

MILITARY ENGINEER SERVICES

GENERAL CONDITIONS FOR CONTRACTS

(i)

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CHAPTER I - DEFINITIONS

1. **Definitions**
- a. Contract. The Contract means the documents forming the tender and acceptance thereof together with the documents referred to therein including these conditions, all applicable Schedules and/or General Summary attached to the form of tender, the MES Schedule of Rates, the Specifications and the Drawings, and all these documents, as applicable taken together shall be deemed to form one Contract and shall be complementary to one another.
 - b. Tender Documents. The Tender Documents mean the form of tender; the applicable Schedules and/or General Summary; these conditions; specification and/or Drawings and any other documents referred to therein, as loaned to Contractor for the purpose of preparing his tender.
 - c. Works. The Works mean the works described in the tender documents, or in the case of Term Contracts, in individual Work Orders and/or accompanying Drawings and Specifications as may be issued from time to time to the Contractor by the GE or Engineer-in-Charge within the powers conferred upon them, including all modified extra or additional works and obligations to be carried out either on the Site or at any factory or workshop or other place for subsequent incorporation, as required for the performance of the contract.
 - d. Site. The Site means the lands and/or other places on, in, into or 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.
 - e. Contractor. The Contractor means the individual or firm or company, whether

incorporated or not, undertaking the works and shall include the legal personal representatives of such individual or the persons composing such firm or company, or the successors of such firm or company and the permitted assigns of such individual or firm or company.

- f. Government. Government means the President of Islamic Republic of Pakistan, his successors in office and assigns.
- g. CMES/GE. The CMES means the Commander Military Engineer Services of the Area in which the contract operates. The GE means the Garrison Engineer of the Division in which the contract operates. The term GE shall be deemed to cover Project Engineer, Maintenance Engineer, Independent Assistant Garrison Engineer and Independent Assistant Maintenance Engineer, including Assistant Project Engineer.
- h. Engineer-in-Charge. The Engineer-in-Charge means the officer appointed by the Accepting Officer to superintend the Works, or part of Works.
- j. Accepting Officer. The Accepting Officer means the officer who signs the contract on behalf of President under the powers conferred on him by the Government.
- k. DI&E. DI&E means Directorate of Inspection and Evaluation of E-in-C's Branch responsible to carry out Technical Examination of works/services.
- l. Controlling Officer. The Controlling Officer means the "Accepting Officer" or the Officer nominated by the "Accepting Officer" to exercise on his behalf control of the contract as specified therein.
- m. MES. MES means the "Military Engineer Services".-
- n. Specifications/Drawings. In the case of Measurement and Term Contracts specifications means those contained in the MES Schedule of Rates together with any amendments, etc authorised thereto by the tender documents. "Drawings" refer to those accompanying the tender documents and/or work orders referred to therein.
- o. Contractor's Percentage
 - (1) In the case of Lump Sum Contract where the Bills of Quantities are priced by the Contractor, the Contractor's percentage means the percentage as addition or deduction, as the case may be, by which the total amount of the cost of Bills of Quantities as carried to Schedule A varies from the total valuation of Bills of Quantities at MES Schedule of Rates.
 - (2) In the case of Measurement and Term Contract "Contractor's Percentage" shall if the context so permits, mean the uniform percentage tendered by the contractor and accepted by the Accepting Officer, and the expression "Contract Rates" shall likewise mean the rates in the MES Schedule of Rates as adjusted by the said Contractor's Percentage, if any.
- p. Contract Sum. The Contract Sum means the sum accepted or the sum calculated in accordance with the prices accepted in the tender and/or the Contract rates as payable to the Contractor for the full and entire execution and completion of the work.
- q. Final Sum. The Final Sum means the amount payable under Contract by Government to the Contractor for the full and entire execution and completion of the works, or in the case of Term Contracts, of individual work orders.
- r. Accepted Risk. The Accepted Risk means the risk on the Site accepted by the

Govt of tempest, flood, earthquake, riot, civil war, insurrection, and from damage by aircraft.

- s. Date for Completion. The date for completion is the date or dates for completion of the whole or any part of the works, set out in or ascertained in accordance with the individual works order of the tender documents, or any subsequent agreed amendment thereto.
- t. Week. A week means seven days without regard to the number of hours worked or not worked in any day in that week.
- u. Day. A Day means a day of 24 hours irrespective of the number of hours worked or not worked in that day.
- v. Working Day. A Working Day means any day other than that prescribed by the negotiable instruments Act as being a holiday and consists of the number of hours of labour as commonly recognised by good employers in the trade in the district where the work is carried out.
- w. Deviation Order. Deviation Order means an order given by the GE to effect an alteration, addition or deduction, which does not radically affect the scope or nature of the contract.
- x. Emergency Works. Emergency works means any urgent measures which, in the opinion of the Engineer-in-Charge, become necessary during the progress of the works to obviate any risk of accident or failure or which become necessary for security.
- y. Prime Cost. "Prime Cost" and "Prime cost sums" and the letter "PC" or a combination of the same, means the amount actually paid by the Contractor for any articles, commodity or special work and include all proper charges for packing, carriage and delivery to the site, after deduction of all trade discounts, rebates and allowances and all discounts obtainable for cash in so far as such discounts exceed 2-1/2 per cent.
- z. Provisional Sum. Provisional Sum or "Provisional Lump Sum" means a lump sum included by the MES in the tender documents and represents the estimated value of work for which details are not available at the time of going to tender.
- aa. Provisional Item. Provisional item means items for which approximate quantities have been included in the tender documents.
- bb. Day Work. Day Work means items of labour and/or materials which in the opinion of the Engineer-in-Charge, are not capable of being evaluated by the accepted methods of measurement or assessment.
- cc. Maintenance Period. Maintenance Period means twelve Calendar months unless specified otherwise, after the work has been completed and certified so by the GE.
- ad. Singular and Plural. Words importing the singular also include the plural and vice-versa where the context requires.

CHAPTER II - SCOPE OF THE CONTRACT

2. **Heading to the Conditions.** The headings in the conditions of Contract shall not be deemed to be part thereof or be taken into consideration in the interpretation or construction thereof or of the contract

3. **Time.** Time is of the essence of the contract and is specified in the tender documents or in each individual work order.

4. Contract Documents

- a. Documents Mutually Explanatory. The several documents forming the contract are to be taken as mutually explanatory of one another and in case of ambiguities or discrepancies the same shall be explained by the Accepting

Officer through Engineer-in-Charge who shall issue appropriate instructions in writing.

