thereon by the Contractor and the substitution of any other material therefore.
- J. Assignment and sub-letting.
- K. Delay and extension time.





L. The postponement of any work to be executed under the provision of this Contract.

13.(3) Dismissal :

The Contractor shall on the request of the Engineer immediately dismiss from the works any person employed thereon by him who may in the opinion of the Engineer be incompetent or misconducts himself and such person shall not be again employed on the work without the permission of the Engineer.

**14. Security Deposit (As per Technical Bid-I)**

**15. Clerk of Works**

The term "Clerk of Works" shall mean the person approved by the Engineer and appointed and paid by GMDC-GVT and acting under the orders of the Engineer to inspect the works in the absence of the Engineer; the Contractor shall afford the Clerk of Works every facility and assistance for inspecting the works and materials and for checking and measuring time and materials. Neither the Clerk of Works nor any representative of the Engineer shall have power to set out works or to revoke, alter, enlarge or relax any requirements of the Contract or to sanction any day work, additions, alternations, deviations or omissions, or any extra work whatever except in so far as such authority may be specially conferred by a written order of the Engineer.

The Clerk of Works or any representative of the Engineer shall have power to give notice to the Contractor or to his representative of non-approval of any work or materials and such work shall be suspended or the use of such materials shall be discontinued until the decision of the Engineer, is obtained. The works will from time to time be examined by the Engineer, the Clerk of Works or the Engineer's representative but such examination shall not in any way exonerate the Contractor from the obligation to remedy any defects which may be found to exist at any stage of the works or after the same is completed. Subject to the limitation of this clause the Contractor shall take instructions only from the Engineer.

16. Equipment :

The Contractor shall provide and install all necessary hoists, ladders, scaffolding, tools, tackles, plants, all transport for labour materials and plant necessary for the proper execution and completion of the work to the satisfaction of the Engineer.

17 Storage of Materials :

The Contractor shall provide, erect and maintain proper sheds for the storage and protection of the materials etc. and also for the execution of Work which may be prepared on the Site.

18. Sanitary Conveniences :

The Contractor shall provide and erect all necessary sanitary convenience for the Site staff and the workmen, maintain in a clean orderly condition and clean and deodorize the ground after removal.



19. The Contractor shall inform the Engineer about his management and staff structure for the project including the name of the Site-in-Charge.

**20. Taxes- As per clause in Technical Bid-I**

**21. Statutory obligations, notices, fees and charges**

21.(1) The Contractor shall comply with and give all notices required by any Government authority, and instrument, rule or order made under any Act of Parliament or any regulation or Bye-law of any local authority relating to the work or with whose system the same is or will be connected. The Contractor before making any variation from the Contract Drawings or Contract Bills necessitated by such compliance shall give to the Engineer a written notice specifying and giving reasons for such variations and the Engineer may issue instructions in regard thereto. If within ten days of having given a said written notice the Contractor does not receive any instructions in regard to the matters therein specified, he shall proceed with the work conforming to the Act of Parliament, instrument, rule, order, regulations or Bye-law in question and any variation thereby necessitated shall be deemed to be a variation required by the Engineer.

21.(2) The Contractor shall pay and indemnify GMDC-GVT against liability in respect of any fees or charges (including any rates and taxes) legally demandable under any Act of Parliament, instrument, rule or order or any regulation or Bye-law or any local authority in respect of the Work.

**22. Royalties and Patent Rights**

22. All royalties or other sums payable in respect of the supply and use in carrying out the work as desired by or referred to in the Contract Bills of any patented articles, process or inventions shall be deemed to have been included in the Contract Sum, and the Contractor shall indemnify GMDC-GVT from and against all claims, proceedings, damages, costs and expenses which may be brought or made against GMDC-GVT or to which he may be put by reason of the Contractor infringing or being held to have infringed any patent rights in relation to any such articles, processes and inventions.

**23. Licenses and Permits for Materials under Government control**

23. Licenses and Permits for all materials under Government control shall be obtained by the Contractor through the collaboration and help of GMDC-GVT. The Contractor shall include in his tender all transport charges and other expense likely to be incurred to bring the materials to the Site.

**24. Assignment or sub-letting**

The Contractor shall not without the written consent of the Engineer assign this Contract, and shall not without the written consent of the Engineer (which consent shall not be unreasonably withheld to the prejudice of the Contractor) sub-let any portion of the work.

**25. Prime Cost**



The following provisions of these conditions shall apply where Prime Cost sums are included in the Contract Bills or arise as a result of Engineer's instructions given in regard to the expenditure of provisional Sums in respect of any materials or goods to be fixed by the Contractor.

25.(1) Such sums shall be understood to mean the net cost to be defrayed as a Prime Cost after deducting any trade or other discount and shall include sales-tax (where applicable) and other taxes and duties and the cost of packing carriage and delivery. Provided that where in opinion of the Engineer the Contractor has incurred expense for special packing or special carriage such special expense shall be allowed as part of the sums actually paid by the Contractor.

25.(2) Such sums shall be expended in favour of such persons as the Engineer shall instruct, and all specialists, merchants, tradesman or others who are nominated by the Engineer to supply materials or goods are hereby declared to be the suppliers to the Contractor and are referred to in these conditions as "Nominated Suppliers" provided that the Engineer shall not (save where the Engineer and Contractor shall otherwise agree) nominate as a supplier a person who will not enter into a Contract of sale which provides (inter alia):-

25.(2)A That the materials or goods to be supplied shall be to the reasonable satisfaction of the Engineer.

25.(2)B That the nominated supplier shall make good by replacement or otherwise any defects in the materials or goods supplied which appear within such period as is therein mentioned and shall bear any expenses reasonably incurred by the Contractor as a direct consequence of such defects, provided that :

(i) Where the materials or goods have been used or fixed such defects are not such that examination by the Contractor ought to have revealed them before using or fixing.

(ii) Such defects are due solely to defective workmanship or material in the goods supplied and shall not have been caused by improper storage by the Contractor or misuse or by any act or neglect of either the Contractor, the Engineer or GMDC-GVT or by any person or persons for whom they may be responsible.

25.(2)C That delivery of the materials or goods supplied shall be commenced and completed at such times as the Contractor may reasonably direct.

25.(3) All payments by the Contractor for materials or goods supplied by a Nominated Supplier shall be in full, and shall be paid within 30 days of the end of the month during which delivery is made.

