

**FORM'A'**  
**NAGAR PALIK NIGAM CHIRMIRI**  
**PUBLIC WORKS DEPARTMENT**

Issued to Shri/M/s. ....  
Class of Contractor. ....E-Registration No.....Date.....  
Name of Work वार्ड क्र0 39 एवं 40 में पार्षद निधि से अनुशंसित निर्माण/विकास  
कार्य व अन्य कार्य (पार्षद निधि)  
Amount of Contract Rs. 6.00 Lacs  
Amount of E.M.Rs. Rs 5000.00  
Cost of Tender Form Rs. Rs. 750.00  
Vide D.D./M.R. No. & Date.....

Time allowed for Completion- **02 Months** (Including/ Excluding Rainy Season)

Date of opening Tender .....  
NagarNigam/NagarPalika/NagarPanchayat- **CHIRMIRI**

**PERCENTAGE RATE TENDER AND CONTRACT FOR WORKS**  
**(Basedon applicable Schedule of Rates)**  
**General Rules and Directionfor the Guidance of Contractors**

1. Tenders must be invited for all works proposed to be given on contract unless the amount of works proposed to be given on contractis Rs50,000 orless.The N.I.T.shall be post edin public places signed by the authority inviting the tenders.

N.I.T.will state the work to be carrie doutas well as the date for submitting and opening tenders and the time 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 the successful tenderer & the percentage, if any to be deducted from bills,it will also statewhether, royalties and ground rents will be granted. Copies of the specifications, designs and drawings and a schedule of items quantities and rates of the various description of work and any other documents required in connection with the work signed for the purpose of identification by the authority competentto approve the tender shall also be open for inspection by the contractor at the office of the authority selling the tenderforms during office hours.

Further that the schedule of it emsalong with the quantities and rates payable shall be attached to the tender documents and in the event of variation in rates given in such list with the schedule of Rates the rates given in the S.O.R. approved by the competent authority shall prevail.

2. In the event of the tender being submitted by a firm it must be signed separately by each member there of,in the eventof the absence of any partner it must be signed onitsbehalfbya person holdinga power of attorney authorizinghim to do so, such power of attorney should be produced with the tender and it must disclose that the firm is duly registered under the Indian partnership Act.

3. Any person who submits a tender shall fill up above or below the S.O.R. specified in rule he is willing to undertake the work. Only one rate of percentage above or below the S.O.R. on all the scheduled terms shall be named. Tenders that propose any alteration in the work specified in the said N.I.T. or in the time allowed for carrying out the work or which contain any other conditions 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. Tenders shall have the name and number of the work to which they refer written outside the envelope.
4. The authority receiving tenders or his duly authorised assistant will open tenders in the presence of any intending contractors who may be present at the time and will enter the amount of the several tenders in a comparative statement in a suitable form. Receipts for earnest money will be given to all tenderers except those whose tenders are rejected and whose earnest money is refunded on the day the tenders are opened.
5. The Officers competent to dispose of the tenders shall have right of rejecting all or any of the tenders **without assigning any reason thereof.**
6. The receipt of a clerk for any money paid by the contractor will not be considered as any acknowledgement of payment to the Commissioner/CMO authority selling the tender form and the contractor shall be responsible for seeing that the procured receipts are signed by that authority or any other person duly authorised by him.
7. The memorandum of work tendered for be filled in and completed before the tender form is issued. If a form is issued to an intending tenderer without having been so filled in and completed he shall request the office to have this done before he completes and delivers his tender.

#### **Tender for Works**

I/We hereby tender for the execution of the work specified in underwritten memorandum within time specified in such memorandum at

(In

Figures):.....

(In Words):.....

Percent below / above/at par with the applicable Schedule of Rates and in accordance in all respects with the specifications, designs, drawings and instructions in writing referred to in rule 1 thereof and in clause 12 of the annexed conditions and with such materials as are provided for by, and in all other respects in accordance with such conditions as far as applicable.

#### **Memorandum**

Name of work- वार्ड क्र 0 39 एवं 40 में पार्षद निधि से अनुशंसित निर्माण/विकास कार्य व अन्य कार्य (पार्षद निधि )

(a) Cost of work put to Tender- **Rs. 6.00 Lacs**

(b) Earnest money - **Rs. 5000.00**

(c) Security deposit.....

(d) Percentage, if any to be deducted from bills (Performance Guarantee).....

(e) Time allowed for the work **02 Month** from the reckoned date including/excluding rainy season

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(From 16th June to 15th October) (Delete whichever is not applicable.)

Should this tender be accepted I/we hereby agree to abide by and fulfill all terms and provisions of the said condition of the contract annexed hereto as far as applicable or in default, thereof to forfeit & pay to the Nagar Nigam/Nagar Palika/Nagar Panchayat or his successors in office the sums of money mentioned in the said conditions. A separate sealed cover duly super scribed containing the sum of Rs.4,33,000.00 as earnest money the full value of which is to be absolutely forfeited to the said Nagar Nigam/Nagar Palika/Nagar Panchayat or his successors in office without prejudice to any other rights or remedies of the said Nagar Nigam/Nagar Palika/Nagar Panchayat or his successors in office should I/we fail to commence the work specified in the above memorandum or should I/we not deposit the full amount of security deposit specified in the above memorandum, in accordance with clause 1 of the said conditions of the contract, otherwise the said sum of Rs. .... shall be retained by Nagar Nigam/~~Nagar Palika/Nagar Panchayat~~ on account of such security deposit as aforesaid or the full value of which shall be retained by Nagar Nigam/Nagar Palika/Nagar Panchayat on account of the security deposit specified in clause 1 of the said conditions of the contract.

Signature of witness to Contractor's Signature

Signature of the Contractor before

submission of tender (with name and seal)

Dated the ..... day of ..... 20

Dated the ..... day of ..... 20

Name and Address of the witness: .....

Occupation of the witness: .....