- b. Supply of Documents. Accepting Officer or in the case of term contracts the officer empowered to issue the work order, shall furnish or cause to be furnished to the contractor three copies each of the signed drawings referred to in Schedule A and/or H, conditions of contract, Specifications, un-priced Bills of Quantities and of any additional drawings which may be found necessary to be issued during the progress of the work. The contractors shall keep one copy on the site. On the completion or earlier determination or cancellation of the contract all Drawings and Specifications issued to contractor shall be returned to the GE.
 - c. Notice by Contractor. The contractor shall give adequate notice in writing to the Engineer-in-Charge of any further drawings or specifications or instructions that the contractor may require for the execution of the works or otherwise under the contract.
 - d. Delay in Issue. If by reason of any failure or inability of the Engineer-in-Charge to issue at a time reasonable in all circumstances, additional drawings or instructions requested by the contractor and considered necessary by the Accepting Officer the contractor suffers delay, then the Engineer-in-Charge shall take such delay into account in determining any extension of time under clause 12 thereof.
 - e. Security of Documents. The Contract is confidential and must be strictly confined to the contractor's own use (except so far as confidential disclosure to subcontractors or suppliers is necessary) and to the purpose of the contract.
5. **Scope of Works to be carried out (Applicable Generally to Measurement and Lump Sum Contract. PAFW-2159)**
- a. The contract shall, except as provided under Schedules B, C, D and E include all labour, materials, tools, plant, equipment and transport which may be required in preparation for and in the full and entire execution and completion of the works.
 - b. Schedule A and Bills of Quantities (where applicable) unless otherwise specified, shall be deemed to have been prepared in accordance with good practice and recognised principles and the description given therein shall be understood to include waste on materials, carriage and cartage, carrying in return of empties, hoisting, setting, fitting and fixing in position and all other labour and labours necessary in and for full and entire execution and completion of aforesaid.
 - c. Any error in description or in quantity in schedule A and/or bills of quantities or any omission therefrom shall not vitiate the contract or release the contractor from the obligation to execute the whole or any part of the works comprised therein according to drawings and specifications, or from any of his other obligations under the contract.
 - d. Rectification of Errors. Where the contract sum is based on the quantities in Schedule A and/or Bills of Quantities and the cumulative effect of the errors calculated as specified below varies the contract sum (exclusive of provisional lump sum if any) by more than 5 per cent, then the errors shall be rectified in the following manner, as applicable and the contract sum shall be increased or decreased accordingly:-
 - (1) Where the priced bills of quantities form a part of the contract, the effect of the errors shall be calculated on the basis of prices inserted by the contractors in Schedule A and/or bills of quantities.
 - (2) Where priced bills of quantities do not form a part of contract, the effect of the errors shall be calculated on the basis of the MES Schedule of Rates subject to the contractor's percentage.

The contract sum so altered shall for all purposes of the contract be substituted for the sum originally accepted as if the contract had been accepted at the altered price instead of the original price and such

alteration shall not be considered as a deviation. Provided that this increase or decrease in the contract sum shall not affect contractor's percentage which shall continue to be based on the original contract.

- e. Further the aforesaid omission or discrepancy between the drawings. Schedule A or Bills of Quantities shall be rectified as deviation under clause 10, in that any item not included in bills of Quantities but executed in accordance with the drawings shall be paid as addition and any item included in Bills of Quantities but not executed shall be adjusted as deduction.
 - f. Provided further that there shall be no rectification of any errors, omissions or wrong estimates in the prices inserted by the contractor in Bills of Quantities which he priced or in his computations therein or calculations thereon.
 - g. The insertion of the name of any firm in the tender documents is for the purpose of specifying a class or quality of material or workmanship and articles or materials so specified may be obtained from any other firm subject to the prior written approval of the controlling officer whose decision in the matter shall be final and conclusive.
 - h. In the case of discrepancy between Schedule A, Bills of Quantities, specifications and/or the drawings, the Accepting Officer shall be the sole deciding authority as to which shall prevail and his decision shall be final and conclusive.
 - j.
 - (1) The Contractor shall be deemed to have inspected and examined the site and its surroundings and to have satisfied himself before submitting his tender as to the nature of the ground and sub-soil (having taken into account any information connected therewith which may have been provided by or on behalf of the Government) the form and nature of the site, the extent and nature of the work and materials necessary for the completion of the works, the means of communications with and access to the site, the accommodation he may require and in general to have obtained for himself all necessary information as to risks contingencies and all other circumstances influencing or affecting his tender. No claim on account of any misunderstanding in this regard shall be entertained.
 - (2) The contractor shall be deemed to have satisfied himself before submitting his tender as to the correctness and sufficiency of the amount and prices quoted by him in Schedule A and or Priced Bills of Quantities which shall cover (except in so far as it is otherwise provided in the Contract) overall his obligations under the Contract.
6. **Works to be Carried out (Applicable to Term Contracts for Minor Works. Reconstruction or Repairs other than Periodical Services and Mud Plastering (PAFW-1821):-**
- a. The contract shall, except as provided under Schedule B or C and condition 13 hereof, include all labour, material, tools, plant, equipment and transport which may be required in preparation for and in the full and entire execution and completion of any new work or works, reconstruction or repairs within the contract area, which the contractor may be called upon to carry out and which can be priced under the MES Schedule of Rates and for which the total estimate at contract rates of any single work, job or service as defined below shall not exceed Rs. 3,00,000/- subject to the following reservations:-
 - (1) The Construction of field defences and shelters within the contract area on and during mobilization may be excluded from the contract.
 - (2) All road, path, parade ground, tree planting and gardening work and renewal of mud floors shall be excluded from the contract. All periodical services such as painting, white/colour washing, oiling, distempering and also mud plastering leaping with allied items shall also be excluded subject to the conditions that those services are not connected with minor/original works and petty renewals of other items of work. GE's decision whether or not any of the services mentioned above are connected with minor/original works and petty renewals, will be final and

binding on the contractors.

- (3) All electrical and water supply works and steam or hot water installations estimated to cost over Rs. 10,000 shall be excluded from the contract and at the discretion of the GE any such work estimated to cost Rs. 10,000 or under MES also be excluded (No applicable in the case of term contracts of E/M works).
- (4) The GE may employ on work otherwise included within the scope of contract.
 - (a) Any number of serving soldiers, the regular civilian staff of the MES and Transport whether owned by the Government or hired locally.'
 - (b) In addition a limited number of civilian work people, except in the event of contractor's default the number so employed shall not exceed the average specified in the tender documents. (Those employed on work reserved in sub-clause 6a(l) to (3) above not included).
- b. The estimates referred to above shall be based on the contract rates and shall include contingencies but exclude the surplus MES stores referred to in condition 13 hereof and any stores to be obtained under special contract, the GE shall be the sole judge of what constitute a single work, job or services and shall be entitled to treat the contract area as a whole for the purpose of grouping work as may be convenient.
- c. The contractor will be deemed to have satisfied himself as to the nature of the works likely to be ordered upon him, local facilities for the supply of labour and material, within the contract area and of access to the site or sites, and all other matters affecting the execution and completion of the works. No extra charges consequent on misunderstanding or otherwise will be allowed.

7. **Works to be Carried out (Applicable to Term Contracts for Periodical Services. Detailed in Table F MES Regulations and Mud Plastering fIPAFW-1779)**

- a. The contract shall except as provided under Schedule B and/or C include all labour,, materials, tools, plant, equipment and transport which may be required in preparation for and in the full and entire execution and completion of all the periodical services and decorating works within the contract area, which the contractor may be called upon to carry out and which can be priced under the MES Schedule of rates and for which the total estimate at contract rates of any single work, job or services as defined below shall not exceed Rs.50,000,00.
- b. The contract will include all periodical services and decorating works such as painting, white/colour washing, oiling, distempering and also mud plastering/leaping with allied items of work. GE's decision whether or not any of the services mentioned above are connected with minor/original works and petty renewals will be final and binding on the contractors.
- c. The GE may employ on work otherwise included within the scope of the contract:
 - (1) Any number of serving soldiers, and the regular Civilian staff of the MES.
 - (2) In addition a limited number of civilian work people, except in the event of contractor's default, the number so employed shall not exceed the average specified in tender documents.
- d. The contractor will be deemed to »>a»e satisfied himself as to the nature of the works likely to be ordered upon him, local facilities for the supply of labour and materials within the contract area and of access to the site or sites, and all other matters affecting the execution and completion of the works. No extra charges consequent on misunderstanding or otherwise will be allowed.