## **26. Artists and tradesmen**

The Contractor shall permit the execution of work not forming part of this Contract by artists, tradesmen or others engaged by GMDC-GVT. Every such person shall for the purposes of clause 45 of these conditions be deemed to be a person for whom GMDC-GVT is responsible and not be a Sub-Contractor.

## **27. Separate Contracts**



27.(1) GMDC-GVT reserves the right to let other Contracts in connection with his work under similar general conditions. The Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and co-ordinate his work with theirs. If any part of Contractor's or Sub-Contractor's work depends for proper execution or results upon the work of any other Contractor, or Sub-Contractor, the Contractor shall inspect and promptly report to the Engineer any defects in such work that render it unsuitable for such proper execution and results. Failure of the Contractor to so inspect and report shall constitute an acceptance of the other Contractor's work as fit and proper for the acceptance of his work, except as to defects which may develop in the other Contractor's or Sub-Contractor's work after the execution of the work. To ensure the proper execution of his subsequent work the Contractor shall measure work already in place and shall at once report to the Engineer any discrepancy between the executed work and the Drawings.

27.(2) Co-ordination with Other Contractors.

The Contractor shall submit the details of Interior work /landscaping work Programme to the Engineer who will co-ordinate with the Erection Programme separately submitted to him by the Erection Contractor. Such co-ordination of civil and erection works programme shall be agreed between the Engineer, Erection and Civil Works Contractor and the agreed programme shall then be mutually binding on Erection and Civil Works Contractors.

## **28. Variations, Provisional and Prime Cost Sums**

28.(1) The Engineer may issue instruction requiring a variation and he may sanction in writing any variation made by the Contractor otherwise than pursuant to an instruction of the Engineer. No variation required by the Engineer or subsequently sanctioned by him shall vitiate this contract.

28.(2) The term "Variation" as used in these conditions means the alteration or modification of the design, quality or quantity of the work as shown upon the Contract Drawings and desired by or referred to in the Contract Bills, and includes the addition, omission or substitution of any work, the alteration of the kind of standard of any of the materials or goods to be used in the work, and the removal from the site of any works, materials or goods to be used in the work and the removal from the site of any works materials or goods executed or brought thereon by the Contractor for the purposes of the work other than work, materials or goods which are not in accordance with this Contract.

28(3) The Engineer shall issue instruction in regard to the expenditure of Prime Cost and Provisional Sums included in the Contract Bills and of Prime Cost Sums which arise as a result of instructions issued in regard to the expenditure of Provisional Sums.

28.(4) All variations required by the Engineer or subsequently sanctioned by him in writing and all works executed by the Contractor for which Provisional Sums are included in the Contract Bills (other than work for which a tender made under clause 26(7) of these conditions has been accepted) shall be measured and valued by the Engineer who shall give to the Contractor an opportunity of being present at the time of such measurement and of taking such notes and measurement as the Contractor may be required. The valuation of variations and of work executed by the Contractor for which a Provisional Sum is included in the Contract Bills, (other than work for which a tender has been accepted as aforesaid) unless otherwise agreed shall be made in accordance with the following rules.



28.(4)A The price in the Contract Bills shall determine the valuation of work of similar character executed under similar conditions as work priced therein.

28(4)B The said prices, where work is not of a similar character or executed under similar conditions as aforesaid, shall be the basis of prices for the same so far as may be reasonable, failing which, after due consultation by the Engineer with GMDC-GVT and the Contractor, suitable rates or prices shall be agreed upon between the Engineer and the Contractor. In the event of this agreement the Engineer shall fix such rates or prices as are, in his opinion, appropriate and shall notify the Contractor accordingly, with a copy to GMDC-GVT.

28.(4)C Where work cannot properly be measured and valued the Contractor shall be allowed day-work rates on the prices prevailing when such work is carried out (unless otherwise provided in the Contract Bills) :

- (i) At the rates if any, inserted by the Contractor in the Contract Bills or in the form of Tender or in day work schedule or
- (ii) When no such rates have been inserted, at the rates prevailing in the market for material and labour and at the control rates for the controlled materials including in all cases the rate for delivery of the material at the work.
- (iii) Contractor's profits and overheads at 15% shall be added to the rates arrived at herein.

Provided that in any case voucher specifying the time daily spent upon the work (and if required by the Engineer the workmen's names) and the materials employed shall be delivered for verification to the Engineer or his authorised representative not later than the end of the week following that in which the work has been executed.

28.(4)D The prices in the Contract Bills shall determine the valuation of items omitted, provided that if omissions substantially vary the conditions under which any remaining items of work are carried out the prices for such remaining items shall be valued under rule (B) of this sub-clause.

28(5) Effect shall be given to the measurement and valuation of variations under Sub-Clause (4) of this condition in Interim Certificates and by adjustment of the Contract Sum; and effect shall be given to the measurement and valuation of work for which a Provisional Sum is included in the Contract Bills under the said Sub-Clause in Interim Certificate and by adjustment of the Contract Sum in accordance with Clause 31(5) of these conditions.

28.(6) If upon written application being made to him by the Contractor, the Engineer is of the opinion that a variation or the execution by the Contractor of work for which a Provisional Sum is included in the Contract Bills (other than work for which a tender made under clause 26(6) of these conditions has been accepted) has involved the Contractor in direct loss and/or expense for which he would not be reimbursed by payment in respect of a valuation made in accordance with the rules contained in Sub-Clause (4) of the Conditions and if the said application is made within a reasonable time of the loss or expense having been incurred then the Engineer shall ascertain the amount of such loss or expense. Any amount from time to time so ascertained shall be added to the Contract Sum, and if an Interim Certificate is issued after the date of



ascertainment any such amount shall be added to the amount which would otherwise be stated as due in such certificate.

## **29. Certificates and Payments**

- 29.(1) The Contractor shall submit to the Engineer at the period named in the Appendix to these Conditions (Section G) six copies each signed by the Contractor's authorised representative, of a statement, in such form as the Engineer may from time to time prescribe, showing the amounts to which the Contractor considers himself to be entitled under the Contract. The Contractor shall ensure that such statement submitted by him shall have the same nomenclature as used in Tender/Order documents.

At the period of Interim Certificate named in the Appendix (Section G) to these conditions the Engineer shall issue a certificate stating the amount due to the Contractor from GMDC-GVT, and the Contractor shall be entitled to payment to these conditions. Interim valuations shall be made whenever the Engineer considers them to be necessary for the purpose of ascertaining the amount to be stated as due in an Interim Certificate.

- 29.(2)A The amount stated as due in an Interim Certificate shall be the total value of the work properly executed less any amount which may be retained by GMDC-GVT (as provided in sub-clause (3) of this condition) and less any installments previously paid under this Condition.