The above tender is hereby accepted by me for and on behalf of the Nagar Palik Nigam/Nagar Palika Parishad/Nagar Panchayat

Dated the ..... day of ..... 20

.....  
..... Signature of the Officer by whom  
accepted With designation and seal of  
office

## **CONDITIONS OF CONTRACT**

### **Definition**

1. The contract means the documents, forming the notice inviting tenders and tender documents submitted by the tenderer and the acceptance thereof including the formal agreement executed between the Nagar Nigam/Nagar Palika/Nagar Panchayat and the contractor.
2. In the contract the following expressions shall unless otherwise required by the context have the meanings hereby respectively assigned to them: -
  - (a) The expression "works" or "work" shall unless thereby means something either in the subject or context repugnant to such construction be construed and taken to mean the works or by virtue of the contract contracted to be executed whether temporary or permanent and whether original, altered, substituted or additional.
  - (b) The "site" shall mean the land and/or other places on, into or through which work is to be executed under the contract or any adjacent land path or street through which work is to be executed under the contract or any adjacent land, path, or street which may be allotted or used for the purpose of carrying out the contract.
  - (c) The "Commissioner/CMO" means Commissioner/Chief Municipal officer of The Nagar Nigam/Nagar Palika/Nagar Panchayat and his successors in Office.
  - (d) The "Officers/Engineer-in-Charge" means the Commissioner/CMO/Engineer as the case may be who shall supervise and be in charge of the work and who shall sign the contract on behalf of the Nagar Nigam/Nagar Palika/Nagar Panchayat.
  - (e) "Competent Authority" means Commissioner/CMO, MIC/PIC, General Body/Parishad as the case may be.
  - (f) The term "Engineer-In Charge" means the Engineer of the Nagar Nigam/Nagar Palika/Nagar Panchayat

**Note:-** "Words" importing the singular number include plural number and vice-versa,

### **SECURITY DEPOSIT**

**Clause 1-** The person whose tender may be accepted (hereinafter called the contractor which expression shall unless excluded by or repugnant to the context include his heirs executors, administrators representatives and assigns) shall permit Nagar Palik Nigam/Nagar Palika Parishad/Nagar Panchayat at the time of making any payments to him for the value of work done under the contract to deduct the security deposit as under.

The Security Deposit to be taken for the due performance of the contract under the terms & conditions printed on the tender form will be the earnest money plus a deduction of 5 (Five) percent from the payment made in the running bills.

## **COMPENSATION FOR DELAY**

**Clause 2-** The time allowed for carrying out the work, as entered in the tender form, shall be strictly observed by the contractor and shall be deemed to be the essence of the contract and shall be reckoned from the fifteenth day after the date on which the order to commence the work is issued to the contractor, for a work where completion is up to 6 months

### **For works, for which the completion period is beyond six months:-**

The period will be reckoned from the thirtieth day after the date on which the order to commence the work is issued to contractor.

The work shall throughout the stipulated period of contract be proceeded with all due diligence, keeping in view that time is the essence of the contract. The contractor shall be bound in all cases, in which the time allowed for any work exceeds one month, to complete 1/8th of the whole work before 1/4th of the whole time allowed under the contract has elapsed, 3/8th of the work before 1/2 of such time has elapsed and 3/4th of the work before 3/4th of such time has elapsed. In the event of the contractor failing to comply with the above conditions, the Commissioner/CMO shall levy on the contractor, as compensation an amount equal to: 0.5% (zero point five percent) of the value of work (contract sum) for each week of delay, provided that the total amount of compensation under provision of this clause shall be limited to 6% (six percent) of value of work. (Contract sum)

Provided further that if the contractor fails to achieve 30% (thirty percent) progress in 1/2 (half) of original or validly extended period of time (reference clause 5 below) the contract shall stand terminated after due notice to the contractor and his contract finalised, with earnest money and or security deposit forfeited and levy of further compensation at the rate of 10% of the balance amount of contract left incomplete, either from the bill, and or from available security/performance guarantee or shall be recovered as "Arrears of land revenue".

The decision of the Commissioner/CMO in the matter of grant of extension of time only (reference clause 5 below) shall be final, binding and conclusive. But he has no right to change either the rate of compensation or reduce and or condone the period of delay- once such an order is passed by him (on each extension application of the contractor) it shall not be open for a revision.

Where the Commissioner/CMO decides that the contractor is liable to pay compensation for not giving proportionate progress under this clause and the compensation is recommended during the intermediate period, such compensation shall be kept in deposit and shall be refunded if the contractor subsequently makes up the progress for the lost time, within the period of contract including extension granted, if any failing which the compensation amount shall be forfeited in favour of the Nagar Nigam/Nagar Palika/Nagar Panchayat.

Action when the work is left incomplete abandoned or delayed beyond the time limit permitted by the Commissioner/CMO

**Clause 3:-**

- (i) The Commissioner/CMO may terminate the contract if the contractor causes a fundamental breach of the contract.
- (ii) Fundamental breach of contract shall include, but not be limited to, the following:-
  - (a) The contractor stops work for four weeks, when no stoppage of work is shown on the current programme or the stoppage has not been authorised by the Commissioner/CMO.
  - (b) The Commissioner/CMO gives notice that failure to correct a particular defect is a fundamental breach of contract and the contractor fails to correct it within reasonable period of time determined by the Commissioner/CMO in the said notice.
  - (c) The contractor has delayed the completion of work by the number of weeks [12 (Twelve) weeks] for which the maximum amount of compensation of 6% of contract sum is exhausted.
  - (d) If the contractor has not completed at least thirty percent of the value of construction work required to be completed in half of the completion period (including validly extended period if any).
  - (e) If the contractor fails to appoint the technical staff and if appointed do not function properly for 4 weeks even after due written notice by the Commissioner/CMO.
  - (f) If he violates labour laws.
  - (g) If the Contractor fails to set up field laboratory\* with appropriate equipments, within 30 days from the reckoned date. (\*for each contract valued more than Rupees 3 crores)
  - (h) Any other deficiency which goes to the root of the contract Performance
- (iii) If the contract is terminated, the contractor shall stop work immediately, make the site safe and secure and leave the site as soon as reasonably possible.
- (iv) The Commissioner/CMO shall cause recording and checking of measurements of all items of work done (taking into account quality and quantity of items actually executed) and prepare the final bill after adjusting all previous outstanding dues. Such recording of measurements shall be done after due notice regarding time and date of recording measurement and directing the contractor to either remain present himself or his authorised representative so as to satisfy himself that the recording of measurement is just and proper. Failure on his parts either to attend and or refusing to acknowledge the measurement so recorded in the department measurement book, shall be at his sole risk and responsibility.
- (v) In addition to the provision contained in clause 2 above the Commissioner/CMO shall forfeit the earnest money and or security deposit and further recover/deduct/adjust a compensation @ 10% (ten percent) of the balance value of work left incomplete either from the bill, and or from available security/performance guarantee or shall be recovered as "Arrears of land revenue"

