

Form M.W.4]  
Form M.W.7]

Rule XIII(2) & HP 190

## **MUNICIPAL CORPORATION JALANDHAR**

.....Trust/Municipality/Corporation

### **Percentage Rate Tender & Contract for Works**

---

#### **General Rules & Directions for the guidance of Contract**

1. All work proposed for execution by contract will be notified in a form of an invitation to tender pasted on a board hung up in the office of and signed by the Trust/Municipal/ Corp. Engineer.
2. This form shall state the work to be carried out, as well as date for submitting and opening tender, and the allowed for carrying out the work, also the amount of earnest money to be deposited with the allowed for carrying out the work, also the amount of earnest money to be deposited with the tender and the amount of the security deposit to be deposited by successful tenderer, and the percentage if any, to be deducted from bills copies of the specifications, designs and drawing and Estimated rates/ schedule rates and any other documents required in connection with the work signed for the purpose of identification by the Trust/Municipal Corp. Engineer during office hours.
3. Receipts for payment made on account of a work executed by a firm shall also be signed by the several partners except where the contractors are described in their tender as a firm, in which case the receipts shall be signed in the name of the firm by one of the partners or by some other person having authority to give effectual receipts for the firm.
4. Any person who submits a tender shall fill up the usual printed form, starting as how much percent above or below the rate of percentage more or less on all the schedule rates/ estimated rates shall be named. Tenders which purpose any alteration in the work specified in the said form of invitation to tender, or in the time allowed for carrying out the work of which any other condition of any sort, will be liable to rejection. No single tender shall include more than one work but contractors who wish to tender for two or more works shall submit a separate tender for each. Tender shall have the name and number of the work to which they refer written outside the envelope.
5. The Trust/ Municipal/ Corp. Engineer or his duly authorized assistant will open tenders in the presence of any intending contractors or their authorized agents who may be present at the time and will enter the amounts of the several tenders in the comparative statement in a suitable form. In the event of a tender being accepted a receipt for the earnest money forwarded therewith shall there upon be given to the contractor who shall there upon for the purpose of identification sign copies of the specifications and other documents mentioned in the notice calling for tenders. In the event of a tender being rejected the earnest money forwarded with such unaccepted tender shall there upon be returned to the contractor making the same.
6. The Trust/ Municipal/Corp. Engineer shall have the right of rejecting all or any of the tenders.
7. The receipt of an accountant or clerk of any money paid by the contractor will not be considered as any acknowledgment of payment to the Trust/ Municipal/ Corp.

Engineer and the contractor shall be responsible for seeing that he procures a receipt signed by the Engineer.

- 8. The memorandum of work tendered for and the memorandum of material to be supplied by the Municipal work department and their issue rates shall be filled in and completed in the officer of the Trust/Municipal/ Corp. Engineer before the tender form issued. If a form is issued to an intending tender without having been so filled in and completed the tenderer shall request the officer to have this done before he completes and delivers his tender.

**TENDER FOR WORKS**

I/we hereby tender for the execution for the Trust/ Municipal/ Corp. In figures of..... the work specified in the underwritten memorandum within the as well as times specified in..... such memorandum in words at.....

percent  $\frac{\text{below}}{\text{above}}$  the rates entered in the  $\frac{\text{Estimates}}{\text{Schedules of Rates}}$  mentioned in Rule I and is in all respects with the specification designs drawing and instruction in writing referred to in the notice calling for tenders and in clause II of the annexed conditions and with such materials are provided for by an in all other respects in accordance with such conditions so far as applicable.

**MEMORANDUM**

- a) if several sub-works are included they should be detailed in a separate list.
- (a) General description
- (b) Estimated cost.....Rs.
- (c) Earnest money.....Rs.
- (b) Security deposit(including earnest money).....Rs,
- (e) Percentage, if any to be deducted form bills.....Rs. (Rupees percent)
- (f) Time allowed for the work from date of written order to commence in..... month.