- 29.(2)B Value of certain materials and goods as and from such time to time as they are reasonably and properly placed at site and then only if adequately protected against weather or other casualties, may be included in the certificate as mentioned in the Special Conditions of Contract.

Notwithstanding to terms of this clause or any other clause of the Contract no amount will be certified by the Engineer for payment until fulfilment of provisions under this Contract by the Contractor.

- 29.(3) GMDC-GVT may retain the percentage of the total value of the work, materials and goods referred to in Sub- Clause (2) of this condition which is named in the Appendix (Section G) to these Conditions as retention percentage. Provided always that when the sum of the amount so retained equals the amount named in the said Appendix as limit of retention fund or that amount as reduced in pursuance of clause 26(4) of these Conditions, as the case may be, no further amount shall be retained by virtue of this Sub-Clause.

- 29.(4) The amounts retained by virtue of Sub-Clause (3) of this Condition shall be subject to the following rules:-

29.(4)A GMDC-GVT's interest in any amount so retained shall be fiduciary as trustee for the Contractor (but without obligation to invest), and the Contractor's beneficial interest therein shall be subject only to the right of GMDC-GVT to have recourse thereto from time to time for payment of any amount which he is entitled under the provisions of this Contract to deduct from any sum due or to become due to the Contractor.

29.(4)B On the issue of the certificate of virtual completion the Engineer shall issue a certificate for one moiety, of the 50 per cent of amounts then so retained and the Contractor shall be entitled to payment of the said moiety within the period for honouring certificate named in the





Appendix to these Conditions (Section G) and on expiry of maintenance period the Engineer shall issue a certificate for one moiety, of the balance 50 per cent of total amounts retained and the Contractor shall be entitled to payment of the said moiety within the period for honouring certificates names in the Appendix to the Conditions (Section G).

- 29.(5)A The measurement and valuation of the work shall be completed within the period of final measurement and valuation stated in the appendix to these Conditions, and the Contractor shall be supplied with a copy of the priced bills of variation not later than the end of the said period and before the issue of the Final Certificate under Sub-Clause (6) of this Condition.
- 29.(5)B Either before or within a reasonable time after Virtual Completion of the work the Contractor shall send to the Engineer all documents necessary for the purposes of the computation required by these Conditions including all documents relating to the accounts of nominated Sub- Contractors and Nominated Suppliers.
- 29.(5)C In the settlement of accounts the amounts paid or payable under the appropriate contract by the Contractor to nominated Sub-Contractor or nominated supplier the amount paid shall be taken into account.
- 29.(6) So soon as is practicable but before the expiration of the period the length of which is stated in the Appendix (Section G) to these Conditions from the end of the Defects Liability Period also stated in the said Appendix or from completion of making good defects under clause 40 of these conditions or from receipt by the Engineer of the Documents referred to in paragraph (b) of Sub-Clause (5) of this Condition, whichever is the latest, the Engineer shall issue the Final Certificate. The Final Certificate shall state:

29.(6)A The sum of the amount paid to the Contractor under Interim Certificate and the amount named in the said Appendix as limit of Retention Fund, and,

29.(6)B The Contract Sum adjusted as necessary in accordance with the terms of these Conditions, and the difference (if any) between the two sums shall be expressed in the said Certificate as a balance due to the Contractor from GMDC-GVT or to GMDC-GVT from the Contractor as the case may be, and subject to any deductions authorised by these Conditions, the said balance shall be a debt payable as the case may be by GMDC-GVT to the Contractor or by the Contractor to GMDC-GVT, upon expiry of one month from the date of issue of the said Certificate.

### **30. Claim for Extra**

When any instruction or decision given at site involves an extra or whereby the Contractor may plan to claim an extra, it shall be the responsibility of the Contractor to inform the Engineer of the extra amount and get written authorisation from the Engineer before proceeding with the work involved.

Any modification carried out for expediting or simplifying work at the request of the Contractor or his representatives shall not be taken as the basis for claiming an extra. However, if such modification shall also involve an extra, the rate for such modification shall be settled in advance and written authorisation obtained by the Contractor from the Engineer before proceeding with the work involved. If no such information is given





by the Contractor in writing to the Engineer such modification shall not be accepted as the basis for extra charge.

The extra items would be paid on the basis of cost of material input plus cost of direct labour used "An additional 15% will be considered towards overhead and profits, (extra items rate thus derived will be inclusive of all overheads). Cost of indirect labour mobilization, equipment and supervision etc. would be part of these overheads. The rate analysis for such extra items need to be submitted in advance before commencing the job. The extra work shall be subject to prior approval.

Rates for any extra items not covered in the Bill of quantities shall be derived on pro-rata basis from the known rates available from the Contract. Rates for any extra items not covered in the Bill of quantities, shall be worked out on the basis of unit rates of labour and materials & contractors overhead and profit.

### **31. Deduction for uncorrected work**

If the Engineer deems it inexpedient to correct work damaged or not done in accordance with the Contract, an equitable deduction from the Contract price shall be made therefore.

### **32. Fluctuations**

The Contractor shall not claim any extra for fluctuation of price, exchange rates, labour conditions, etc. and the Contract Price shall not be subject to any rise or fall of prices.

### **33. Unfixed goods and materials**

Unfixed materials and goods intended for, delivered to and placed on or adjacent to the work shall not be removed except for use upon the work unless the Engineer has consented in writing to such removal which consent shall not be unreasonably withheld. Where the value of such materials or goods has in accordance with clause 31(2) of these conditions been included in any Interim Certificate under the Contract for which the Contractor has received payment, such materials and goods shall become the property of GMDC-GVT, but subject to clause 47(b) or to clause 47(c) of these conditions (if applicable) the Contractor shall remain responsible for loss or damage to the same.

### **34. Possession, Completion and Postponement**

On the date of commencement stated in Appendix to these Conditions (Section G), permission to enter & work on the site shall be given to the Contractor who shall thereupon begin the works and regularly and, diligently proceed with the same and who shall complete the same on or before the date for Completion stated in the said Appendix (Section G) subject nevertheless to the provision for extension of time contained in clause 40 of these Conditions.

The Engineer may issue instructions in regard to the postponement of any work to be executed under the provision of this Contract.

### **35. Extension**

35. Upon it becoming reasonably apparent that the progress of the Works is delayed, the Contractor shall forthwith give written notice of the cause of the delay to the Engineer,



and if in the opinion of the Engineer, the completion of the Works is likely to be or has been delayed beyond the date of completion stated in the Appendix to these Conditions or beyond any extended time previously fixed under this clause.