**Power to take possession of or require removal of Materials  
Tools and Plants or sale of Contractor's Plants etc**

**Clause 4:** In any case in which any of the powers, conferred upon the Commissioner/CMO by clause - 3 hereof shall have become exercisable and the same shall not be exercised, then the non-exercise thereof shall not constitute a waiver of any of the conditions hereof and

such powers shall notwithstanding be exercisable in the event of any future case of default by the contractor for which by any clause or clauses hereof he is declared liable to pay compensation shall remain unaffected. In the event of the Commissioner/CMO

putting in force either of the power clause 3 vested in him under the preceding clause he may, if he so desires, take possession of all or any tools, plant materials, and stores in or upon the works, or the site thereof or belonging to the contractor or procured by him and intended to be used for the execution of the work or any part thereof paying or allowing for the same in account at the contract rates, or in case of these not being applicable, at current market rates to be certified by Commissioner/CMO, whose certificate thereof shall be final; otherwise the Commissioner/CMO may by notice in writing to the contractor or his clerk of the works foreman or authorised agent require him to remove such tools plant, materials or stores from the premises (within a time to be specified in such notice) and in the event of the contractor failing to comply with any such requisition, the Commissioner/CMO may remove them at the contractor's expense sell them by auction or private sale on account of the contractor & at his risk in all respects and the certificate of the Commissioner/CMO as to the expense of any such removal and the amount of the proceeds and expense of any such sale shall be final and conclusive against the contractor.

### **EXTENSION OF TIME**

#### **Clause 5**

5.1 - If the Contractor shall desire an extension of time for completion of work on ground of his having been "UNAVOIDABLY" hindered in its execution or on any other ground, he must apply giving all and complete details of each of such hindrances or other causes in writing, to the Commissioner/CMO positively within 15 days of occurrence of such hindrance(s) and seek specific extension of time (period from ..... to .....)

**In case the grounds shown by the contractor are reasonable, the Commissioner/CMO/Competent Authority shall**

Once the Commissioner/CMO/Competent Authority has decided the case of extension of time with reference to the particular application of the contractor, it will not be competent for them to review/change such a decision later on. However, the Competent Authority and the Commissioner/CMO shall give the contractor an opportunity to be heard (orally and/or in writing), before taking any final decision either of granting extension of time or permitting the contractor to complete the work by the delayed date (under clause 2 of the contract) or before refusing both. Provided further where the Commissioner/CMO has recommended grant of extension of particular time under clause 5.1 of the contract the contractor has refused to recommend extension of time but has recommended permitting the contractor for delayed completion, (clause 2) the contractor shall continue with the work till the final decision by Commissioner/CMO/Competent Authority.

Failure on the part of the contractor for not applying extension of time even within 30 days of the cause of such a hindrance, it shall be deemed that the contractor does not

desire extension of time and that he has "Waived" his right if any, to claim extension of time for such cause of hindrance. Once the Commissioner/CMO/Competent Authority has heard (oral and or in writing) the contractor on this subject matter of extension of time and if Commissioner/CMO/Competent Authority fails to communicate his decision within a period of 30 days of such hearing, it shall be **deemed** that the contractor has been granted extension of time for the period as applied by him.

**5.2 Compensation Events:-Compensation Events for consideration of extension of time without penalty.**

The following mutually agreed Compensation Events unless they are caused by the contractor would be applicable;

- (a) The Commissioner/CMO does not give access to a part of the site.
- (b) The Commissioner/CMO modifies the schedule of other contractor in a way, which affects the work of the contractor under the contract.
- (c) The Commissioner/CMO orders a delay or does not issue drawings, specification or instructions /decisions/approval required for execution of work on time.
- (d) The Commissioner/CMO instructs the contractor to uncover or to carry out additional tests upon work, which is then found to have no defects.
- (e) The Commissioner/CMO gives an instruction for additional work required for safety or other reasons.<sup>1</sup>
- (f) The advance payment and/or payment of running bills (complete in all respect) are delayed.
- (g) The Commissioner/CMO unreasonably delays issuing a Certificate of Completion
- (h) Other compensation events mentioned in contract if any

**FINAL CERTIFICATE:**

**Clause 6** - On completion of the work the contractor shall be furnished with a certificate by the Commissioner/CMO (hereinafter called the Commissioner/CMO) of such completion in the form appended at the end, but no such certificate shall be given, nor shall the work be considered to be complete until the contractor shall have removed from the premises on which the work shall be executed, all scaffolding surplus materials and rubbish, and cleaned off the dirt from all wood-work, doors windows walls, floors or other parts of any building in upon or about which the work is to be executed or of which he may have had possession for the purpose of the execution thereof nor until the work; shall have been measured by the Engineer-in-Charge whose measurements shall be binding and conclusive against the contractor. If the contractor shall fail to comply with the requirements of this clause as to removal of scaffolding surplus materials and rubbish and cleaning of dirt on or before the date fixed for the completion of the work, the Engineer-in-Charge may, at the expense of the contractor remove such scaffolding, surplus materials and rubbish and dispose of the same as he thinks fit and clean off such dirt as aforesaid and the contractor shall forthwith pay the amount of all expenses so incurred, and shall have no claim in respect of any such scaffolding or surplus materials as aforesaid, except for any sum actually realised by the sale thereof.



**PAYMENT ON INTERMEDIATE CERTIFICATE TO BE REGARDED AS ADVANCES:**

**Clause 7-** No payments shall ordinarily be made for work estimated to cost less than Rs. 1,000/- (Rs. One Thousand) till after the whole of the work shall have been completed and certificate of completion given but if intermediate payment during the course of execution of works is considered desirable in the interest of works, the contractor may be paid at the discretion of the Commissioner/CMO. But in the case of works estimated to cost more than rupees one thousand, the contractor shall on submitting the bill therefore be entitled to receive a monthly payment proportionate to the part thereof then approved by the Engineer - in - charge and passed by Commissioner/CMO whose certificate of such approval and passing of the sum so payable shall be final and conclusive against the contractor. But all such intermediate payments shall be regarded as payments by way of advance against the final payment for works actually done and completed and shall not preclude the requiring of bad unsound and imperfect or unskillful work to be removed and taken away and reconstructed or erected or be considered as an admission of the due performance of the contractor or any such part thereof, in any respect, or the accruing of any claim, nor shall it conclude, determine, or affect in any way the powers of the Commissioner/CMO under these conditions or any of them as to the final settlement and adjustment of the accounts or otherwise or in any other way vary or affect the contract. The final bill shall be submitted by the contractor within one month of the date fixed for completion of the work, otherwise the Engineer-in- charge's certificate of the measurement and of the total amount payable for work accordingly shall be final and binding on all parties.