Give particulars and numbers. Should this tender be accepted I/We hereby agree to abide by and fulfill all the terms and provisions of the said condition contract annexed here to so far as applicable, or in default there of to forfeit and any to the Trust/ Municipal/Corp. Engineer or its Successors the sum of money mentioned in the said conditions. The sum of Rs..... is herewith forwarded in currency notes as earnest-money the full value of which is to be absolutely forfeited to the said Trust/ Municipal/Corp. or its successors in office without prejudice to any other rights or remedies or the said. Trust/Municipal/ Corp. or its successors in the office should I/We fail to deposit the full amount of security deposit specified in the above memorandum is accordance with clause(A) of the said conditions of contract, otherwise the said sum of Rs..... shall be retained by the Trust!Municipal/Corp. as on account of such security deposit as aforesaid or (b) the full value of which shall be retained by the

Stick out if no cash security deposit is to be taken before signature of contractor sub- (a) successors in office without prejudice to any other rights or remedies or the said. Trust/Municipal/ Corp. or its successors in the office should I/We fail to deposit the full amount of security deposit specified in the above memorandum is accordance with clause(A) of the said conditions of contract, otherwise the said sum of Rs..... shall be retained by the Trust!Municipal/Corp. as on account of such security deposit as aforesaid or (b) the full value of which shall be retained by the

mission of Trust/Municipal/ Corp. on account security deposit specified in clause I (8)  
 tender of the said conditions of contract.  
 Signature of Dated \_\_\_\_\_ day of \_\_\_\_\_ 20  
 witness to \_\_\_\_\_  
 Contractor's Address \_\_\_\_\_  
 Signature of Occupation \_\_\_\_\_  
 the officer by \_\_\_\_\_  
 whom Municipal/ Corp. of..... Dated the \_\_\_\_\_ day of \_\_\_\_\_  
 accepted.

**CONDITIONS OF CONTRACT**

**Clause 1:** The person/persons whose tender may be accepted(herein after called the contractor shall (A) within ten days or receipt by him of the notification of the acceptance of this tender, deposit with Municipal/Corp./ Turst Engineer in cash or Government securities endorsed to the Trust/Municipal/Corp. Engineer, if deposited for more than twelve months) a sum sufficient with the amount of the earnest money deposited by him with his tender to make up the full security deposit specified in the tender: or (B) permit the Trust/ Municipal/Corp. at the time of making any payment to him for work done under the contract to deduct such sum as well(with the earnest money deposited by him) amount of ten percent of all money so payable, such deductions to be held by Trust/Municipal/Corp. by way of security deposit. All compensation or other sums of money payable by the contractor to the sale of a sufficient part of his security deposit or from the interest arising there from or any sums which may be due or may be becomes due to the contract or by the Trust/ Municipal/ Corp. on any account what so ever and in the event of his security deposit being reduced by reason of any such deduction of sale as aforesaid the contractor shall with in ten days thereafter make good in cash or Government securities endorsed as aforesaid any sum or sums which may have been deducted from or raised by sale of his security deposit or nay part of here of.

Security deposit

**Comment [c1]:** Why the amount shall be deducted from any payment made to the contractor.

**Clause 2:** The time allowed for carrying out the work as entered in the tender shall be strictly observed by the contractor & shall be reckoned from the date on which the order to commence work is given to the contractor. The work shall through out the stipulated period of the contract be proceeded with all the due diligence(time being deemed to be the essence of the contract on the part of the contractor shall pay as compensation an amount equal to one percent or such smaller, amount as the Trust/Muni./Corp. (whose decision in writing shall be final may decide the amount of the estimated cost of whole works as shown by the tender for every day that the work remains uncompleted or unfinished after the proper dated. And further to ensure good progress during the execution of the work the contractor shall be bound in all cases in which the time allowed for any work, exceeds one month of complete one forth of the whole of the work before one forth of the whole time allowed under the

Compensation for delay

**Comment [c2]:** Sole Arbitrator to be mutually appointed by both the parties shall decide the same.

contract has elapsed, one half of the work before one half of such time has elapsed and three fourth of the work before three fourth of such time has elapsed. In the event of the contractor failing to comply with this condition he shall be liable to pay as compensation an amount equal to one percent or smaller amount as the Trust/Muni./Corp./Eng.(whose decision in writing shall be final) may decide on the estimated cost of the whole work for everyday that due quantity of work remains incomplete provided always that entire amount of compensation to be paid under the provisions of this clause shall not exceed ten percent on the estimated cost of the work as shown in the tender.