35.(1) By Force Majeure.

Force majeure shall mean war, hostilities (whether war be declared or not), invasion, act of foreign enemies, rebellion, revolution, insurrection or military or usurped power, civil war, or radiations or contamination by radio activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radio- active toxic explosive, or other hazardous properties of any explosive, nuclear assembly or nuclear component thereof, pressure waves caused by aircraft or other aerial devices traveling at sonic or supersonic speeds, or any such operation of the forces of nature as an experienced contractor could not foresee, or reasonably make provision for or insure against all of which are herein collectively referred to as "Force Majeure".

35.(2) By reason of any exceptionally inclement weather requiring total stoppage in work. Or

35.(3) By reason of loss or damage occasioned by any one or more of the contingencies referred to in clause 47(a), (b), and (c) of these conditions. Or

35.(4) By reason of civil commotion, local combination of workmen strike or lockout affecting any of the trades employed upon the works or any of the trades engaged in the preparation, manufacture or transportation of any of the goods or materials required for the work. Or

35.(5) By reason of Engineer's instructions issued under clauses 9, 30(1) or 38 (2) of these Conditions. Or

35.(6) By reason of the Contractor not having received in due time necessary instructions, drawings, details or levels from the Engineer for which he specifically applied in writing on a date which having regard to the date for completion stated in the Appendix to these Conditions or to any extension of time then fixed under this clause was neither unreasonably distant from nor unreasonably close to the date on which it was necessary for him to receive the same. Or

35.(7) By delay on the part of nominated Sub-Contractors or Nominated Suppliers which the Contractor has taken all practicable steps to avoid or reduce. Or

35.(8) By delay on the part of artists, tradesmen or others engaged by GMDC-GVT in executing work not forming part of this Contract. Or

35.(9) By reason of the opening up for inspection of any work covered up or of the testing of any of the work, in accordance with clause 36 (7) of these conditions (including making good in consequence of such opening up or testing) unless the inspection of test showed that the work is not in accordance with this Contract. Or

Then the Engineer shall so soon as he is able to estimate the length of the delay beyond the date or time aforesaid make in writing a fair and reasonable Extension of Time for completion of the works, provided always that the Contractor shall use constantly his best endeavors to prevent delay and shall do all that may reasonably be required to the satisfaction of the Engineer to proceed with the work.

**36. Damages for Non-completion**

If the Contractor fails to complete the work by the date specified in these Conditions or within any extended time fixed under clause 38 of these Conditions and the Engineer



certifies in writing that in his opinion the same ought reasonably so to have been completed, the Contractor shall pay or allow to GMDC-GVT a sum calculated at the rate stated in the Appendix (Section G) as agreed Liquidated Damages for the period during which the said work shall so remain or have remained incomplete, GMDC-GVT may deduct such damages from any moneys otherwise payable to the Contractor under this Contract.

### **37. Payments withheld**

The Engineer may withhold or on account of subsequently discovered evidence nullify the whole or a part of any certificate to such extent as may be necessary in his reasonable opinion to protect GMDC-GVT from loss on account of:

- 37.(1) Defective work not remedied.
- 37.(2) Failure of the Contractor to make payments properly to Sub-Contractor or for materials or labour.
- 37.(3) Damage to another Contractor or Sub-Contractor.
- 37.(4) Claims filed or reasonable evidence indicating probable filling of claims.

When the above grounds are removed payment shall be made for amounts withheld because of them.

### **38. Indemnity for Injury to Persons and Property**

- (1) Persons: The Contractor shall be liable for and shall indemnify GMDC-GVT including all of its officers, servants and agents from and against any liability, loss, claim or proceedings whatsoever arising under any statute or at common law in respect of personal injury to or the death of any person whomsoever arising out of or in the course of or caused by the carrying out of the works, unless due to any act or neglect of GMDC-GVT or of any person for whom GMDC-GVT is responsible.
- (2) Property: Except for such loss or damages as is at the risk of GMDC-GVT under clause 47 (b) or clause 47 (c) of these Conditions (if applicable) the Contractor shall be liable for and shall indemnify GMDC-GVT against any expense, liability, loss, claim or proceedings in respect of any injury or damage whatsoever to any property real or personal in so far as such injury or damage arises out of or in the course of or by reason of the carrying out of the works, unless due to any act or neglect of GMDC-GVT or any person for whom GMDC-GVT is responsible.

### **39. Insurance against Injury to Persons and Property**

- 39.(1) The Contractor shall at his own cost and initiative at all times upto the successful conclusion of the defect liability period, take out and maintain insurance policies in respect of all insurable liabilities under the Clause 45 but not limited to third part insurance and liabilities under the Motor Vehicles Act, Workmen's Compensation Act, Fatal Accidents Act, Personal Injuries Insurance Act, Emergency Risk Insurance Act and or other industrial legislation from time to time in force in India with insurance company (ies) approved by GMDC-GVT and such policy (ies) shall be of no lesser limit than the limits hereunder specified with reference to the matters specified namely:

- (a) Workmen's Compensation Insurance to the limit to which compensation may be payable under the laws of the Republic of India.



- (b) Third Party Insurance – body injury and property damage to the limit of not less than Rs.5,00,000/- (Rupees Five Lacs Only) in each accident at job site and to a limit of not less than Rs.25,00,000/- (Rupees Twenty Five Lacs Only) for all accidents at all job sites.

- 39.(2) Provided that the limit specified above shall operate only as a specification of minimum limits for Insurance purpose, but shall not anyway limit the Contractor's liability in terms of this clause to the limit(s) specified.

Should the Contractor fail to take out and/or keep Insurance as provided for in the foregoing sub-clause, GMDC-GVT shall be entitled (but without the obligation to do so) to take out and/or keep afoot such Insurance at the cost and expense of the Contractor and without prejudice to any other rights or remedies of GMDC-GVT in this behalf to deduct the sum(s) incurred hereof from the dues of the Contractor.

- 39.(3) Without prejudice to his liability to indemnify GMDC-GVT under clause 45 of these Conditions, the Contractor shall maintain and shall cause any Sub- Contractor to maintain :

39.(3)A Such insurances as are necessary to cover the liability of the Contractor or as the case may be of such Sub- Contractor, in respect of personal injuries or deaths arising out of or in the course of or caused by the carrying out of the work; and

39(3)B Such insurances as may be specifically required by the Contract Bills in respect of injury or damage to property real or personal arising out of or in the course of or by reason of the carrying out the work, and caused by any negligence, omission or default of the Contractor, his servants or agents or, as the case may be of such Sub- Contractor, his servants or agents.