**Clause 8- Bill to be submitted monthly:**

"A bill shall be submitted by the contractor by 15th day of each month for all works executed by him till the end of previous month less the gross amount received by him till the last previous month. This bill must be supported by records of detail measurement of quantities of all executed items of work along with true copies of record and result of all tests conducted in the previous month (date wise). The Commissioner/CMO shall take or cause to be taken the requisite measurement for purpose of having the same verified/checked by the sub Engineer/Assistant Engineer Commissioner/CMO concern for quantity, quality and specification and examining all the "test results" and record the same in the Departmental measurement, book. Based on above record measurement bill shall be corrected /prepared afresh. The contractor shall sign the measurement and the bill. The Commissioner/CMO shall pay running bills by 25<sup>th</sup> day of the month subject to availability of the funds. If the contractor fails to submit the bill on or before the day prescribed, the Commissioner/CMO after waiting for another 15 days shall depute a subordinate to measure the said work in the presence of contractor and or his authorised Engineer/Representative, whose counter signature to the measurement recorded with quantity and quality remark will be sufficient proof for acceptance of the same and shall be binding on the contractor. All such running bill payments are by way of "Advances" and shall be subject to final adjustment.

**Clause 9- BILL TO BE ON PRINTED FORMS:**

The contractor shall submit all bills on printed forms to be had on application at the office of the Engineer-in -charge, and the charges in the bills shall always be entered at the rates specified

in the tender or in the case of any extra work ordered in pursuance of these conditions, and not mentioned or provided for in the tender at the rates hereinafter provided for such work.

The deduction or addition as the case may be of the percentage will be calculated on the amount of the bill for the work done, after deducting the cost of materials supplied departmentally at rates specified in the agreement.

**Clause 10-RECEIPTS TO BE SIGNED BY PARTNERS OF PERSONS HAVING AUTHORITY TO DO SO:**

Receipts for payments made on account of a work when executed by a firm must also be signed by the several partners, except where the contractors are described in their tender as a firm in which case the receipt must be signed in the name of the firm by one of the partners, or by some other person having authority to give effectual receipt for the firm.

**CLAUSE 11 Reimbursement/Refund on Variation in Prices of Materials/P.O.L. and Labour Wages, only for the works contract value more than Rs.3 Cr.**

**Price Adjustment:-**

(A) ~~Contract price shall be adjusted for increase or decrease in rates and price of labour, materials, P.O.L., in accordance with the following principles and procedure and as per formula given below.~~

Note:- Price adjustment shall be applicable **from reckoned date** and upto validly extended period under clause 5.1 above but shall not apply to the period when, work is carried out under clause 2 above.

(B) ~~The price adjustment shall be determined during each month from the formula given in the hereunder.~~

(C) ~~Following expressions and meanings are assigned to the work done during each month:~~

~~To the extent that full compensation for any rise or fall in costs to the contractor is not covered by the provisions of this or other clauses in the contract, the unit rates and prices included in the contract shall be deemed to include amounts to cover the contingency of such other rise or fall in costs.~~

**The formula (e) for adjustment of prices are:-**

~~R = Total value of work done during the month. It would include the amount of secured advance granted, if any, during the month, less the amount of secured advance recovered, if any during the month. It will exclude value for works executed under variations for which price adjustment will be worked separately based on the terms mutually agreed.~~

**Adjustment for labour component**

(i) ~~Price adjustment for increase or decrease in the cost due to labour shall be paid in accordance with the following formula:~~

~~$$VL = 0.85 \times P1/100 \times Rx(Li - L0)/L0$$~~

~~VL = increase or decrease in the cost of work during the month under consideration due to changes in rates for local labour.~~

~~L0 = the consumer price index for industrial workers at the town nearest to the site or work as published by Labour Bureau, Ministry of Labour, Govt. of India, on the date of inviting tender~~

~~Li = The consumer price index for industrial workers at the town nearest to the site of work for the month under consideration as published by Labour Bureau, Ministry of Labour,~~

Government of India.

P1=Percentage of labour component of the work.

### **Adjustment for cement component**

(ii) Price adjustment for increase or decrease in the cost of cement procured by the contractor shall be paid in accordance with the following formula;

$$V_c = 0.85 \times P_c / 100 \times R_x (C_i - C_0) / C_0$$

$V_c$  = increase or decrease in the cost of work during the month under consideration due to changes in rates for cement

$C_0$  = The all India wholesale price index for cement as published by the Ministry of Industrial Development, Government of India, New Delhi, on the date of inviting tender

$C_i$  = The all India average wholesale price index for cement for the month under consideration as published by Ministry of Industrial Development, Govt. of India, New Delhi.

$P_c$  = Percentage of cement component of the work.

### **Adjustment for steel component**

(iii) Price adjustment for increase or decrease in the cost of steel procured by the Contractor shall be paid in accordance with the following formula;

$$V_s = 0.85 \times P_s / 100 \times R_x (S_i - S_0) / S_0$$

$V_s$  = increase or decrease in the cost of work during the month under consideration due to changes in the rates for steel.

$S_0$  = The all India wholesale price index for steel (Bar and Rods) as published by the Ministry of Industrial Development, Government of India, New Delhi, on the date of inviting tender

$S_i$  = The all India average wholesale price index for steel (Bar and Rods) for the month under consideration as published by Ministry of Industrial Development, New Delhi.

$P_s$  = Percentage of steel component of the work.

Note:- for the application of this clause, index of Bars and Rods has been used to represent steel group.

### **Adjustment of bitumen component**

(iv) Price adjustment for increase or decrease in the cost of bitumen shall be paid in accordance with the following formula;

$$V_b = 0.85 \times P_b / 100 \times R_x (B_i - B_0) / B_0$$

$V_b$  = Increase or decrease in the cost of work during the month under consideration due to changes in rates for bitumen.

$B_0$  = The official retail price of bitumen at the IOC depot at nearest centre on the date of inviting tender.

$B_i$  = The official retail price of bitumen of IOC depot at nearest center for the 15th day of the month under consideration.

$P_b$  = Percentage of bitumen component of the work.

### **Adjustment of POL (fuel and lubricant) component**

(v) Price adjustment for increase or decrease in cost of POL (fuel and lubricant) shall be paid in accordance with the following formula;

$$V_f = 0.85 \times P_f / 100 \times R_x (F_i - F_0) / F_0$$

$V_f$  = Increase or decrease in the cost of work during the month under consideration due to changes in rates for fuel and lubricants.