**Clause 3:** In any case in which under any clause or clauses of his contract the contractor shall have tendered himself liable to pay any compensation amounting to the whole of his security deposit whether paid in one sum or deducted by installment the Trust/Muni./Corp./Eng on behalf of Trust/Muni./Corp. shall have power to adopt any of the following courses as he may deem best suited to the interest of the Trust/Muni./Corp.

- (a) The rescission of the contract of which notice in writing to the contractor under the hand of Trust/Muni./Corp./Eng shall be conclusive evidence and in which case the security deposit of the contractor shall stand forfeited and in which case the security deposit of the contractor shall stand forfeited, and be absolutely at the disposal of the Trust/Muni./Corp.
- (b) To employ labour paid by Trust/Muni./Corp./Eng. Work department and to supply material 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 material (as to the amount of which cost and price a certificate of the Trust/Muni./Corp./Eng. shall be final and conclusive against the contractor and crediting him with the value of the work done in all respect 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 Trust/Muni./Corp./Eng as to the value of the work done shall be final and conclusive against the contractor. Action when whole of security deposit is forfeited
- (c) To measure up the work of the contractor and take such part thereof as shall be unexecuted 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 (as to the amount of which a certificate in writing to the Trust/Muni./Corp./Eng. 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 the council under the contract otherwise, or from the security deposit or the proceeds of the sale thereof or a

sufficient part thereof.

- (d) In the event of the above course being adopted by the Trust/Muni./Corp./Eng. the contractor shall have no claim to compensation for any loss sustained by him by reason of his having purchased or procured any materials or entered into any engagement to made any advance on account of or with a view to the execution of the work or the performance of the contractor shall not be entitled to recover or be paid any sum for any work therefore actually performed under this contract, unless and until the Trust/Muni./Corp./ Eng. will have certified in writing performance of such work and value payable in respect thereof and the contractor shall only be entitled to be paid value so certified.

**Clause 4:** In any case in which any of the powers conferred upon the Trust/Muni./Corp./Eng. by clause 3 hereof have become, exercisable and the same are not exercised the non exercise thereof shall not constitute waived of any of the condition hereof, and such powers shall, not with sharing, be exercisable, in the event of any fative case of default by the contractor for which by any clause or clauses hereof is declared liable to pay compensation amounting to the whole of his security deposit and the liability of the contractor for past and future compensation shall remain unaffected. In the event of the Trust/Muni./Corp./Eng put in force either of the powers(a) or (c) versed in him under the proceeding clause, the may, if he so desire take possession of all or any tools plant materials and stores in or upon the work or the site thereof or belonging to contractor, or procured by him and inended to be used or the execution of the work at any part thereof paying or allowing for the same in account of contract rates or in case of these not being applicable at current market rates to be certified by Trust/Corp./Muni./Eng. whose certificate thereof shall be final otherwise the Trust/Muni./Corp./Eng. may by/notice in writing to the contractor of his clerk of the work, foreman of other authorized agent require him to remove such tools plants material, or store from the promises(within a time to be specified in such notice and in the event of the contractor failing to comply with such requition, the Trust/ Muni./Corp./Eng may remove them at the contractor's expense or sell them by auction or private sale on account of contractor and at his risk in all respects and the certificate of the Trust/Muni./Corp/Eng. as to the expenses of any such removal and the amount of the proceeds and expense of any such shall be final and conclusive against the contractor.

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

**Clause 5:** If the contractor shall desire an extension of the time for completion of the work on the ground of his having been unavoidably hindered in its execution or on any other ground, he shall apply in writing to the Trust/Muni./Corp. Engineer within 30 days of the date of the hindrance on the ground of which he desired such execution as aforesaid and the Trust/Muni./Corp. Engineer shall if in his opinion(which shall he

Extension of time

**Comment [c3]:** Again the sole arbitrators decision shall be final.

final) reasonable ground therefore, authorized extension of time, if any, as may in his opinion be necessary or proper.