8. **Prime Cost Sums**

- a. All Prime Cost Sums shall be reserved for the supply of materials or the execution of work by person to be nominated by the Accepting officer or selected in such a way as he may direct.
- b. The full amount of the Prime Cost Sums inserted in the tender documents and the value of the percentage addition thereto quoted by the contractor for profit, etc will be deducted from the contract sum. The contractor shall be paid the Actual Prime Cost as defined, plus the percentage addition quoted by him for profit and establishment charges, etc adjusted pro thereto. He shall produce to the CMES such quotations, invoices and receipted bills as may be necessary to show the actual details of the sums paid by him.
- c. He shall also be paid for fixing where applicable, in accordance with the conditions of contract; the payment for fixing shall cover unloading, getting in, unpacking, return of empties and other incidental expenses.
- d. The GE may order and pay for all or any portion of such items direct, in which case the contractor will be paid an amount in respect of administrative expenses, etc actually incurred by him in respect of such items, at the percentage rate included by him in the tender documents adjusted prorata on the amount actually paid direct by GE in regard to the original scope of the Prime Cost Sum.

9. **Provisional Lump Sums**

- a. The full amount of provisional lump sums inserted in the tender documents shall be deducted from the contract sum and the value of work ordered and executed thereunder shall be ascertained by measurement or valuation as for deviations. No work under these items is to be begun without instructions in writing from the Engineer-in-Charge.
- b. No addition or deduction shall be made by the contractor to the amount of provisional lump sums as included in the tender documents. ;

10. **Deviations/variations**

- a. The Engineer-in-Charge may make any deviation of the form, quality or quantity of the works or any part thereof that in his opinion be necessary and for that purpose or if for any other reason if in his opinion be desirable shall have power to order to contractor to do and the contractor shall do any of the following: -
 - (1) Increase or decrease the quality of any work included in the contract.
 - (2) Omit any such work.
 - (3) Change the levels lines position and dimensions of any part of the works and, no such deviation shall in any way vitiate or invalidate the contract but the value (if any) of all such deviations shall be taken into account in ascertaining the Final Sum of Contract.
- b. No such deviation shall be made by the contractor without an order in writing of the Engineer-in-Charge. Provided also that if for any reason the Engineer-in-Charge shall consider it desirable to give any such order verbally the contractor shall comply with such order and any confirmation in writing of such verbal orders given by the Engineer-in-Charge whether before or after the carrying out of the order shall be deemed to be an order in writing within the meaning of this clause. Provided further that if the Contractor shall confirm in writing to the Engineer-in-Charge any verbal order of the Engineer-in-Charge and if such confirmation is not contradicted in writing within fourteen days after the receipt of contractor's letter it shall be deemed to be an order in writing by the Engineer-in-Charge.

11. **Emergency Works and Urgent Repairs**

- a. Emergency Works. If any emergency works become necessary and the contractor is unable (in respect whereof the decision of the Engineer-in-Charge shall be final and conclusive) or unwilling to carry them out at once, the Engineer-in-Charge may get the work done through another contract, DEL, troop labour, or

any other means available to him. If the emergency works shall be such as the contractor is liable under the contract to carry out at his own expenses or which are included in the contract rates for works being executed by the contractor, all such expenses incurred on them by Government shall be recoverable from the contractor and if necessary be adjusted or set off against any sum payable to him under this or any other contract.

- b. Urgent Repairs. If by reason of any accident or failure or other event occurring to in or in connection with works or any part thereof either during the execution of the works or during the period of maintenance any remedial or other work or repair shall in the opinion of the Engineer-in-Charge be urgently necessary for security and safety reasons and the contractor is unable or unwilling at once to do such work or repair the Government may by his own or other workmen do such work or repair as the Engineer-in-Charge may consider necessary. If the work or repair so done by the Government is the work which in the opinion of the Engineer-in-Charge, the contractor was liable to do at his own expense under the contract, all costs and charges properly incurred by the Government in so doing shall on demand be paid by the contractor to the Government or may be deducted by the Government from any sum due or which may become due to the contractor. Provided always that the Engineer-in-Charge shall as soon after the occurrence of any such emergency as may be reasonably practicable notify the contractor thereof in writing.

12. **Works Programme**

- a. Programme to be furnished. The time and progress chart shall be prepared in direct relation to the time stated in the tender documents or the works orders for the completion of the individual items thereof and/or the contract order as a whole. It shall indicate the forecast of the dates for commencement and completion of the various trade processes or section of the works and shall be amended as may be required by agreement between the GE and the contractor within the limitation of time imposed in the tender documents or the works orders. The contractor shall whenever required by the GE or his rep furnish for his information particulars in writing of the contractor's arrangements for the carrying out of the works and of the constructional plant and temporary works which the contractor intends to supply, use or construct as the case may be. The submission to and approval by the GE or his rep of such programme or the furnishing of such particulars shall not relieve the contractor of any of his duties or responsibilities under the contract.
- b. Commencement of Work. The contractor shall commence the works on site on receipt by him of an order in writing to this effect from the GE and shall proceed with the same with due expedition and without delay except as may be expressly sanctioned or ordered by the GE.
- c. Suspension of Works. The contractor shall on the written order of the Engineer-in-Charge suspend the progress of the works or any part thereof for such time or times and in such manner as the Engineer-in-Charge may consider necessary and shall during such suspension properly protect and secure the work so far as is necessary in the opinion of the Engineer-in-Charge. He shall not resume work thereon until so directed in writing by the Engineer-in-Charge.
- d. Subject to any requirement in the tender documents as to completion of any portion of the work before completion of the whole of the work, the works shall be completed within the time stated in the Tender or earlier if so stipulated in the Time and Progress Chart (calculated from the date of commencement named in the work order) or such extended time as may be allowed under the contract.
- e. Suspension Lasting More Than Three Months. If the progress of the Works or any part thereof is suspended on the written order of the Engineer-in-Charge and if permission to resume work is not given by the Engineer-in-Charge within a period of 3 months from the date of suspension then the Contractor or continues to be necessary by reason of some default on the part of the contractor serve a written notice on the Engineer-in-Charge requiring permission within 28 days from the receipt of such notice to proceed with the Works or that part thereof in

regard to which progress is suspended within the first period. If within the said 28 days the Engineer-in-Charge does not grant, such permission the Contractor by a further written notice so served may (but is not bound to) elect to treat the suspension where it affects part only of the Works as an omission of such part under Clause 10 or where it affects the whole works as an abandonment of the contract under Clause 57 hereof.

- f. Extension of Time for Completion. If the works are delayed by force majeure or by reason of any exceptionally inclement weather or by reason of authorised extras or additions or deviations in the contract or by delay in delivery by the Government of the stores enumerated in Schedules B & C and the specifications, or by reasons of any civil commotion, riot, local combination of workmen or strikes or lockouts or by reason of any material being impracticable or due to suspension of whole or part of the work under this clause, a fair and reasonable extension of time for completion, as may be decided by GE, shall be made in respect thereof. Provided that the GE is not bound to take into account any extra or additional work or other special circumstances unless the contractor has, within 7 days after such work has been communicated or such circumstances have arisen or before the date or the extended date of completion under the contract agreement whichever is earlier, delivered to the GE's rep full and detailed particulars of any claim to extension of time to which he may consider himself entitled. Provided further that in case of suspension of work, the contractor will be allowed time for completion not less than the period which was still remaining on the day the work was suspended. No other claim in this respect for compensation or otherwise, however, will be admitted.

In case the extension of time is not acceptable to the contractor, the matter shall be referred to the CMES whose decision shall be final.