$F_0$  = The official price of High Speed Diesel (HSD) at the existing consumer Diesel pump outlet at nearest center on the date of inviting tender

$F_i$  = The official retail price of HSD at the existing consumer pump of

IO Cat nearest center for the 15th day of month under consideration.  
 $P_f$  = Percentage of fuel and lubricants component of the work.

**Note:** For the application of this clause, the price of High speed Diesel Oil has been chosen to represent fuel and lubricants group.

#### **Adjustment of Other Materials Component**

(vii) Price adjustment for increase or decrease in cost of local material other than Cement, steel, Bitumen and POL procured by the contractor shall lay in accordance with the following formula;

$$V_m = 0.85 \times P_m / 100 \times R_x (M_i - M_0) / M_0$$

$V_m$  = Increase or decrease in the cost of work during the month under consideration due to changes in rates for local material other than cement, steel, bitumen and POL.

$M_0$  = The all India wholesale price index (all commodities) as published by the Ministry of Industrial Development, Govt. of India, New Delhi, on the date of inviting tender

$M_i$  = The all India Wholesale price index (all commodities) for the month under consideration as published by Ministry of Industrial Development, Govt. of India, New Delhi.

$P_m$  = Percentage of local material component (Other than cement, steel, bitumen and POL) of the work.

**The following percentages will govern the price adjustment for the entire contract:**

Sl. No.	Components	For road	For Building	For bridge
1	Labour - $P_l$	25%	35%	30%
2	Cement - $P_c$	5%	10%	25%
3	Steel - $P_s$	5%	10%	25%
4	Bitumen - $P_b$	10%	-	-
5	POL - $P_f$	10%	10%	10%
6	Other materials - $P_m$	45%	35%	10%
	<b>Total:-</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

**Note :** If in the execution of contract for Road works use of certain material(s) is/are not involved (Viz cement, steel, Bitumen etc.), then the percentage of other material  $P_m$  shall be increased to that extent

Example: Say in a contract of road work steel is not required ( $P_s$  5%).  $P_m$  shall become  $45\% + 5\% = 50\%$

Or

Say cement & steel not required then  $P_m$  shall become  $45\% + 5\% + 5\% = 55\%$  and so on

### **Work to be executed in Accordance with Specification, Drawing, Order, etc.:**

**Clause 12:** The contractor shall execute the whole and every part of work in the most substantial and workman like manner, and both as regards materials and otherwise in every respect in strict accordance with the specifications. The contractor shall also conform exactly fully and faithfully to the designs, drawings and instructions in writing relating to the work signed by the Engineer-in-charge and lodged 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 the purpose of inspection during

office hours and the contractor shall, if he so requires, be entitled at his own expense to take or cause to be made copies of the specifications, and of all such designs, drawings and instructions as aforesaid. MORTH/IRC specifications for road and bridges, specifications for rural roads and other I.R.C. publications and their manual, latest CPWD specifications/I.S.I.

codes for buildings or special specifications whenever enclosed separately shall apply in the case of any variance the following:-

#### **Order of Precedence Shall Prevail:-**

1. Specifications as per NIT.

2. Specifications as per S.O.R.
3. MORTH/IRC specifications for road and bridges, Specifications for rural roads and other I.R.C. Publications and their manual, latest CPWD specifications/I.S.I. codes for buildings or special specifications whenever enclosed separately
4. Mode of measurements for building shall be as provided in the S.O.R. applicable to the contract. Where such mode of measurement is not specified in the S.O.R. it shall be done as per I.S.I. Code of building measurement. However if any mode of measurement is specifically mentioned in the N.I.T. the same will get precedence over all the above.

**Clause 12 -A:** In respect of all bearings, hinges or similar part intended for use in the superstructure of any bridge, the contractor shall, whenever required, in the course of manufacture, arrange and afford all facilities for the purpose of inspection and test of all or any of the part and the material used therein to any officer of the Directorate of inspection of the Ministry of works production and supply of the Government of India and such bearings, hinges or similar parts shall not be used in the superstructure of any bridge except on production of a certificate of acceptance thereof from the Directorate of inspection. All inspection charges will be payable by the contractors. (This clause may be struck off if the tender is not for bridgework).

### **Variations**

#### **Clause 13-Additions, Alterations in Specifications and Designs.**

The Commissioner/CMO shall have power to make any alterations in, omissions from, additions to, or substitutions for, the original specifications, drawings, designs and instruction, that may appear to him to be necessary or advisable during the progress of the work, and the contractor shall be bound to carry out the work in accordance with any instruction which may be given to him in writing, signed by the Commissioner/CMO and such alterations, omissions, additions or substitution shall not invalidate the contract and any altered, additional or substituted work, which the contractor may be directed to do in the manner above specified as part of the work; shall be carried out by the contractor on the same conditions 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, provided the total value of all such increased or altered or substituted work does not exceed 25% of the amount put to tender inclusive of contractor percentage. If such value exceeds 25% it shall be open to the contractor either to determine the contract or apply for extension.

**Note:** - Such additions, alterations, substitution, shall have to be within the Scope of work tendered for

#### **Rates for work not in schedule of rates**

If during the course of execution, where it is found necessary that certain item/items of work not provided for in the S.O.R. required to be carried out then the Engineer-in-Charge shall identify such item / items including approximate quantity of the contract and ask the contractor to submit this rates in writing supported by the requisite data within a period of 7 days. The Engineer-in-Charge shall obtain approval/modification of the proposed rate from the Competent Authority after recommendation of Commissioner/CMO and communicate the same within a period of 4 weeks to the contractor, in case the contractor agrees to the above rates as fixed by the Competent Authority then they shall form a part of supplementary schedule of the contract agreement. If the contractor does not agree to the rate of the Competent Authority then it shall be open for the Commissioner/CMO to get the work executed through any other agency. The contractor will not however be entitled to any compensation due to delay or hindrance or loss of profit accruing on account of this extra work executed by alternative agency.

If the contractor commences non-schedule work or incur expenditure in regard thereto before the rates shall have been determined by the Competent Authority, then he shall be entitled for payment for the work done as decided by the Competent Authority. the decision

of the Competent Authority shall be final. Such a decision shall be given by the Competent Authority. Within a period of 30 (Thirty) days and it shall be open to the contractor not to continue that item further. In such an event that item shall be got executed by other agency at such an approved rate by Competent Authority Contractor may either determine his contract if variations exceeds 10 (Ten) % of the Administrative approval, or may apply for extension.