Final  
certificate

**Clause 6:** On completion of the work, the contractor shall be furnished with a certificate by the Trust/Muni./Corp. Engineer of such completion, but no such certificate shall be given or shall work be considered to be complete until the contractor shall have removed from the premises on which the work has been executed all scaffolding, surplus materials and rubbish and cleaned the dirt from all wood works doors, windows, walls, floors or other parts of any building in upon or about which the work is to be executed or of which may have had possession of the purpose of the execution there or until the work shall have been measured by the Engineer Incharge whose measurements shall be binding & conclusive against the contractor. If the contract shall fail to comply with the requirements of this clause as to removal of scaffolding surplus material and rubbish and cleaning of dit on or before the date fixed for the completion of the work, the Engineer Incharge at the expense of the contractor remove such scaffolding surplus materials and rubbish and dispose of the same as he thinks it, and clean off such dirt as aforesaid and the contractor shall forth with pay the amount of all expense so incurred and shall have no claim in respect of such acaiffelding or surplus materials as aforesaid except for any sum actually realized by the sale thereof.

Payment on  
intermediate  
certificate to  
be regarded  
as advance

**Clause 7:** No payment shall be made for works estimated cost less than rupees one thousand, till after the whole of the works shall have been completed and a certificate of completion given. But in the case of works estimated to cost more than rupees one thousand the contractor shall on submitting the bill thereof entitled to receive a monthly payment proportionate to the part thereof then approved and passed by the Engineer-in-charge whose certificate of such approval and passing of the such so payable shall be final and conclusive against the contractor. But all and shall intermediate payments shall be regarded as payments for works actually done and completed and shall not preclude the repairing of bad unsound imperfect or unskillful work to be removed and taken away and reconstructed or re-erected or be considered as an admission of the due performance of contractor or any part thereof in any way the power of Engineer-in-charge under these conditions or any of them as to be final settlement and, adjustment of account or in any other way very of affect the contract. The final bill shall be submitted by the contractor, within one month of the date fixed for completion of the work otherwise the Engineer-in-charge's certificate of the measurement and of the total amount payable for the work accordingly shall be final and binding on all parties.

Bill to be  
sub-mitted

**Clause 8:** A bill shall be submitted by the contractor each month on or before the date fixed by the Engineer-in-charge for all work executed in the previous month and the Engineer-in-charge shall take or cause to requisite measurement for the purpose of having the same certificate and the claim so far as admissible, adjusted if possible before the expiry of ten days from the presentation on the bill. If the contractor does not submit the

monthly bill within the time fixed as aforesaid the Engineer-in-charge may depute subordinate to measure up the said work in the presence of the contractor whose counter signature to the measurement list will be sufficient warrant and the Engineer-in-charge may prepare a bill from such which shall be binding on the contractor in all respects.

Bill to be printed form **Clause 9:** The contractor shall submitted all bill on the printed form to be had on application at the office of the Engineer-in-charge and the charges in the bill shall always be entered at the rate specified in the tender or in the case of any extra work ordered in the pursuance of these conditions and not mentioned or provided for in the tender at the rate hereinafter provided for such work.

Stores supplied by Trust/Muni.Corp **Clause 10:** If the specification of estimates of the work provides for the use of any special description of materials to be supplied from the Engineer-in-charge's store or if it is required that the contractor shall use certain store to be provided by the Engineer-in-charge (such materials and stores and the prices to be charged therefore as hereinafter mentioned being, so far as practicable for the convenience of the contractor, but not so as in any way to control the meaning, or effect of this contract specified in the schedule memorandum here to annexed) the contractor shall be supplied with the materials and stores any required for time to time to by him for the propose of the contract only and the value of the full quantity of the materials and stores so supplied at the rates specified in the said schedule of memorandum may be set of or deducted from any sums than due or thereafter to become due to the contractor under the contract otherwise or against or from the security deposit or the proceed of sale thereof, if the same is held in Govt. security, the same or sufficient portion thereof being in this case sold for the purpose. All materials supplied to the contractor shall remain the property of the trust/Muni/Corp. and shall not any account be removed from the site of the work and shall at all times be open to inspection of the Engineer-in-charge. Any such materials unused and in perfectly in good condition at the time of the completion or determination of the contract shall be return to the Engineer-in-charge's store if by a notice in writing under his hand he shall so required but the contractor shall not be entitled to return any such materials unless with consent and shall have no claim for compensation on account of any such materials so supplied to him as aforesaid being unused by him or for any wastage in or damage to any such materials.