The Contractor shall produce or cause any Sub-Contractor to produce for inspection the relevant policy or policies of insurance together with the receipts in respect of premiums paid under such policy or policies as and when required so to do by the Engineer provided always that as and when may be reasonably required by the Engineer the production by either the Contractor or any Sub-Contractor of a current certificate of insurance from the company or firm which shall have issued the policy or policies aforesaid shall be a good discharge of the Contractor's obligation to produce or to cause the production of the policy or policies and the receipts in respect of premium paid.

#### **40. Insurance of the works against fire etc.**

40. A The Contractor shall in the joint names of GMDC-GVT and Contractor obtain and maintain a comprehensive Contractor's all risk policy which should also cover insurance against loss or damage by fire, storm, tempest, lightning, flood, earthquake, aircraft or anything dropped therefrom, aerial objects, riot and civil commotion for the full value thereof all work executed and all unfixed materials and goods intended for, delivered to and placed on or adjacent to the work, but excluding temporary building plant, tools and equipment owned or hired by the Contractor or any Sub-Contractor and shall keep such work materials and goods so insured until Virtual Completion of the work. Such insurances shall be with insurers approved by the Engineer and the Contractor shall deposit with the Engineer the policy or policies and the receipts in respect of premiums paid: and should the Contractor make default in insuring or continuing to insure as aforesaid GMDC-GVT may himself insure against any risk with respect of which the



default shall have occurred and deduct a sum equivalent to the amount paid by him in respect of premium from any monies due to or to become due to the Contractor.

Provided always that if the Contractor shall independently of his obligations under this Contract maintain a policy of insurance which covers (inter alia) the said work, materials and goods against the aforesaid contingencies to the full value thereof then the maintenance by the Contractor of such policy shall if GMDC-GVT's interest is endorsed thereon, be a discharge of the Contractor's obligation to insure in the joint names of GMDC-GVT and Contractor and the production by the Contractor as and when may reasonably be required by the Engineer of a current certificate of insurance from the company or firm which shall have issued the said policy shall be a discharge of the Contractor's obligation to deposit with the Engineer a policy or policies and the receipts in respect of premiums paid.

40. B Upon settlement of any claim under the insurances aforesaid the Contractor with due diligence shall restore work damaged, replace or repair unfixed materials or goods which have been destroyed or injured, remove or dispose of any debris and proceed with the carrying out and completion of the work. All monies received from such insurances shall be paid to the Contractor by installments under certificates of the Engineer issued at the period of interim certificates named in the Appendix to these Conditions. The Contractor shall not be entitled to payment in respect of the restoration of work damaged, the replacement and repair of any unfixed materials or goods and the removal and disposal of debris other than the monies received under the said insurances.

#### **41. Determination by GMDC-GVT**

41.(1) Default :

If the Contractor shall make default in any one or more of the following respects, that is to say

41.(1)A If he without reasonable cause wholly suspends the carrying out of the works before completion thereof, or

41.(1)B If he fails to proceed regularly and diligently with the works, or

41.(1)C If he refuses or persistently neglects to comply with a written notice from the Engineer requiring him to remove defective work or improper materials or goods, or

41.(1)D If he fails to comply with the provision of clause 25.

Then the Engineer may give him the notice by registered post or recorded delivery specifying the default, and if the Contractor either shall continue such a default for 14 days after receipt of such a notice and shall at any time thereafter repeat such a default (whether previously repeated or not). Then GMDC-GVT without prejudice to any other rights or remedies may within 14 days after such continuance or repetition by notice by



registered post or recorded delivery forthwith determine the employment of the Contractor under this Contract, provided that such notice shall not be given unreasonably or vexatiously.

41.(2) Bankruptcy of Contractor :

In the event of the Contractor becoming bankrupt or making a composition or arrangement with his creditors or being a company having a winding up order made or (except for purposes of reconstruction) a resolution for voluntary winding up passed or a receiver or manager of his business or undertaking duly appointed or possession taken by or on behalf of the holders of any debentures secured by a floating charge, of any property comprised in or subject to the floating charge, the employment of the Contractor under this Contract shall be forthwith automatically determined but the said employment may be reinstated and continued if GMDC-GVT and the Contractor, his trustee in bankruptcy, liquidator, receiver or manager as the case may be shall so agree.

41.(3) GMDC-GVT shall be entitled to determine the employment of the Contractor under this Contract. If the Contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of this Contract with GMDC-GVT, or for showing or forbearing to show favour or disfavour to any person in relation to this Contract or any other Contract with GMDC-GVT, or if the like acts shall have been done by any person employed by the Contractor or acting on his behalf (whether with or without the knowledge of the Contractor), or if in relation to this Contract or any other Contract with GMDC-GVT the Contractor or any person employed by him or acting on his behalf or shall have given any fee or reward the receipt of which is an offence under the laws of the land.

41.(4) In the event of the employment of the Contractor being determined as aforesaid and so long it has not been reinstated and continued, the following shall be the respective rights and duties of GMDC-GVT and Contractor.

41.(4)A GMDC-GVT may employ and pay other persons to carry out and complete the works and he or they may enter upon the works and use all temporary buildings, plant, machinery, appliances, goods and materials intended for, delivered to and placed on or adjacent to the works and may purchase all materials and goods necessary for the carrying out and completion of the Works.

41.(4)B The Contractor shall if so required by GMDC-GVT or Engineer within 14 days of the date of determination assign to GMDC-GVT without payment the benefit of any Agreement for the supply of materials or goods and/or for the execution of any Works for the purposes of this Contract but on the terms that a supplier or Sub-Contractor shall be entitled to make any reasonable objection to any further assignment thereof by GMDC-GVT. In any case GMDC-GVT may pay any supplier or Sub-Contractor for any materials or goods delivered or Works executed for the purpose of the Contract (whether before or after the date of determination), in so far as the price thereof has not already been paid by the Contractor. GMDC-GVT's rights under this paragraph are in addition to his rights to pay nominated Sub-Contractors as provided in clause 26(2) and payments made under this paragraph may be deducted from any sum due or to become due to the Contractor.





41.(4)C The Contractor shall as and when required in writing by the Engineer so to do (but not before) remove from the Works any temporary buildings, plant, tool, equipments, goods and materials belonging to or hired by him. If within a reasonable time after any such requirements has been made the Contractor, has not complied therewith then GMDC-GVT may (but without being responsible for any loss or damage) remove and sell any such property of the Contractor, holding the proceeds less all costs incurred to the credit of the Contractor.