#### **Extension of time in consequence of variations**

The time for the completion of work shall be extended in proportion of the variation of the work bear to the original contract work and certificate of Commissioner/CMO shall be conclusive as to such proportion.

#### **NO CLAIM TO ANY PAYMENT OR COMPENSATION FOR ALTERATION IN OR RESTRICTION OF WORKS:**

**Clause 14**-If at any time after the execution of the contract documents, the Commissioner/CMO shall for any reason whatsoever require the whole or any part of the work as specified in the tender to be stopped for any period or shall not require the whole or part of the work to be carried out at all or to be carried out by the contractor he shall give notice in writing of the fact to the contractor who shall there upon suspend or stop the work totally or partially, as the case may be.

If any such case, except as provided hereunder, the contractor shall have no claim to any payment or compensation what so ever on account of any profit or advantage which he might have derived from the execution of the work in full, but which he did not so derive in consequence of the full amount of the work not having been carried out, or on account of any loss that he may be put to on account of materials purchased or for unemployment of labour recruited by him. He shall not also have any claim for compensation by reason of any alteration having been made in the original specifications, drawing, designs and instructions, which may involve any curtailment of the work as originally contemplated. Where, however, materials have already been purchased or agreed to be purchased by the contractor shall be paid for such materials at the rates determined by the Commissioner/CMO, provided they are not in excess of requirement and of approved quality and / or shall be compensated for the loss, if any that he may be put to, in respect of materials agreed to be purchased by him, the amount of such

compensation to be determined by the Commissioner/CMO whose decision shall be final. If the contractor suffers any loss on account of his having to pay labour charges during the period during which the stoppage of work has been ordered under this clause, the contractor shall, on application be entitled to such compensation on account of labour charges as the Commissioner/CMO, whose decision shall be final, may consider reasonable provided that the contractor shall not be entitled to any compensation on account of labour charges, if in the opinion of the Commissioner/CMO, the labour could have been employed by the contractor elsewhere for the whole or part of the period during which the stoppage of the work has been ordered as aforesaid.

If the total duration of suspension of the work is more than six months, then this suspension of the work will be considered as permanent stoppage of the work, and the contractor can determine the contract, if he so desires.

#### **ACTION AND COMPENSATION PAYABLE IN CASE OF BAD WORK:**

**Clause 15** -If at any time before the security deposit is refunded to the contractor, it shall appear to the Commissioner/CMO or his subordinate in charge of the work, that any work has been executed with unsound, imperfect or unskillful workmanship or with material of inferior quality or that any materials or articles provided by him for the execution of the work are unsound, or of a quality

inferior to that contracted for, or are otherwise not in accordance with the contract, it shall be lawful for the Commissioner/CMO to intimate this fact in writing to the contractor and then notwithstanding the fact that the work, materials or articles complained of may have been inadvertently passed, certified and paid for contractor shall be bound forthwith to rectify, or remove and reconstruct the work so specified in whole or in part, as the case may require, or if so required, shall remove the materials or articles so specified and provide other proper and suitable materials or articles at his own proper charge and cost, and in the event of his failing to do so within a period to be specified by the Commissioner/CMO in the written intimation aforesaid, the contractor shall be liable to pay compensation at the rate of one percent on the amount of contract put to tender every day not exceeding ten days, during which the failure so, continues and in the case of any such failure the Commissioner/CMO may rectify or remove and, re-execute the work or remove and replace the materials or articles complained of as the case may be at the risk and expense in all respects of the contractor. Should the Commissioner/CMO consider that any such inferior work or materials as described above may be accepted or made use of it shall be within his discretion to accept to the same at such reduced rates as he may fix therefore

**WORK TO BE OPEN FOR INSPECTION-**

**CONTRACTOR OR RESPONSIBLE AGENT TO BE PRESENT:**

**Clause 16-** All work under or in course of execution or executed in pursuance of the contract shall at all time be open to the inspection and supervision of the Commissioner/CMO and his subordinates and the contractor shall at all time during the usual working hours, and at all other times at which reasonable notice of the intention of the Commissioner/CMO or his subordinate to visit the work shall have been given to the contractor, either himself be present to receive orders and instruction or have a responsible agent duly accredited in writing present for that purpose. Orders given to the contractor's agent shall be considered to have the same force as if they had been given to the contractor himself.

**NOTICE TO BE GIVEN BEFORE WORK IS COVERED UP:**

**Clause 17-** The contractor shall give not less than five days notice in writing to the Commissioner/CMO or his subordinate in charge of the work before covering up or otherwise placing beyond the reach of measurement any work in order that the same may be measured, and correct dimensions thereof be taken before the same is so covered up or placed beyond the reach of measurement, any work without the consent in writing of the Commissioner/CMO 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, the same shall be uncovered at the contractor's expenses, or in default thereof, no payment or allowance shall be made for such work or the materials with which the same was executed.

**Clause 18-**

**CONTRACTOR LIABLE FOR DAMAGE DONE AND FOR IMPERFECTIONS AFTER CERTIFICATE OF COMPLETION**

If the contractor or his work people or servants shall break, deface, injure or destroy any part of building in which they may be working or any building, road, road curbs, fences, enclosures, water pipes, cables drains, electric or telephone posts or Wires trees grass or grassland or cultivated ground continuous to the premises on which the work or any part of it is being executed, or if any damage shall happen to the work while in progress, from any cause whatever, or any imperfections become apparent, the contractor shall make good the same at his own expense or in default, the Commissioner/CMO may cause the same to be made good

by other workmen and deduct the expense of which certificate of the Commissioner/CMO shall be final) from any sums that may be then or at any time thereafter, may become due to the contractor or from his security deposits, or the proceeds of sale thereof or of a sufficient portion thereof.

**Clause 19- CONTRACTOR TO SUPPLY PLANT, LADDERS, SCAFFOLDING, ETC.:**

The contractor shall supply at his own cost materials (except such special materials if any, as may in accordance with the contract be supplied from the Commissioner/CMO's Stores) plants, tool, appliances, implements, ladders, cordage, tackle, Scaffolding and temporary work requisite for the proper execution of the work whether original, or altered or substituted, and whether included in the specification or other documents forming part of the contract referred to in these conditions or not or which may be necessary for the

purpose of satisfying or complying with the requirements of the Commissioner/CMO as to any matter as to which under these conditions he is entitled to be satisfied, or which he is entitled to require together with carriage therefor to and from the work. The contractor shall also supply without charge requisite number of persons with the means and materials necessary for the purpose of setting out works, and counting, weighing & assisting in the measurement or examination at any time and from time to time of the work, or materials. Failing his so doing the same may be provided by the Commissioner/CMO at the expenses of the contractor and the expenses may be deducted from any money due to the contractor under the contract, or from his security deposit or the proceeds of sale thereof, or of a sufficient portion thereof.