**Clause 11:** The contractor shall execute the whole and every part of the work in the most substantial and workman like manner and both as regards materials & otherwise in every respect in strict accordance with the specifications. The contractor shall also confirm exactly fully and faithfully to the design, drawing and instruction in writing relating to the work signed by the Engineer-in-charge and lodge in his office and to which the contractor shall be entitled to have access at such office, or on the site of the work for purpose of inspection during office hours and the contractor shall if he so requires, to make or cause to be Work is to be executed in accordance with specification drawing order etc.

**Deleted:** be entailed his own expense

made copies of the specifications, and of all such design drawings and instructions as aforesaid.

**Clause 12:** The Engineer-in-charge shall have power to make any alterations in omissions forms, additions to or substitutions for specifications drawings and instructions that may appear to him to be necessary as advisable during the progress of the work and the contractor shall be bound to carry out the work in accordance with any instructions which may be given to him in writing signed by the Engineer-in-charge and such alterations; commissions, addition or substitution shall not invalidate the contract, and any altered, additional or substituted work which the contractor may, be directed to so in the member above specified as part of the work shall be carried out by the contractor on the same condition in all respects on which he agreed to do the main work and at the same rates as are specified in the tender for the main work. The time for the completion of the work shall be extended in the proportion that the altered additional or substituted work bears to be original contract, and the certificate of the Engineer-in-charge shall be conclusive as to such proportion, and if the altered, additional or substituted work includes any class or work for which no rate is specified in this contract, then such class of work shall be carried out at rates entered in the schedule of rates of Trust/subject to the same percentage above or below as for the items includes in the contract and if such class of work shall is not entered in the schedule of rates of the Trust/then the contractor shall within seven days of the date of his receipt of the order to carry out the work inform the Engineer-in-charge of the rates which is his intention to charge of such class of work and if the Engineer-in-charge does not agree to the rate he shall by notice in writing be at liberty to cancel his order to carry out such class of work and arrange to carry it out in such manner as he may consider in advisable. Provided always that if the contractor shall commence work or incur any expenditure in regard there to before the rates shall have been determined as lastly here in before mentioned then and in such case he shall only be entitled to paid in respect of the work carried out or expenditure incurred by him prior to the rate of determination of rate as aforesaid according to such rate or rates as shall be fixed by the Engineer-in-charge. In the event of a dispute decision of the Deputy commissioner of the District shall be final.

**Clause 13:** If at any time after commencement of the work the committee shall for any reason whatsoever not require the whole work thereof as specified in the tender to be carried out the Engineer-in-charge shall give notice in writing of the fact to the contractor or who shall have no claim to any payment or compensation whatsoever on account of any profit or advantage which he might have delivered from the execution of work in full but which he did not derive in consequence of the full amount of the work not having been carried out, neither shall he have any claim compensation by reason of any alterations having been made in the original specifications, drawings, and instructions which shall involve any

Alteration in specification and design to not invalidate contracts extension of time in consequence of alteration.

**Comment [c4]:** Business People to confirm whether this clause is acceptable.

Rates of work note in estimate or schedule of rates of the Trust/Muni./Co rp.

**Comment [c5]:** Business People to confirm.

**Comment [c6]:** Decision of Sole Arbitrator to be final.

No compensation for alteration in or restruction of work to be carried.

curtailment of the work as originally contemplated.