Stores and Materials

- a. The contractor shall, at his own expense, supply all stores and materials required for the Contract, other than those listed in Schedule B which are to be provided by Government at the rates detailed therein and Schedule C for fixing only. In addition in the case of Term Contracts, the GE may call upon the Contractor to supply all necessary labour, etc. in fixing serviceable MES surplus materials which have accrued in the execution of other works, and in agreement with the Contractor the fixing of any materials salvaged from demolitions. All stores and materials to be supplied by the Contractor shall be the best of the respective kinds described in the Specifications and the Contractor shall upon the request of the Engineer-in-Charge, furnish him with proof to his satisfaction that the stores and materials so comply.
- b. The Contractor shall, at his own expense and without delay, supply samples of stores and materials proposed to be used in the execution of the work as may be required by the Engineer-in-Charge who may reject all stores and materials not corresponding in quality and or character with approved samples.
- c. In the case of stores provided under Schedule B and/or C the Contractor shall bear the cost of loading, transporting to Site, unloading, storing under-cover as required assembling and joining the several parts together as necessary and incorporating and fixing these stores and materials in the works, including all preparatory work of whatever description as may be required, and of closing, preparing loading and relining empty cases or containers to the place of issue without any extra charge, except containers or empty cases of those stores the issue rates of which are inclusive of the cost of containers.
- d. In case of Term Contracts, the Engineer-in-Charge may also call upon the Contractor to provide transport, labour for loading and unloading and storage for such surplus materials as are to be fixed by the Contractor under the provisions quoted above.

14. **Patent Rights.** The contractors shall fully indemnify Government or any agent, servant or employee of Government against any action, claim or proceeding relating to infringement or the use of any patent or design or any alleged patent or design rights and shall pay any royalties which may be payable in respect of any article or part thereof included in the Contract. In the event of any claims being made or action brought against Government, or any agent, servant or employee of Government in respect of any such matters as aforesaid, the Contractor shall immediately be notified thereof.

15. **Octroi and Other Charges.** All charges on account of control terminal tax or sales tax and/or other duties on materials obtained for the works shall be borne by the contractor. Octroi charges are, however, not payable by the contractor on materials provided by Government, on payment for incorporation in Government works.

16. **Royalties.** No royalty will be recovered for materials which the Contractor may be allowed to remove from queries situated on land which is in charge of the MES authorities or from land in Cantonments in charge of the Military Estate Officers.

17. **Plant and Equipment**

- a. The Contractor shall at his own expense supply all tools, plant and equipment required for the execution of the Contract, provided that those listed in Schedule D may be hired by Government, if the Contractor shall in respect thereof give to the Engineer-in-Charge reasonable notice in writing of his requirements. The contractor shall in that case pay the charges specified in Schedule D to cover Government provisions, operators, petrol, Oil and Lubricants for all Government plant and equipment issued on hire.
- b. Government plant and equipment hired to the Contractor shall at his own expense be conveyed by him from the place of issue to the Site and returned to the place of issue on completion of the work or earlier on instructions in writing from the Engineer in-Charge. The contractor shall be responsible to the CMES (whose decision regarding responsibility and the cost of repairs shall be final and conclusive) for the maintenance of the said plant or equipment in proper working order and condition during the period of hire (damage from the accepted risks and fair wear and tear excepted) and shall, subject to damage aforesaid return the same in a condition equal to that when taken over by him. He shall have no claim to any payment of compensation or otherwise howsoever, on account or the determination of the hire of such plant equipment which Government are entitled to do without assigning any reason whatsoever.

18. **Transport**

- a. (1) The Contractor shall at his own expense supply all transport required for the execution of the contract other than that listed in Schedule E which will be provided by Government on hire.
- (2) The hire rates for Government transport shall be inclusive of all running costs, driver, oil and lubricants.
- (3) The Contractor shall be responsible for the loading and unloading of vehicles and shall comply with such restrictions regarding weight-carrying capacities, nature of materials to be transported and routes to be followed as may be notified to him by the Engineer-in-Charge from time to time during the period of hire, as well as to observe reasonable precautions at all time to prevent damage to and undue wear and tear of the vehicles.
- (4) Government transport shall remain under the control of Government while on hire to the Contractor but Government accepts no liability for any loss or damage to goods conveyed therein, arising out of or in any way connected with the operation of the said vehicles. The Contractor shall indemnify Government against any loss or damage to the person or property of Government, or any agent, servant or employees of Government, or to any third party due to any neglect or default of the Contractor, his agents, servants, or work people, connected with the use

by him of the transport.

- b. Applicable to Term Contracts. The Contractor shall at his own expense supply all transport required for the execution of the Contract.

19. **Assignment or Transfer of Contract.** The Contractor shall not without the prior written approval of the Accepting Officer assign or transfer the Contract; or any part thereof or any share, or interest therein. No sum of money to become payable under the Contract shall be payable to any Person other than the Contractor unless the prior written approval of the Accepting Officer to the Assignment or transfer of such money is given.

20. **Sub-Contractors**

- a. The Contractor shall not sublet the whole of the works. Except where otherwise provided by the contract the Contractor shall not sublet any part of the works without the prior written approval of the Accepting Officer.
- b. The Accepting officer may invite offers for performance by sub-contractors of any work in satisfaction of prime cost sums included in the tender documents. In the exercise of his options, offers will be made returnable to the Accepting Officer who shall select the firm to do the work and inform the Contractor who will be required to conclude a contract with the nominated sub-contractor for the execution of the work as specified by the Accepting Officer to the sub-contractor. The Accepting Officer shall not nominate any sub-contractor against whom the Contractor shall make reasonable objection.
- c. The Contractor shall be responsible for any sub-contractor or contractor who may carry out any work or supply any material in connection with the contract, whether such person be selected by the Accepting Officers or by Contractor. The Contractor shall make good any loss or damage suffered by Government by reason of default, neglect or failure on the part of such person in relation to such work or material.
- d. Nothing herein contained shall relieve the Contractor of his liabilities and obligations under the Contract or in any way affect the Contractor's direct responsibility to Government nor shall it render Government in any way responsible to such Subcontractor.

CHAPTER III - PERFORMANCE OF THE CONTRACT

21. **Order under the Contract.** All orders, notices, etc. to be given under the Contract shall be in writing, typescript or printed and if sent by registered post to the last known place of abode or business of the Contractor shall be deemed to have been served on the date when in the ordinary course of post it would have been delivered to him. The Contractor shall carry out without delay all orders given to him.

22. **Admission to Site**

- a. The contractor will not be permitted to enter on (other than for inspection purposes) or take possession of the site until instructed to do so by the GE. The portions of the site to be occupied by the Contractor will be clearly defined and/or marked on the Site Plan, and Contractor will, on no account, be allowed to extend his operations beyond these areas.
- b. The Contractor shall provide, if necessary or if required on the Site all temporary access thereto and shall alter, adapt and maintain the same as required from time to time and shall remove and clear away as and when no longer required and make good any damage thus caused.
- c. The GE shall have power to execute other works (whether or not in connection with the works) on the Site contemporaneously with the execution of the works and the Contractor shall give reasonable facilities for such purpose.
- d. Controlling Officer reserve the right of taking over at any time any portion of the Site which it may require and the Contractor shall at his own expense clear such

portion forthwith. No photographs of the site or of the Works or any part thereof shall be taken, published or otherwise circulated without the prior written approval of the controlling officer.

- e. No such approval shall however exempt the contractor from complying with any statutory provisions in regard to the taking and publication of such photographs.
- f. Any MES officials connected with the Contract shall have right of entry to the Site at any time.
- g. The Engineer-in-Charge shall have the power to exclude from the Site any person whose admission thereto may in his opinion be undesirable for any reason whatsoever.