Contractor is liable for damages arising from non-provision of lights fencing etc. The contractor shall also provide at his own cost except when the contract specifically provides otherwise and except for payments due under clause all necessary fencing and lights required to protect the public from accident and shall be bound to bear the expenses of defence of every suit, action or proceedings at law that may be brought by any person for injury sustained owing to neglect of the above precautions & to pay any

damage 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.

**Clause 20 - COMPENSATION UNDER SECTION 12 SUB-**

**SECTION (1) OF THE WORKMAN'S COMPENSATION ACT 1923:**

In every case in which by virtue of the provisions of section 12 sub-section (1) of the workman's compensation Act 1923 Commissioner/CMO is obliged to pay compensation to a workman employed by the contractor in execution of the works and will recover from the contractor the amount of compensation so paid Commissioner/CMO shall be at liberty to recover the amount or any part thereof by deducting it from the security deposit or from any sum due by Commissioner/CMO to the contractor whether under this contract or otherwise. Commissioner/CMO may not be bound to contest any claim made against them under section - 12 sub-sections (1) of the said Act except on the written request of the contractor and upon his giving to Commissioner/CMO full security for all cases for which Commissioner/CMO might become liable in consequence of contesting such claim.

**LABOUR:**



**Clause21**-The contractor should get himself registered under contract - labour regulations and abolitionAct1970including itsamendmentsafter getting a certificatefromthe principal employer.

**Clause22**-Labour below the age of 14 years - No labour below the age of 14 years shall be employed on the work.

### **FAIR WAGE:**

**Clause23** - Thecontractorshallpaynotlessthanfairwagetolabourengagedbyhimonthework.

#### **Explanation-**

- (a) Fairwage'meanswage(s)whetherfortimeorpieceworknotifiedduringtheperiodofexecution ofcontractfortheworkandwheresuchwageshavenotbeensonotified,thewagesprescribed by the revenue Commissioner/Collector for that period
- (b) The contractorshall,notwithstandingthe provisionsof any contractto thecontrarycausetobe paid a fair wage to labourers indirectly engaged on the work including any labour engaged by his sub-contractorsin connection with the said work, asif the labourers had been immediately employed by him.
- (c) In respect of labour directly or indirectly employed on the work for the performance of the contractorspartofthisagreementthecontractorshallcomplywithorcausetobecompliedwith the Labour Act in force.
- (d) The Commissioner/CMOshallhave therighttodeduct,fromthe moneysdue tothe contractor, anysum requiredorestimated to be required formaking good the loss suffered by a workeror workers by reasons of non-fulfilment to the conditions of the contract for the benefit of the workers non payment of wages or deductions made from his or their wages, which are not justified bythetermsof the contract ornon observance of theregulations.
- (e) Thecontractorshallbeprimarilyliableforallpaymentstobemadeunderandforobservanceof the regulations afore said with out prejudice to his right to claim indemnity from his sub-contractors.
- (f) The regulations aforesaidshall be deemed to beapart ofthis contract and any breachthereof shall be deemed to be a breach of this contract.

### **Subletting of works**

**Clause24**:-The contract may be rescinded and security deposit forfeited, for subletting the work beyond permissible limits as per clause 7.1 of appendix 2.10 or if contractor becomes insolvent: -

**"Note :Such subletting/assignment shall not be made to any other Contractor registered in Class AI to A5 Category in the Public Works Department of Chhattisgarh or in similar Category in other Deptt. of the Stateor in other organization or Agency (Class with about similar financial capacity) by whatever name thesearecalled."**

**24.1** The contract shall not be assigned or sublet without prior sanction of the authority who has accepted the tender in writing. And if the contractor assigns or sublets this contract, for more than permissible limits as per clause 7.1 of appendix 2.10 or attempts to do so, or become insolvent commence any insolvency proceedings or make any composition with his creditors, or attempt to do so or if any gratuity, gift, loan, perquisite, reward or advantage pecuniary or otherwise, shall either directly or indirectly be given, promised or offered by the contractor, or any of his servants or agents or to any public officer or person in the employ of Government in any way relating to his office or employment, or if any such officer or person shall become in any way directly or indirectly interested in the contract, the Commissioner/CMO may there upon by notice in writing rescind the contract, and the S.D. of the contractor shall there upon stand forfeited and be absolutely at the disposal of Nagar Nigam/Nagar Palika/Nagar Panchayat and the same consequences shall ensure as if the contract had been rescinded under clause 3 thereof, and in addition the contractor shall not be entitled to recover or be paid for any work thereto for actually performed under the contract. Any such assignment/subletting within the limit of 25% by the authority who has accepted the tenders OR 50 % by the next higher authority accepting the tender or Govt. as the case may be, shall not diminish or dilute the liability/responsibility of the contractor. If the contractor gets item/items of work executed on a task rate basis **without** materials, this shall not amount to subletting of the contract.

**Any subcontracted work, done in Chhattisgarh state with prior approval of competent authority, such subcontractor will also get the credit for work towards his experience.**

**24.2** The Commissioner/CMO shall be empowered to terminate any contract if the contractor sublets the works to some other person on the basis of power of attorney.

**24.3** Subletting of work shall result in reduction in experience of the main contractor to the extent of the sublet.

**Clause 25: Sum payable by way of Compensation to be considered as Reasonable Compensation Without Reference to Actual Loss:**

All sum payable by way of compensation under any of these conditions shall be considered as reasonable compensation to be applied to the use of Nagar Nigam/Nagar Palika/Nagar Panchayat without reference to the actual loss or damage sustained, and whether or not any damage shall have been sustained.

**Clause 26- CHANGE IN THE CONSTITUTION OF FIRM:**

In the case of tender by partners any change in the constitution of the firm shall be forthwith notified by the contractor to the Commissioner/CMO for his information, and contractor shall initiate steps for fresh & new registration which shall be assessed & decided by the competent authority for fresh registration.

**Clause 27 - WORK TO BE UNDER DIRECTION OF ENGINEER/COMMISSIONER/CMO:**

All works to be executed under the contract shall be executed under the direction and subject to the approval in all respect of the Commissioner/CMO of the Nagar Palik

Nigam/Nagar Palika/Nagar Panchayat for the time being who shall be entitled to direct at what point or points and in what manner they are to commence and from time to time carried on.