**Clause 14:** If it shall appear to the Engineer-in-charge or his subordinate in charge of the works that any work has been executed with unsound, imperfect or unskilled workmanship, or with materials of any inferior description, or that any materials or articles provided by him for the execution of the work are unsound, or of quality inferior to that contracted for otherwise not in accordance with the contract, the contractor shall on demand in writing from the Engineer-in-charge specifying the work, materials or articles complained of notwithstanding that the same may have been inadvertently passed, certified and paid for forthwith rectify or remove and reconstruct the work so certified in whole or in part as case may require, or as the case may be, remove the materials or articles as specified and provide other proper and suitable materials or articles at his own proper charge and cost, and in the event of his failing to do so within a period to be specified by Engineer-in-charge in his demand aforesaid then the contractor shall be liable to pay compensation at the rate of one percent on the amount of estimate for every day not exceeding ten days, while failure to do so shall continue, and in the case of any such failure the Engineer-in-charge may rectify to remove and replace with other materials or articles complained of as the case may be at the risk and expense in all respects of the contractor.

Action and compensation payable in case of bad work.

**Clause 15:** All work under or in course of execution or executed in pursuance of the contract shall at all times be open to the inspection and supervision of the Engineer-in-charge and his subordinate to visit the work shall have been given to the contractor, either himself be present to receive orders and instructions or have a responsible agent shall be considered have the same force as if they had been given to the contractor himself.

Work to be open to inspection

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

Contractor responsible Agent to be present. Notice to be given before work is covered up.

Contractor liable for damage

**Clause 17:** If the contractor or his work people or servant shall break, deface injure or destroy any part of a building in which they may be working, and building road fence enclose or being executed or if any

done and for  
imperfection  
s for six  
months after  
certificate

damage shall happen in the work, whole in progress, from any cause whatever or any imperfections become apparent in it within six months after a certificate final or other to its completion shall have been given by the Engineer-in-charge as aforesaid the contractor shall make good at his own expense, or in default the Muni. Engineer may case the same to be made good by other workmen and the deduct the expense (of which the certificate of the Engineer-in-charge shall be final) from any sums that may be then, or at any time thereafter may become due to the contractor from his security deposit or the proceeds or the rule thereof or of a sufficient portion thereof.

**Comment [c7]:** Six Months period is too long. Should be negotiated.

Contractor to  
supply plant  
ladders  
scaffolding  
etc. and is  
liable for  
damages  
arising from  
non-  
provision of  
light fencing  
etc.

**Clause 18:** The contractor shall supply at his own cost all materials(except such special materials if any as may in accordance, with the contract be supplied from the Engineer-in-charge's stores) plant tools appliance, implements ladders corda, tackle scaffolding and temporary, work requisite or proper for the execution of the work whether original altered or substituted and whether included in the specifications or other documents forming part of the contract or referred to in these conditions or not for which may be necessary for the purpose of satisfying or complying with the requirements of the Engineer-in-charge as any matter as to which under these conditions be entitled to the satisfied or which he is entitled or 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 sitting out works and counting weighing and assisting in the measurement or examination at any time from time to time of the work of material failing his so doing the same may be provided by the Engineer-in-charge at the expense of the contractor and the expense may be deducted from any money due to contract under contract or from his security deposit or proceeds of the sale thereof or of a sufficient portion thereof. The contractor shall also provide all necessary fencing and light required to protect the public from accident.

Work on  
Sundays

**Clause 19:** No work shall be done on Sundays without the sanction in writing of the Engineer-in-charge

**Deleted:** and shall be bound to bear the expense fold of defense of every suit action or other proceedings al law that may be brought by any person for injury sustained owing to neglect of the above proceedings and to pay any damages and cost which may be awarded in any such suit, action or proceedings to any such person of which may with the consent or the contractors be paid to compromise any claim by any such person.

Work on  
Sundays  
work no to  
be sublet  
contract may  
be re-cinded  
and security  
deposit  
forfeited for  
subletting  
bribing or if  
contractor  
becomes  
insolvent.