23. **Possession of Site.** Save in so far as the contract may prescribe the extent of portions of the Site of which the Contractor is to be given possession from time to time and the order in which such portion shall be made available to him subject to any requirement in the contract as to the order in which the works shall be executed the GE by a written order given to the Contractor possession of so much of the Site as may be required to enable the Contractor to commence and proceed with the construction of the works in accordance with the programme referred to in Clause 12 hereof (if any) and otherwise in accordance with reasonable proposals of the Contractor as he shall by notice in writing to GE make and will from time to time as the works proceed give to the Contractor possession of such further portions of the Site as may be required to enable the Contractor to proceed with the construction of the works with due despatch in accordance with the said programme or proposals (as the case may be).

24. **Contractor's Supervision**

- a. The Contractor shall either himself supervise the execution of the contract provided he has the requisite qualifications laid down below or shall appoint a competent engineer approved by the controlling officer, possessing these qualifications to supervise and assist him in the execution of the contract:-
 - (1) Contracts up to Rs. 5 lacs Qualified Overseer
 - (2) Contracts above Rs.5 lacs Graduate Engineer/Retired Gazetted Engineer Officer of a Government Dept; such as MES, PWD & PIDC etc.
- b. If in the opinion of the Controlling Officer the Contractor himself although fulfilling the above qualifications cannot give his full personal attention to the works he shall when called upon employ an engineer agent at his own expense.
- c. If the contractor fails to appoint a suitable engineer agent on being ordered to do so the Controlling Officer shall have full power to suspend the execution of the works until such date as a suitable engineer is appointed by him. If within a time to be specified by the Controlling Officer the contractor fails to appoint an engineer the controlling officer shall have full powers to employ a suitable engineer for the supervision of works at the risk and cost of the contractor and the contractor shall be held responsible for the delay so caused to the works. Pay of the engineer so employed will be recovered from any payment due to the contractor.
- d. 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.
- e. The Contractor or his Agent shall be in attendance at the Site during all working hours, and shall superintend the execution of the Works with such additional assistance in each trade as the Engineer-in-Charge may consider necessary.
- f. The Contractor or his accredited Agent shall attend, when required, and without making any charge for doing so, either at the office of the Engineer-in-Charge or on the Works to receive instructions.
- g. The controlling Officer shall have full powers, and without giving any reason, to require the contractor immediately to cease to employ in connection with this Contract any Agent, servant or employee whose continued employment is in his opinion undesirable.

25. **Duties and Powers of Garrison Engineer's Representative.** The duties of GE representative are to watch and supervise the works and to test and examine any materials to be used and

work-man ship employed in connection with the works. He shall have no authority to relieve the contractor of any of his duties or obligations under the contract nor except as expressly provided otherwise in the contract to order and work involving delay or any extra payment by the Government nor to make any variation of or in the works.

26. **Labour Supervisory Staff**

- a. The contractor shall employ labour in sufficient number to maintain the required rate of progress and of quality to ensure workmanship of the degree required by the specifications and to the satisfaction of the Engineer-in-Charge.
- b. The contractor shall provide and employ on the site in connection with the execution and maintenance of the works:-
 - (1) Only such technical assistants as are skilled & experienced in their respective callings & such sub-agents, foremen and leading hands as are competent to give proper supervision to the work they are required to supervise and
 - (2) Such skilled, semi-skilled & unskilled labour as is necessary for the proper & timely execution & maintenance of the works.
- c. The Engineer-in-Charge shall be at liberty to object to and required the contractor to remove forthwith from the works any person employed by the contractor in or about the execution or maintenance of works who in the opinion of the Engineer-in-Charge misconducts himself or is incompetent or negligent in the proper performance of his duties or whose employment is otherwise considered by the Engineer-in-Charge to be undesirable and such person shall not be again employed upon the works and shall be replaced as soon as possible by a competent substitute approved by the Engineer-in-Charge.
- d. The contractor shall remain liable for the payment of all wages or other dues to his work people or employees under the payment of Wages Act, 1936, Employees Liability Act, 1938, Workman Compensation Act, 1923 or any other Act or enactment relating thereto and rules framed thereunder from time to time. The contractor shall work only on and during the hours of a working day unless he obtains the prior written approval of Engineer-in-Charge to do otherwise. If such approval is given no liability in respect of any excess cost arising therefrom shall be incurred by the Government.
- e. The contractor shall furnish to the Engineer-in-Charge every morning a distribution return of the number and description by trades of his work people employed on the works.
- f. The contractor will arrange to provide free of charge, medical attendance and aid, including the provision and use of drugs and medical supplies to his work people whilst employed at site in connection with the execution of the works. Hospital treatment if required will also be provided.
- g. The contractor shall not employ in connection with the works any person who has not completed his sixteenth year of age.
- h. The contractor and his staff/labour shall not carry arms, ammunition to the work site without the prior written permission of the Engineer-in-Charge.

27. **Fair Wages**

- a. The contractor shall pay not less than fair wage to labourers engaged by him on the work. The "Fair Wage" means wage whether for time or piece work fixed from time to time by the appropriate local wage fixing authority or in the absence of such authority, not less favorable than those commonly recognized by good employers in the district where the work is carried on.
- b. The contractor shall, notwithstanding the provisions of any contract to the contrary cause to be paid a fair wage to labourers indirectly engaged on the work, including any labour engaged by his sub-contractors in connection with the said work, as if the labourers had been immediately employed by him.

- c. In respect of all labour directly or indirectly employed in the works for the performance of the contractor's part of this agreement, the contractor shall comply with or cause to be complied with the MES. Contractor's labour Regulations made by Government in regard to payment of wages, wage period, deduction from wages recovery of wages not paid and/or deductions unauthorisly made maintenance of wage Register, wage Cards publication of scale of wages and other terms of employment, inspections and submission of periodical returns and all other matter of a like nature.
- d. The Garrison Engineer-in-Charge concerned shall have the right to deduct, from the money due to the contractor, any sum required or estimated to be required for making good the loss suffered by the worker or workers by reasons on non-fulfillment of the condition of the contract for the benefit of the workers, non-payment of wages or of deduction made from his or their wages, which are not justified by their terms of the contract or non-observance of the Regulations.
- e. Vis-à-Vis, the Pakistan Government, the Contractor shall be primarily liable for payment to be made under, and for the observance of the Regulations aforesaid without prejudice to his right to claim indemnity from his sub-contractors.
- e. The Regulation aforesaid shall be deemed to be a part of this contract and any breach thereof shall be a breach of this contract.

28. **MES Contractor's Labour Regulations**

- a. Short Title. These Regulations may be called "the MES Contractor's Labour Regulations".
- b. Definitions. In these Regulations unless otherwise expressed or indicated, the following words and expressions shall have the meaning hereby assigned to them respectively that is to say:-
 - (1) "Labour" means workers employed by an MES Contractor directly or indirectly through a sub-contractor or other persons or by an agent on his behalf.
 - (2) "Fair Wage" means a wage as defined in the explanation under clause 29.
 - (3) "Contractor" as far as the labour regulations are concerned shall include every person whether a sub-contractor or headman or agent, employing labour on the work taken on contract.
 - (4) "Wages" shall have the same meaning as defined in the payment of wages Act and include time and piece rate wage.
- c. Display of Notice Regarding Wages, etc. The Contractor shall:-
 - (1) Before he commences his work on contract, display and correctly maintain and continue to display and correctly maintain in a clean and legible condition in conspicuous places on the work, notice in English and in the local language spoken by the majority of the workers giving the rate of wages, which are certified in accordance with clause 29.
 - (2) Send a copy of such notices to the Garrison Engineer and Labour Welfare Officer.
- d. Payment of Wages. Wages due to every worker shall be paid to him direct. All wages shall be paid in current coin or currency or in both.
- e. Fixation of Wage Period
 - (1) The contractor shall fix the wage period in respect of which the wages shall be payable.