41.(4)D The Contractor shall allow or pay to GMDC-GVT in the matter hereinafter appearing the amount of any direct loss and/or damage caused to GMDC-GVT by the determination. Until after completion of the Works under paragraph (a) of this Sub- clause GMDC-GVT shall not be bound by any provisions of this Contract to make any further payment to the Contractor, but upon such completion and verification within a reasonable time of the accounts therefore the Engineer shall certify the amount of expense properly incurred by GMDC-GVT and the amount of any direct loss and/or damage caused to GMDC-GVT by the determination and if such amount when added to the monies paid to the Contractor before the date of determination exceed a total amount which would have been payable on due completion in accordance with this Contract, the difference shall be a debt payable to GMDC-GVT by the Contractor : and if the said amounts, when added to the said monies be less than the said total amount, the difference shall be a debt payable by GMDC-GVT to the Contractor.

41.(5) Right of GMDC-GVT to terminate Contract in the event of death of Contractor, if individual.

Without prejudice to any of the rights or remedies under this contract, if the Contractor, being an individual, dies, GMDC-GVT shall have the option of terminating the Contract without incurring any liability for such termination.

## **42. Determination by the Contractor**

42.(1) Without prejudice to any other rights and remedies which the Contractor may possess, if

42.(1)A GMDC-GVT does not pay to the Contractor the amount due on any certificate within the period for honouring certificates named in the Appendix to these Conditions and continues such default for fourteen days after receipt by registered post or recorded delivery of a notice from the Contractor stating that notice of determination under this condition will be served if payment is not made within fourteen days from receipt thereof, Or

42.(1)B GMDC-GVT interferes with or obstructs the issue of any certificate due under this Contract : Or

42.(1)C The carrying out of the whole or substantially the whole of the uncompleted works (other than the execution of work required under clause 42 of these conditions) is suspended for a continuous period of 90 days by reason of:

(I) Force majeure, Or





- (ii) Loss or damage occasioned by any one or more of the contingencies referred to in clause 47 (a) or clause 47 (b) of these Conditions (if applicable). Or
- (iii) Civil commotion, Or
  - (iv) Engineer's instructions issued under clauses 5(3), 30(1) or 38(2) of these Conditions, Or
  - (V) The Contractor not having received in due time necessary instructions drawings details or levels from the Engineer for which he specifically applied in writing on a date which having regard to the date of completion stated in the Appendix to these Conditions Or to any extension of time then fixed under clause 40 of these Conditions was neither unreasonably distant from nor unreasonably close the date on which it was necessary for him to receive the same, Or
  - (vi) Delay on the part of Artists, Tradesmen or others engaged by GMDC-GVT in executing work not forming part of this Contract.

Then the Contractor by notice by registered post or recorded delivery to GMDC-GVT with a copy to the Engineer inform of his intention to serve a notice to determine the Contract forthwith unless the default is remedied within 90 days as the case may be.

43.(2) Upon such determination, then without prejudice to the accrued rights or remedies of either party or to any liability of the classes mentioned in clause 43 of these Conditions which may accrue either before the Contractor or any Sub-Contractors shall have removed his or their temporary buildings, plant, machinery, appliances, goods or materials or by reason of his or their so removing the same, the respective rights and liabilities of the Contractor and GMDC-GVT shall be as follows that is to say :

43.(2)A The Contractor shall with all reasonable dispatch and in such manner and with such precautions as will prevent injury, death or damage of the property in respect for which before the date of determination he was liable to indemnify GMDC-GVT under clause 42 of these Conditions remove from site all his temporary buildings, plant, machinery, appliances, goods and materials and shall give facilities for his Sub-Contractors to do the same but subject always to the provisions of Sub- paragraph (iii) of paragraph (b) of this Sub-clause.

43.(2)B After taking into account amounts previously paid under this Contract the Contractor shall be paid by GMDC-GVT:

(i) The total value of the Works completed at the date of determination.

(ii) The total value of Work begun and executed but not completed at the date of determination the value being ascertained mutatis in accordance with clause 30(4) of these Conditions.

(iii) The cost of materials or goods properly ordered for the Works for which the Contractor shall have paid or



of which the Contractor is legally bound to pay, and on such payment by GMDC-GVT materials or goods so paid for shall become the property of GMDC-GVT.

(iv) The reasonable cost of the removal under paragraph (a) of this Sub-Clause.

(v) Any direct loss and/or damage caused to the Contractor by the determination.

Provided that in addition to all other remedies the Contractor upon such determination may take possession of and shall have a lien upon all unfixed materials which may have become the property of GMDC-GVT under clause 35 until payment of all monies due to the Contractor from GMDC-GVT.

#### **44. Co-ordination of Work**

44. At the commencement of work, and from time to time, the Contractor shall confer with the Sub-Contractors, persons, engaged on separate contracts in connection with the work, and with the Engineer for the purpose of the co-ordination and execution of the various phases of the work.

The Contractor shall ascertain the Sub-Contractors, persons engaged on separate Contracts in connection with the Works, the extent of all chasings, cuttings and forming of all openings, holes, grooves, etc. as may be required to accommodate the various services, the Contractor shall ascertain the routes of all services and the positions of all floor outlets, traps, etc. in connection with the installation of plant and services and arrange for the Construction of Work accordingly. The breaking and cutting of completed work must be avoided.

#### **45. Labour**

45.(1) The Contractor shall obtain necessary license from the Licensing Authority under the Contract Labour (Regulation & Abolition) Act, 1970 and the Central & State Rules framed there under and produce the same to GMDC-GVT before start of the work

45.(2) The Contractor shall not undertake or execute or permit any other agency or sub-contractor to undertake or execute any work on the Contractor's behalf through contract labour except under and in accordance with the license issued in that behalf by the licensing officer or other authority prescribed under the Factories Act or the contract labour (Regulation & Abolition) Act, 1970 or their applicable law, rule or regulation, if applicable.

45.(3) The provision of EPF & MP Act, 1952 and the Rules / Scheme there under shall be applicable to the Contractor and the employees engaged by him for the work. The Contractor shall furnish the code number allotted by the RPFC Authority, to the Engineer In charge before commencing the work

45.(4) The Contractor shall enforce the provisions of ESI Act and Scheme framed there under with regard to all his employees involved in the performance of the Contract, and shall deduct employee's contribution from the wages of each of the employee and shall deposit the same together with GMDC-GVT's contribution of such total wages payable to the employees in the appropriate account.