**Clause 20:** The contract shall not be assigned or subject without the written approval of the Trust/Muni./Corp. Engineer and if the contractor shall assign or sublet his contract or attempt so to do or become insolvent or commence any insolvency proceedings or make any composition with his creditors to attempt so do if any bride gratuity gift loan per requested reward or advantage pecuniary or otherwise shall either directly or indirectly be given promised or offered by the contractor or any of his servants or agents to any office or employment or if any such officer or person staff become to any way directly or indirectly interested in the contract the Trust/Muni./Corp. Engineer may their upon by notice in writing rejoined the contract and the security deposit of the contractor shall there upon stand forfeited and be absolutely at the disposal of the committee and the same consequences shall ensure as if the contract had been rescinded under clause 3 here of and in addition the contract shall not be entitled to recover

or be paid for an work therefore actually performed under the contract.

**Clause 21:** All sums payable by way of compensation under any of these conditions shall be considered as reasonable compensation to be applied to the use of the council without reference to the actual loss or damage sustained and whether or not any damage shall have been sustained.

Sum payable by way of compensation to be considered reasonable without reference to actual case.

**Clause 22:** In the case of a tender by partners any change in the constitution of the firm shall be forthwith notified by the contractor to the Engineer-in-charge for his information.

Change in constitution

**Clause 23:** All works to be executed under the contract shall be executed under the direction and subject to the approval in all respect of the Trust/Muni./Corp. Engineer for the time being who shall be entitled to direct at what point or point and in what manner they are to be commenced and from time to time carried on.

Works to be under directions of Trust/Muni./Corp. Engineer

**Clause 23A:** No, claim for payment of an extraordinary nature such as claims for a bonus: for extra labour employed in completing the work before the expiry of the contractual period at the request of the Engineer-in-charge or claims for compensation where work has been temporary brought to a stand still through no fault of the contractor shall be allowed unless and to extent that the same shall have been expressly sanctioned by the improvement Trust/Muni.Corp.

Claims for payment of and extra ordinary nature

**Clause 24:** If any question, difference or objection whatsoever shall arise in any way connected with or arising out of this instrument or the meaning or operation of any part thereof or the rights, duties or liabilities of either party then save in so far decision of any such mater therein before provided for and has been finally decided accordingly or whether the contract should be terminated or has been rightly terminated and as regards the rights and obligation or the parties as the result of such termination shall be referred to a sole arbitrator to be appointed jointly by the parties. and his decision shall be final and binding and where the matter involves a claim for or the payment or recovery or deduction of money, only the amount if any awarded in such arbitration shall be recoverable in respect of matter so referred.

Decision of sole arbitrator to final

**Deleted:** superintending Engineer

**Deleted:** for

**Deleted:** arbitration to the Superintending Engineer of the circle of the Buildings and Road Branch of the Public works department concerned for the time being

**Clause 25:** The contractor shall obtain from the stores of the Engineer-in-charge all stares and articles of European or American manufactures which may be required for the work or any part thereof in making up articles required fort the work or any part thereof or in making up articles required thereof or in connection therewith unless he has obtained permission in writing from the Engineer-in-charge to obtain such stores and articles elsewhere. The value of such stores and articles as may be supplied to contractor by the Engineer-in-charge will be debited to the contractor in his account that is shown in the schedule attached to the

Stores of European or American manufacture to be obtained from Trust/Muni./Corp./Engg.

contract and if they are not entered in the schedule they will be debited at the cost price which for the purpose of this contract shall include the cost of carriage and all other expenses whatsoever which shall have been incurred in obtaining delivery of the same at the stores at the stores aforesaid.

**Clause 26:** When the estimate on which a tender is made include lump sum in respect of part of the work the contractor shall be entitled to payment in respect of the item of work, involved or the part of the work in questions at the same rates are payable under this contract for such items, or if the part of the work in questions is not, in opinion of the Engineer-in-charge capable 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 this clause.

Stores of European or American manufacture to be obtained from Trust/Muni./Corp./Engg.

**Clause 27:** In the case of any clause of work for which there is not such specification as is mentioned in the notice calling tender such work be carried out in accordance with the Trust/Muni. Specification and in the event of there being no Trust/Muni/Corp. Specification then in such case the work shall be carried out in all respects in accordance with instruction and requirements of the Engineer-in-charge.