- (2) No wage period shall exceed one month.
- (5) Wages of every workman employed on the contract shall be paid before the expiry of ten days after the last day of the wage period in respect of which the wages are payable.
- (6) When the employment of any worker is terminated by or on behalf of the contractors, the wages earned by him shall be paid before the expiry of the day succeeding the one on which his employment is terminated.
- (7) All payment of Wages shall be made on working day.

f. Wage Register and Wage Cards, etc.

- (1) The contractor shall maintain a Wage Register of each worker in such form as may be convenient but the same shall include the following particulars:-
 - (a) Rate of daily or monthly wages.
 - (b) Nature of work on which employed.
 - (c) Total number of days worked during each wage period and total amount payable for the work during each wage period.
 - (d) All deductions made from the wages with an indication in each case of the ground for which the deduction is made.
 - (e) Wages actually paid for each wage period.
- (2) The contractor shall also maintain a wage card for each worker employed on the work.
- (3) The CMES may grant an exemption from the maintenance of Wage Register and/or Cards to a contractor who in his opinion may not directly or indirectly employ more than 20 persons on the work.

g. Fines and Deductions which may be Made From Wages

- (1) The Wages of a worker shall be paid to him without any deduction of any kind except the following:-
 - (a) 'Fines.
 - (b) Deductions for absence from duty, ie, from the place or places where by the terms of his employment he is required to work. The amount of deduction shall be in proportion to the period for which he was absent.
 - (c) Deduction for damage to or loss of goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default.
 - (d) Any other deductions which the Pakistan Government may from time to time allow.
- (2) No fines shall be imposed on a worker and no deduction for damage or loss shall be made from his wages until the worker has been given an opportunity of showing cause against such fines or deduction.
- (3) The total amount of fines which may be imposed in any one wage period on a worker shall not exceed an amount equal to three paise in a rupees of the wages payable to him in respect of that wage period.

- (4) No fine imposed on any worker shall be recovered from him by installments or after expiry of 60 days from the date on which it was imposed.
 - (5) No fine shall be imposed by the contractor for recovery from the wages of any worker on his own accord for any act or omission, unless the Central Labour Commissioner is satisfied with the reasons justifying such action and the amount of fine proposed and finally appears there.
- h. Register of Fine. etc.
 - (1) The contractor shall maintain a Register of Fines and Deductions for Damage or Loss, such Register shall mention the reasons for which fine was imposed or deduction for damage or loss was made.
 - (2) The contractor shall maintain a list in English and in the local language clearly defining acts and omission for which penalty or fine can be imposed. He shall display such list and maintain it in a clean and legible condition in conspicuous places on the work.
- j. Preservation of Register. The wage Register, the wage Cards and the Register of Fines and Deductions required to be maintained under these regulations shall be preserved for 12 months after the date of the last entry made in them.
- k. Powers of labour Welfare Officer to Make Investigations or Enquiry and to Recommend Imposition of Fine. The Labour Welfare Officer or any other person authorised by the Pakistan Government on their behalf shall have power to make enquiries with a view to ascertaining and enforcing due and proper observance of the Fair Wage Clause and the provisions of these Regulations. He shall investigate into any complaint regarding the default made by the contractor or sub-contractor in regard to such provisions. The Labour Welfare Officer may with the written approval of the Central Labour Commissioner also recommend to the Garrison Engineer/Engineer-in-Charge concerned such fine not exceeding Rs. 50 for each default as the Central Labour Commissioner considers fit to be imposed on the contractor for non-compliance with the Pair Wage Clause and these Regulations and the Garrison Engineer/Engineer-in-Charge may, if he considers the imposition of fine justified, impose the fine and deduct the amount thereof from any bill due to the contractor. But if he disagrees with the recommendation of the Labour Welfare Officer, he will pass on his paper to the CMES concerned whose decision shall be final.
- 1. Report of Labour Welfare Officer. The Labour Welfare Officer or other person authorised as aforesaid shall submit a report of the results of his investigation or other enquiry to the Garrison Engineer concerned indicating the extent, if any, to which the default has been committed with a note that necessary deductions from the contractor's bill be made and wages and other dues be paid to the Labourers concerned.
- m. Appeal Against the Decision of Labour Welfare Officer. Any person aggrieved by the decision and recommendation of the Labour Welfare Officer or other person so authorised may appeal against such decision to the Central Labour Commissioner but subject to appeal, the decision of the Officer shall be final and binding upon the contractor.
- n. Inspection of Registers and Cards. The contractor shall allow inspection of the registers and cards to any of his workers or to his agent at a convenient time and place after due notice is received on to the Labour Welfare Officer or any other person authorised by the Pakistan Government on his behalf.
- o. Submission of Returns. The contractor shall submit periodical returns as may be specified from time to time.
- p. Amendment. The Central Government may from time to time add to or amend these Regulations and on any question as to the application, interpretation, effect of these Regulations, the decision of the Central Labour Commissioner to the Government of Pakistan or any other person authorised by the Central Government in that behalf shall be final.

29. **Accommodation for Labour**

- a. The contractor shall during the progress of the works provide, erect and maintain at his own expense and to approved standards and scales all necessary temporary living, bazar and sanitary accommodation required for his work-people on the site in connection with the execution of the works.
- b. The planning, siting and erection of these buildings shall be approved by the Engineer-in-Charge and the whole of such temporary accommodation shall at all times during the progress of the works be kept tidy and in a clean and sanitary condition to the entire satisfaction of Engineer-in-Charge and at the contractor's expense. The contractor shall conform generally to the sanitary requirement of the local Medical Health authorities and at all times adopt such precautions as may be necessary to prevent soil pollution of the site.
- c. On completion of the works the whole of such temporary buildings shall be cleared away, all rubbish burnt, excreta or other disposal pits or trenches filled, effectively sealed off and the whole of the site left clean and tidy to the entire satisfaction of the Engineer-in-Charge and at the contractor's expense.

30. **Anti-Malarial Precautions.** The contractor shall, at his own expense, conform to all anti-malarial instructions given to him by the Engineer-in-Charge including the filling up of buirow pits.

31. **Conservancy**

- a. The Contractor shall at his own expense carry out all instructions issued to him by the Engineer-in-Charge to effect a proper disposal soil and other conservancy work in respect of the Contractor's work-people or employees on the site.
- b. The Contractor will bear the cost of any charges levied by the Cantonment Authority for the execution of such work on his behalf.

32. **Interference and Nuisance**

- a. All operations necessary for the execution of the works shall so far as compliance with the requirements of the contract permits be carried on so as not to interfere unnecessarily or improperly with public convenience or the access to or use or occupation of public or private roads and footpaths or to or of properties whether in the possession of the Government department or of any other person and the contractor shall save harmless and indemnify the Government in respect of all claims, demands, proceedings, damages, costs, charges and expenses whatsoever arising out of or in relation to any such matters.
- b. Further all work shall be carried out without unreasonable noise and disturbance. The contractor shall indemnify the Government from and against any liability for damages on account of noise or other disturbance created while or in carrying out the works and against all claims, demands, proceedings, damages costs, charges and expenses whatsoever in regard or in relation to such liability.