45.(5) The Contractor shall not employ any child labour for the Work. The Contractor shall also discourage the practice of adult labour bringing their children to the Site. However,



for exceptional cases, the Contractor shall provide all necessary facilities to create safe and hygienic environment for the children brought to the Site by adult labour. Contractor shall create and maintain a separate area at Site, away from the places of operations, for this purpose through out the period of Contract. Contractor shall barricade it to avoid the chances of accidents. Creche facility together with a separate attendant, drinking water, toilet facilities and proper roof cover shall be provided at this area.

- 45(6) No labourer shall be allowed to reside within the Site. The Contractor shall not be allowed to have any labour Colony within the Site. Arrangements outside the Site for this purpose shall be made by the Contractor on his own at his own expense. The Contractor shall be responsible for facilities like water supply, sanitation, etc. at the site of his labour colony.

**46 Protection of trees and shrubs**

46. Trees and shrubs designated by the Engineer shall be protected from damage during the course of the work and the earth level shall not be charged within three feet of such trees. Where necessary such trees and shrubs shall be protected by means of temporary fencing.

**47 Guarantee**

- . All required guarantees shall be submitted to the Engineer by the Contractor at the time of signing of this Contract.

**48. Antiquities**

- .(1) All fossils and other objects of interest or value which may be found on the site or in excavating the same during the progress of the work shall become the property of GMDC-GVT. The Contractor shall carefully take out and preserve all such objects and shall immediately or as soon as convenient after the discovery of such articles deliver the same into the possession of the Engineer or of the Clerk-of-Works uncleaned and as excavated.

- (2) If in the opinion of the Engineer compliance with the provisions of the preceding Sub-Clause has involved the Contractor in direct loss and/or expense for which he would not be reimbursed by a payment made under any other provision in this Contract then the Engineer shall ascertain the amount of such loss and/or expense, any amount from time to time so ascertained shall be added to the Contract Sum, and if an Interim Certificate is issued after the date of ascertainment any such amount shall be added to the amount which would otherwise be stated as due in such certificates.

**49. Excepted matters**

- . The decision, opinion, direction, certificate (except for payment) with respect to all or any of the matters under clauses 5, 9, 19, 25, 26, 36, 40 (1,2,4,7 and 8) and 48 hereof (which matters are herein referred to as the excepted matters) by the Engineer shall be final and conclusive and binding on the parties hereto and shall be without appeal. Any other decision, opinion, direction, certificate or valuation of the Engineer or any refusal of the Engineer to give any of the same shall be subject to any right of Arbitration and review in the same way in all respect (including the provision as to opening the reference) as if it were a decision of the Engineer under the following clause.

**50. Arbitration**



- .(1) All dispute and differences of any kind whatever arising out of or in connection with the Contract or the carrying out of the works (whether during the progress of the Works or after their completion and whether before or after the determination, abandonment or breach of the Contract) shall be referred to Arbitration and settled by a Sole Arbitrator selected by the Contractor from a panel of three persons nominated by the Managing Director , Gujarat Mineral Development Corporation Limited,)
- (2) The provision of the Indian Arbitration & Conciliation Act, 1996 and all statutory re-enactments and modifications thereof and the rules made there under shall apply to all such arbitrations, subject further to the following conditions:
  - .(2).(a) The Arbitrator shall give his award separately in respect of each claim;
  - .(2).(b) Insofar as any dispute or difference referred to arbitration shall relate to or involve any matter or thing in respect of which the decision, opinion or determination (howsoever expressed) of GMDC-GVT or General Manager or Engineer-in-Charge or any authorized person has been expressed to be final in terms of the Contract, such decision, opinion and/or determination as the case may be, shall be binding upon the Arbitrator.
- .(3) The Contractor and GMDC-GVT may by mutual agreement from time to time enlarge the time within which the Arbitrator shall make and publish his award, and the time for making and publishing the award shall accordingly stand enlarged.
- .(4) No award shall be challenged, nor shall the Contractor refuse to make an appointment within the provisions of above Clause 56.(2) hereof on the ground that any person nominated by the General Manager or appointed by the Contractor pursuant to the provisions of the said Clause, is an employee of GMDC-GVT is or otherwise howsoever connected with GMDC-GVT.
- (5) Notwithstanding the existence of any arbitration proceedings in terms hereof or otherwise, the Contractor shall continue and be bound to continue and perform the works to completion in all respects to the Contract (unless the Contract or works be determined by GMDC-GVT), and the Contractor shall remain liable and bound in all respects under the Contract.
- (6) The venue of the Arbitration shall be **Ahmedabad, Gujarat, India.**

In case of any dispute, difference or disagreement between the GMDC-GVT and Contractor or any other person or agency working under Contractor the matter shall be referred to an independent arbitrator mutually agreed between Contractor and the GMDC-GVT. In the case of disagreement on arbitrator or about his proceedings or on the both, either party will have the right to approach appropriate law courts having jurisdiction over the city of **Ahmedabad**. It is made clear to both the parties that by entering in to an arbitration clause under this agreement ,either party is not deprived of all the legal remedies available under law in the event of any litigation arising out of and in the course of this contract/agreement. However both the parties should exhaust their first option of going to the mutually agreed arbitrator ,prior to approach any law courts.

Except for the matter, which is specifically under arbitration, the parties shall continue to perform their respective obligations under the Contract.

## 51. Bribery



Any commission, advantage, gift, gratuity, regard or bribe given, promised or offered by or on behalf of the Contractor or his agent or servant, or any other person on his or their behalf to any officer, servant, representative or agent of GMDC-GVT or of the Engineer or Engineer's Representative or to any person on their behalf or on behalf of any of them in relation to the obtaining or to the execution of this or of any other Contract with GMDC-GVT, may, in addition to any criminal liability which may be thereby incurred, subject the Contractor to the cancellation of this and all the other Contracts which he may have entered into with GMDC-GVT and also to the payment of any loss or damage resulting from such cancellation. GMDC-GVT shall be entitled upon a certificate in writing of the Engineer to deduct the amount so certified from any monies otherwise due to the Contractor under this or any other Contract or to recover the said amount as a debt due or partly the one and partly the other as GMDC-GVT shall deem advisable.