Lump sums in estimated

**Clause: 28** The expression work where used in these conditions shall unless there is something either in the subjects or context repugnant to such constructions be construed and taken to mean the work by or by virtue of the contract contracted to executed where temporary or permanent and whether original, altered, substituted or additional.

Action where no specification

**Clause 29:** The Trust/Muni./Corp Engineer shall not exercise any power conferred upon him by these conditions as against the contractor except with the approval of the authorized which accepted the tender.

Clause 30: Limitation of Liability : Each Party's liability to the other Party, whether in contract, tort, negligence, strict liability or by statute or otherwise, arising out of or relating to formation and performance of this agreement will not exceed the fees payable to Contractor for work which gave rise to the cause of action. All liability is cumulative and not per incident. This limitation will apply notwithstanding any failure of essential purpose of any limited remedy provided herein. The foregoing limitation of liability does not limit either Party's liability for any cause of action for death, bodily injury, or damage to tangible property. The Parties stipulate and agree that Section was part of the consideration for any agreed-upon fees.

Definition of works.

Clause 31: Waiver of Consequential Damages - Neither Party will be liable to the other, whether in contract, tort, negligence, strict liability or by statute or otherwise, for any indirect, special, incidental, exemplary, or consequential damages (including without limitation, damages for loss of profits, loss of business, loss of use or of data, or interruption of business), arising out of or relating to formation and performance of this Agreement, even if the Parties have been advised of the possibility of such damages. The Parties stipulate and agree that Section was part of the consideration for any agreed-upon fees.

Clause 32 : Indemnification

- a. Each party will indemnify, hold harmless and defend the other party, its officers, agents and employees against any and all damages, suits, actions, claims, liabilities, losses, judgments, costs and expenses arising out of or relating to (i) any personal or bodily injury (including death) or property damage caused by the indemnifying party's negligent, unlawful or willful acts or omissions or breach of this Agreement or (ii) infringement of third party intellectual property rights.
- b. For all indemnification obligations, the indemnified Party will give the indemnifying Party (i) prompt written notice of any actual or alleged Claim; (ii) sole control of the defense and settlement of such Claim; and (iii) all information, reasonable assistance, and authority to fully defend and settle such Claim. The indemnifying Party may not compromise or settle any Claim or consent to the entry of any judgment without the indemnified Party's prior written consent, provided that the indemnified Party will not unreasonably withhold or delay giving consent.

Clause 32: Intellectual Property Rights :

Notwithstanding anything contained hereinabove, RMSI shall own all Intellectual Property Rights towards the underlying methodologies, know-how and research and development used in providing such deliverables to the Client.

Clause 33 : Warranty :

- a. Bidder represents and warrants that the work and services will be performed in a professional and workmanlike manner.
- B. Bidder's sole liability and Client's sole remedy for work

and services not meeting the warranty is for Bidder to (i) repair the non-conforming work and services; (ii) replace or modify the non-conforming work and services with work and services conforming substantially to the applicable warranty; or if, in Bidder's sole discretion, (i) and (ii) are not commercially reasonable, then (iii) promptly refund to BGL the amount paid for any non-conforming work or services.

- C. EXCEPT AS OTHERWISE EXPRESSLY STATED HEREIN, WORK AND SERVICES ARE PROVIDED "AS IS," WITHOUT ANY WARRANTY OF ANY KIND. BIDDER DISCLAIMS ANY OTHER EXPRESS OR IMPLIED WARRANTY, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.

**Clause: 30** The terms and conditions of the agreement have been explained to me/us and I/we clearly understand them.

Schedule: Following (approximately) materials to be supplied from the Municipal/Trust/Corp. works department stores: work contracted to be executed and the rates at which they are to be charged for.

Particulars	Rates at which the material will be charges to the Contractor			Place of delivery
	Unit	Rs.	P.	

**Note :** The person or firm submitting tender should see that the rates in the schedule are filled up by the Municipal/Trust/Corp./ Engineer on the issue of the form prior to the submission of the tender.

Signature of Contractor

Signature of Trust/Muni./ Corp./Engineer