33. **Water**

- a. In the case of Measurement and Lump Sum Contracts, the Contractor shall be responsible for the provision of all water, including temporary plumbing work and connections, required for the use of the Works and of his work-people or employees engaged thereon, whether or not a water supply exists on the Site, and all expenses in respect thereof shall be borne and paid by the Contractor.
- b. In the case of Term Contracts all water required for the Works shall be free and shall be obtained from such points as may be directed. The Contractor shall be responsible for the provision all necessary temporary plumbing work and connection and shall remove the same when directed, at his own expense.
- c. The water used for any or all requirements shall be subject to the prior written approval of the Engineer-in-Charge.

- d. Water used on work or by labour when supplied by the Defence Department will be charged for at the rate of 31 paisas per every 100 Rupees worth of the cost of work including contractor's percentage if the water unmetered. In case the supply is metered water charges will be Rs. 4.00 per 1000 gallons.

34. **Temporary Workshops. Stores, etc.**

- a. The contractor shall during the progress of the Work provide, erect and maintain at his own expense all necessary temporary workshop, stores, offices, etc., as are required for the proper and efficient execution of the works. The planning, siting and erection of these buildings shall be to the approval of the Engineer-in-Charge and they shall at all times be kept tidy and in a clean and sanitary condition to the entire satisfaction of Engineer-in-Charge and at the contractor's expense.
- b. On completion of the Works the whole of such temporary buildings shall be cleared away and the Site reinstated and left clean and tidy to the entire satisfaction of the Engineer-in-Charge and at the Contractor's expense.
- c. Additionally, the GE may at his discretion permit the contractor to occupy as workshops and stores such Government buildings as may be available at the Site or Station for that purpose and in the event of the contractor occupying such accommodation, prescribed rent for the same shall be recoverable from him. The Contractor undertakes to maintain such premises at his own expense in a clean and sanitary condition and to deliver up the same on completion of the work or the termination of the Contract, or in the event of the said buildings being required by the GE, within one month of an order to that effect, in a clean state complete in every particular (damage from the accepted risks and fair wear and tear excepted).

35. **Stores and Materials on Site**

- a. Stores and materials required for the works are to be deposited by the Contractor only in place to be indicated by the Engineer-in-Charge.
- b. The contractor shall give the Engineer-in-Charge reasonable notice, in writing of his requirements of Government stores and materials and on approval of his demand. Being notified to him shall make immediate arrangement for the drawing of same. Such stores and materials shall be transported by the contractor at his own expense direct from the place of issue to the Site of the Works, unless prior written approval is obtained from the Engineer-in-Charge to do otherwise.
- c. MES Officers concerned with the Contract shall have power at any time to inspect and examine any stores and materials intended to be used in or on the works, either on the Site or at any factory or workshop or other place where such stores or materials are being constructed or manufactured or at any place where the same are lying, or from which they are being obtained and the Contractor shall give such facilities as may be required to be given for such inspection and examination.
- d. The Engineer-in-Charge shall be entitled to have tests made of any stores or materials supplied by the Contractor who shall provide at his own expense all facilities which the Engineer-in-Charge may require for this purpose. If at the discretion of the Controlling Officer an independent expert is employed to make any such tests, his charges shall be borne by the Contractor only of the test discloses that the said stores or materials are not in accordance with the provisions of the Contract.
- e. Should the GE consider at any time during the construction or reconstructions or prior to the expiration of maintenance period that stores or materials provided by the Contractor are unsound, or of a quality inferior to that contracted for, or otherwise not in accordance with the contract in respect whereof the decision of the CMES shall be final and conclusive, the Contractor shall on demand in writing

from the GE specifying the stores or materials complained about notwithstanding that the same may have been inadvertently passed, certified and paid for, forthwith remove the stores or materials so specified and provide other proper and suitable stores or materials at his own expense and in the event of his failing to do so within a period to be specified by the GE in the demand aforesaid, the GE may replace with others stores or materials complained of at the risk and expense in all respects of the Contractor. The liability of the contractor under this Condition shall not extend beyond the maintenance period aforesaid except as regards stores or materials which the GE shall have previously given notice to the Contractor to replace.

- f. All stores and materials brought to the Site shall become and remain the property of Government and shall not be removed off the Site without the prior written approval of the GE. But whenever the Works are finally completed, the Contractor shall at his own expense forthwith remove from the Site all surplus stores and materials originally supplied by him and upon such removal, the same shall revert in and become the property of the Contractor. All Government stores and materials issued to the Contractor for incorporation or fixing in the Works and which, making due allowance for reasonable wear and tear and/or waste, have not on completion of the Works been so incorporated or fixed shall be returned by the Contractor at his own expense to the place of issue.
- g. Surplus stores and/or materials returned by the Contractor will be credited him at a price not exceeding that fit which the said stores and materials were originally issued to him but due consideration shall be given to and all allowance claimed by Government in respect of any depreciation or damage suffered by the stores and/or materials whilst in the custody of the Contractor. In the event of a contractor failing to return the surplus stores and materials issued to him under Schedules B and C for incorporation therein, recovery will be affected from him at the Stock Book rate or Market Rate whichever is higher.

36. **Tools and Plants on Site:-**

- a. All constructional plant provided by the contractor shall when brought on to the site be deemed to be exclusively intended for the construction and completion of the works and the contractor shall not remove the same or any part thereof (save for the purpose of moving it from one part of the site to another) without the consent in writing of the GE.
- b. Upon completion of the works or determination of the contract for reasons other than default of the contractor, the contractor shall remove from the site, a.l the said constructional plant.
- c. The Government shall not at any time be liable for the loss of or damage to any of the said constructional plant.

37. **Statement of Hire Charges.** A weekly detailed statement of the hire charges, incurred in respect of Government tools. Plant equipment and/or transport shall be given to the contractor by the Engineer-in-Charge.

38. **Precautions Against Risks**

- a. The contractor shall be responsible at his own expense for precaution to prevent loss or damage from any and all risks and to minimise the amount of any such loss or damage and for provision of all protective works, casing, coverings etc, required for the purpose until the works have been handed over complete to the GE.
- b. All Govt Buildings rented to the contractor for workshops or stores shall be insured by the contractor in favour of Govt to their full value against risk or loss or damage from whatsoever cause arising other than the accepted risks and policy of insurance and receipts for premium shall be produced when required by

the GE, provided always that when part only of a building is rented to the contractor he will be required to insure the buildings only if used by him for the purpose of storing or using materials of a combustible nature as to which the decision of the GE shall be final and conclusive.

- c. If the contractor shall fail to effect and keep in force the insurance referred to in Sub-clause "b" above, the GE may effect and keep in force any such insurance and pay such premiums as may be necessary for that purpose and from time to time deduct the amount so paid by the Govt as aforesaid from any amount which may become due to the Contractor or recover the same as a debit due from the Contractor.
- d. The contractor shall provide all watchmen necessary for the protection of the site, the works and of materials and plant and all thing on the site during the currency of the contract and shall solely be responsible for and shall take all reasonable and proper steps for protecting, securing, lighting and watching all places on or about the works and the site which may be dangerous to any person whatsoever.

39. **Notices and Fees.** The Contractor shall give all notices required by any statutory Provision or by regulations and/or bye-laws of any local authority and or of any public service company or authority effected by the works or with whose system the same are or will be connected and shall pay and indemnify Government against any fees or charge demandable by law under such acts, regulations and/or bye-laws in respect of the Works and shall make and supply all drawings and plans required in connection with any such notices.