**Clause 28 ARBITRATION CLAUSE:**

Except as otherwise provided in this contract all question and dispute relating to the meaning of the specification, designs, drawings and instruction herein before mentioned as to thing whatsoever in anyway arising out of or relating to the contract designs, drawings, specification, estimate, concerning the works, or the execution or failure to execute the same, whether arising during the progress of the work, or after the abandonment thereof shall be referred to the Commissioner/CMO for his decision, within a period of 30 (thirty) days of such an occurrence (s). There upon the Commissioner/CMO shall give his written instructions and/or decisions, after hearing the contractor and Engineer-in-Charge within a period of 15 (fifteen) days of such request. This period can be extended by mutual consent of parties.

Upon receipt of written instructions or decisions, of Commissioner/CMO the parties shall promptly proceed without delay to comply such instructions or decisions. If the Commissioner/CMO fail to give his instruction or decisions in writing within a period of 15 (fifteen) days or mutually agreed time after being requested and/or, if the party (es) is/are

aggrieved against the decision of the Commissioner/CMO, the aggrieved party may within 30 days prefer an appeal to the Competent Authority, who shall afford an opportunity to the parties of being heard and to offer evidence in support of his appeal. The, Competent Authority will give his decision within 30 (thirty) days, or such, mutually agreed period.

If any party is not satisfied with the decision of the Competent Authority he can file a petition for resolving the dispute through arbitration in the arbitration tribunal. A reference to Arbitration Tribunal shall be no ground for not continuing the work on the part of the Contractor. Payment as per original terms and condition of the agreement shall be continued by the Commissioner/CMO in accordance with clause 8 above.

**Clause 29 - LUMP SUM IN ESTIMATE:**

When the estimate on which a tender is made includes lump sums in respect of part of the works, the contractor shall be entitled to payment in respect of the items of work involved or the part of the work in the question at the same rates as are payable under this contract for such items, or if the part of the work in question is not, in the opinion of the Commissioner/CMO, capable of measurement, the Commissioner/CMO may at the his discretion pay the lump sum amount entered in the estimates, and the certificate in writing of the Commissioner/CMO shall be final and conclusive against the contractor with regard to any sum or sums payable to him under the provisions of this clause.

**Action where no specification:**

**Clause 30**- In the case of any class of work for which there is no specification as is mentioned in Rule such work shall be carried out in accordance with the specification approved by Competent Authority /Engineer-in-Charge for application to works.

**Contractor's Percentage whether Applied to Net or Gross Amounts of Bills:**

**Clause 31**- The percentage referred to at Para 7 of the tender will be deducted from/added to the gross amount of the bills for work done after deduction of the cost of materials supplied by the department.

**Claim for Quantities Entered in the Tender or Estimate:**

**Clause32**-Quantities shown in the tender are approximate and no claim shall be entertained for quantities of work executed being either more or less than those entered in the tender of estimate. This is subject to the limitations as provided for in clause 13 and 14 above.

**Claim for Compensation for Delay in Starting the Work:**

**Clause33**-No compensation shall be allowed for any delay caused, except as provided under clause 5.3, in starting of the work on any other ground or reasons whatsoever.

**EMPLOYMENT OF SCARCITY LABOUR:**

**Clause34**-If Government declare a state of Scarcity or famine to exist in any village situated within sixteen kilometres of the work the contractor, shall employ upon such parts of the work as are suitable for unskilled labour, any person certified to him by the Competent Authority or by any person to whom the Competent Authority may have delegated this duty in writing to be in need of relief and shall be bound to pay to such persons wages not below the minimum which Government may have fixed in this behalf. Any dispute, which may arise in connection with the implementation of this clause, shall be decided by the Competent Authority whose decisions shall be final and binding on the contractor.

**Royalty on Minor Minerals**

**Clause35**:-The contractor shall pay all quarries, Royalty charges etc. If the contractor fails to produce the royalty clearance certificate from concerned department then the Commissioner/CMO shall deduct the royalty charges from his bills and keep in deposit head, which shall be refunded to the contractor on production of royalty clearance certificate from the concerned department. If he fails to produce the royalty clearance certificate within 30 days of submission of final bill, then royalty charges which were kept under deposit head by the Commissioner/CMO shall be deposited to the concerned department.

Any change in the royalty rates of minor minerals notified by the state government, after the date of submission of financial offer by the bidder/contractor, then this increase/decrease in the rates shall be reimbursed/deducted on actual basis.

**TECHNICAL EXAMINATION**

**Clause36**-The Commissioner/CMO shall have the right to cause Audit and Technical Examination of the works and the final bills of the contractor including all supporting vouchers, abstracts etc. to be made as per payments of the final bills and if as a result of such Audit & Technical Examination the sum is found to have been over paid in respect of any work done by the contractor under the contract or any work claimed by him to have been done under contract and found not to have been executed, the contractor shall be liable to refund the amount of over payment and it shall be lawful for the Commissioner/CMO to recover the same from the security deposit of the contractor or from any dues payable to the contractor from the Commissioner/CMO account if it is found that the contractor was paid lesser than what was due to him under the contract in respect of any work executed by him under it, the amount of such under payment shall be duly paid by the Commissioner/CMO to the contractor.

In the case of any audit examination and recovery consequent on the same the contractor shall be given an opportunity to explain his case and decision of the Competent Authority shall be final.

**DEATH OF PERMANENT INVALIDITY OF CONTRACTOR:**

**Clause37-** If the contractor is an individual or a proprietary concern, partnership concern, dies during the currency of the contract or becomes permanently incapacitated, where the surviving partners are only minors the contract shall be closed without levying any damages/compensation as provided for in clause 3 of the contract agreement. However, if Commissioner/CMO is satisfied about the competence of the surviving, then the Commissioner/CMO shall enter into a fresh agreement for the remaining work strictly on the same terms and conditions, under which the contract was awarded.

**PENALTY FOR BREACH OF CONTRACT:**

**Clause38-** On the breach of any term or condition of this contract by the contractor the said the Nagar Palik Nigam/Nagar Palika/Nagar Panchayat shall be entitled to forfeit the Security deposit or the balance there of that may at the time be remaining, and to realise and retain the same as damages and compensation for the said breach but without prejudice to the right of the Nagar Palik Nigam/Nagar Palika/Nagar Panchayat to recover further sums as damages from any sums due or which may become due to the contractor by.