**52. Indemnity to GMDC-GVT's Agents and Engineer and Engineer's Agents.**

- (1) The Contractor shall indemnify GMDC-GVT and every member, Officer, and Employee thereof and the Engineer and the Engineer's Agents and Representative and every member of his staff from any claim or demand from accident, injury, damage, loss and/or compensation of any kind whatsoever arising out of or in connection with all claims and demands which may be made against GMDC-GVT or the Engineer for or in respect of or arising out of failure by the Contractor in the performance of his obligation under any of the provisions of the Contract.
- (2) If GMDC-GVT has to pay or elects to pay any money in respect of any such claims or demands as aforesaid, the amount so paid and the cost incurred by GMDC-GVT shall be charged to and paid by the Contractor provided always that GMDC-GVT shall, if circumstances permit, give to the Contractor reasonable opportunity of examining such claims or demands before payment.

In the event of the Contractor disputing the amount of any payment (except payments made in accordance with the legal obligations or after approval by the Contractor) then the Contractor shall have the right to dispute the matter, and refer the matter to arbitration in accordance with the provisions of the Conditions of Contract.

**53. Member of GMDC-GVT's Staff, Etc. Not Liable**

Neither any member of GMDC-GVT's staff, nor the Engineer, nor any of his staff, nor the Engineer's Representative shall be in any way personally liable for the acts of obligations under the Contract, or answerable for any default or omission on the part of GMDC-GVT in the observance or performance of any of the acts, matters or things which are herein contained.

**54. Concurrent Delays**

In the event of delay in the work of the Contractor due to causes attributable to GMDC-GVT and also due to causes attributable to the Contractor, the Contractor shall not be entitled to make any claim on that account. Further, such delay will not be a valid reason to claim extension of time limit.

**55. SAFETY CODE**

In general, the Contractor shall adhere to safe construction practice and guard against hazardous and unsafe working conditions and shall comply with GMDC-GVT's safety rules as set forth here in.



Contractor shall maintain first aid facilities for its employees and those of its sub contractors. Contractor shall also make arrangement for ambulance service and for the treatment of industrial injuries. Name of those providing these services shall be furnished to Engineer In charge prior to start of construction and their telephone number shall be prominently posted in Contractor's office.

All critical injuries shall be reported promptly to Engineer In charge and a copy of the Contractor's report covering each personal injury requiring the attention of a physician shall be furnished to GMDC-GVT.

The Contractor shall strictly comply with all statutory requirements in respect of all industrial injuries.

Carrying/striking of matches, lighters within the work area, smoking within the work area, tank farm or other areas is strictly prohibited. Violator of the 'No Smoking' rules shall be discharged immediately. Within the operations area, no hot work shall be permitted without valid gas safety/fire permits. The Contractor shall be held liable and responsible for all lapses of his sub-contractors/employees in this regard.

Safety provisions shall be brought to the notice of all concerned by display on a Notice board at a prominent place at the work spot. Persons responsible for ensuring compliance with the safety code shall be named therein by the Contractor. The Contractor shall appoint at least two qualified Safety Engineers and One Safety Manager at Site for this purpose for the entire duration of Work. These safety personnel shall have adequate experience of working in similar conditions.

To ensure effective enforcement of the rules and regulations relating to safety precautions, arrangements made by the Contractor shall be open to inspection by the Engineer-in-charge or his representatives. Non-compliance of this Safety Code or any mis-conduct regards to safety, by the Contractor or his representatives shall be dealt with firmly by the Engineer-in-Charge by way of immediately stopping the Work. Such stoppage of Work shall not entitle the Contractor for any extension of Time and / or any extra Cost.

The Contractor shall erect and maintain barricades to protect or guard the excavation areas, hoisting areas, any other hazardous areas, areas adjacent to GMDC-GVT's existing property and any such area deemed appropriate for such protection by the Engineer In charge. The Contractor shall provide all necessary fencing/barricades and lights to protect public from accidents and shall be bound to bear expenses of defence of every suit, action or other proceedings at law that may be brought by any person for injury sustained owing to neglect of the above precautions and to pay any damages and costs which may be awarded in any such suit, action or proceedings to any such person or which may, with the consent of the Contractor, be paid to compromise any claim by any such person. The Contractor's employees and its sub-contractors shall be acquainted with barricading practises and shall respect all such provisions. Barricade and hazardous areas adjacent to but not located in normal routes of travel shall be marked by red flasher lanterns at night.

Notwithstanding this Safety Code, the Contractor is not exempted from the operation of any other Act or Rule in force.





In addition to this Safety Code, the Contractor shall abide by the safety code provisions as per C.P.W.D. safety code framed from time to time.

The contractor shall arrange to obtain valid gate passes for his men and equipment from the concerned authorities of the Project.

No man / material / equipment not covered by valid passes shall be permitted with the Project area and no material / equipment shall be permitted to be taken out of the Project area, unless the written permission of the Architect / Engineer in-charge.

No materials at the Site shall so stacked or placed as to cause danger or inconvenience to any person or the public.

All necessary personal safety equipment as considered adequate by the Engineer-in-charge shall be available for use of persons employed on the site and shall be maintained in a condition suitable for immediate use. Contractor shall take adequate steps to ensure proper use of equipments by those concerned.

- a) Workers employed on mixing asphaltic materials, cement and lime mortars / concrete shall be provided with protective footwear and protective gloves.
- b) Workers engaged in handling any material, which is injurious to eyes shall be provided with protective goggles.
- c) Workers engaged in welding works shall be provided with welder's protective-shields.
- d) Stone breakers shall be provided with protective goggles and protective clothing and seated at sufficiently safe intervals.
- e) When workers are employed in sewers and manholes, which are in use, the Contractor shall ensure that manhole covers are opened and manholes are ventilated at least for an hour before workers are allowed to get into them. Manholes so opened shall be cordoned off with suitable railing and provided with warning signals or boards to prevent accident to public.
- f) The Contractor shall not employ men below the age of 18 and women on the work of painting with products containing lead in any form. Whenever men above the age of 18 are employed on the work of lead painting, the following precautions shall be taken:
  - i) Paint containing lead or lead products shall not be used except in the form of paste or ready to use liquid.
  - ii) Suitable face masks shall be supplied for use by workers when paint is applied in the form of spray or when a surface having lead paint is dry rubbed and scraped.
  - iii) Overalls shall be supplied by the Contractor to workmen and adequate facilities shall be provided to enable working painters to wash during and on cessation of work.
- g) Workers required to work at higher elevations shall be provided with safety belts and shall be instructed not to work without wearing the Belt.





- h) Good quality safety helmets shall be provided to Workers posted at Site of operations and Contractor will take adequate measures to make usage of these helmets mandatory.