40. **Setting out the Works.** The Contractor shall be responsible for the true and proposed setting out of the works in relation to original point lines and levels of reference given by the GE in writing and for the correctness of the position, levels, dimensions and alignment of all parts of the works and for the provision of all necessary instruments, appliances and labour in connection therewith. If at any time during the progress of the works any error shall appear or arise in the position, levels, dimensions or alignment of any part of the works, the contractor on being required to do so by the GE or his rep shall at his own expense rectify error to the satisfaction of the GE or his rep unless such error is based on incorrect data supplied in writing by the GE or his rep in which case the expense of rectifying the same shall be borne by the Government. The checking of any setting out or of any line or level by the GE or his rep shall not any way relieve the contractor of his responsibility for correctness thereof and the contractor shall careful protect and preserve all benchmarks, sigh trails, pegs and other things used in setting out the works.

41. **Site Drainage.** All water that may accumulate on the site during the progress of the works, or in trenches and excavations, from other than accepted risks shall be removed from the site to the entire satisfaction of the Engineer-in-Charge, and at the Contractor's expense.

42. **Excavation.** Material of any kind obtained from excavation of the site including fossils, coins, articles of value or antiquity and structure or other remains or things of geological or archaeological interest discovered on the site of the works shall be deemed to be the property of the Govt and the contractor shall take reasonable precautions to prevent his workmen or any other persons from removing or damaging any such articles or thing and immediately upon discovery thereof shall acquaint the GE's representative of such discovery and carry out at the expense of Government except where otherwise included in the obligations of contractor, GE's representative's order as to the disposal of tlie same.

43. **Foundations.** The Contractor shall not lay any foundations until the excavations for the same have been examined and approved in writing by the Engineer-in-Charge.

44. **Covering in Works**

- a. The Contractor shall give reasonable notice in writing to the Engineer-in-Charge whenever any work is to be permanently covered or concealed, whether by earth or other means and in default of doing so shall, if required by the Engineer-in-Charge uncover such work at his own expense.
- b. Extra soil required for filling etc. shall be obtained only from those places for which prior written approval has been given by the Engineer-in-Charge.

45. **Approval of Works by Stage.** All works embracing more than one process shall be subject to examination and approval at each stage thereof and the Contractor shall give due notice in writing to Engineer-in-Charge when each stage is ready. In default of such notice being received, the Engineer-in-Charge shall be entitled to appraise the quality and extent thereof and in the event of any dispute the decision of the Controlling Officer thereon shall be final and conclusive.

46. **Execution of the Works.** The work shall be executed in a workmanlike manner and to the satisfactions in all respects of the GE. In the case of measurement and Lump Sum Contracts', and in special circumstances. Term Contracts, the Engineer-in-Charge will communicate or confirm his instructions to the Contractor in respect of the execution of work in a "Work Site Order Book", maintained at his office and the Contractor shall visit this office daily and shall confirm receipt of such instructions by signing the relevant entries, in this book. Such entries will rank as order or notice in writing within the intent and meaning of these conditions.

47. **Day Work**

- a. No day work shall be performed without the prior written instructions' of the GE. The contractor shall give to the Engineer-in-Charge reasonable notice of the start of any work ordered to be executed by the day work and shall deliver to the Engineer-in-Charge within two days of the end of each day week a return in duplicate, giving full detailed accounts of labour and materials for the pay-week. One of these returns if found correct, will be certified by the Engineer-in-Charge and returned to the Contractor and must be produced at the adjustment of accounts.
- b. An invoice in duplicate, signed by the Contractor or his Agent, shall be sent with each delivery of materials for day work and the Contractor will be furnished with a receipt, signed by the Engineer-in-Charge, specifying the description, quantities, weight or measurement (as the case may be) of the articles approved, reference will be made to this receipt in the return aforesaid and the receipt itself is to be produced in support of Contractor's bill.
- c. In the case of Lump Sum contracts, the rates to be charged and the percentage addition for profit and establishment charges, etc will be agreed upon between the Controlling Officer and the Contractor prior to the execution of the work.

48. **Inspection of the Works**

- a. MES Officers concerned with the Contracts shall have power at any time to inspect and examine any part of the works and the Contractor shall give such facilities as may be required to be given for such inspection and examination.
- b. Should the GE consider, at any time during the construction or reconstruction or prior to the expiration of the maintenance period, that any work has been executed with unsound, imperfect or unskillful workmanship or of a quality inferior to that contracted for, or not otherwise in accordance with the Contract (in respect whereof the decision of the CMES shall be final and conclusive), the contractor shall on demand in writing from the GE specifying the fault, notwithstanding that the same may have been inadvertently passed, certified and paid for, forthwith rectify or remove and reconstruct the works so specified, in whole or in part as the case may require, at his own expense, and in the event of his-failing to do so within a period to be specified by the GE in his demand aforesaid, the GE may carry out the work by other means at the risk and expense in all respects of the contractor. Provided always that the liability of the Contractor under this condition shall not extend beyond the maintenance period except as regards workmanship which the GE shall have previously given notice to the Contractor to rectify.

49. **Responsibility for Buildings.** In the event any building, or part of a building being handed over to the Contractor for the execution of works thereto under the provisions of the Contract, he shall give a written receipt for all fixture, glass, etc and he shall be required to make good at his own expense all damage resulting from any cause whatsoever, accepted risks and fire excepted (unless such fire shall have been caused through the negligence of the Contractor or any of his agents, servants or employees), while in his charge and to deliver up the said building

or part of thereof to the Engineer-in-Charge in a clean state complete in every particular, on the completion of the work.

50. **Damage and Loss**

- a. All plants, temporary buildings, equipment and things on the site provided by or on behalf of the Contractor for the construction of, but not for incorporation in the work shall stand at the risk and be in the sole charge of the contractor and the Contractor shall be responsible for and with all possible speed make good, any loss or damage thereto arising from any cause whatsoever; including the accepted risks.
- b. Save as above, the works and all materials and things whatsoever including such as may have been provided by Government on the Site in connection with and for the purposes of the Contract shall stand at the risk and be in the sole charge of the Contractor and the Contractor shall be responsible for, and with all possible speed make good, any loss or damage thereto arising from any cause whatsoever, other than the accepted risks and shall deliver up all the Works to the GE in a clean state, complete in every particular. In the event of any loss or damage thereto from any of the accepted risks or from fire under the provisions of the preceding condition, the following provisions shall have effect:-
 - (1) The Contractor shall, as may be directed in writing by the GE remove from the Site any debris and so much of the work, as shall have been damaged, taking to the GE's stores such articles and/or materials as may be directed.
 - (2) The Contractor shall, as may be directed in writing by the GE proceed with the erection and completion of the Works under and in accordance, with the provisions and conditions, of the contract, and
 - (3) There shall be added to the Contract Sum the net amount due, ascertained in the same manner as for deviations, or as prescribed for payment in respect of the re-execution of the work lost or damaged, the replacement of any materials and things lost or damaged but not incorporated in the Works at the date when the loss or damage occurred and the removal by the Contractor as provided above of the debris and damage work referred to therein.

Provided always that the Contractor shall not be entitled to payment under this Conditions in respect of so much of such loss or damage as has been occasioned by any failure on his part to perform his obligations under the Contract.

- c. Save as provided above, the Contractor shall at his on expense reinstate and make good to the satisfaction of the GE or make compensation for any injury, loss or damage occasioned to any property or right whatever including property and rights of Govt. (or agents, servants or employees of Government) being injury, loss or damage arising out of in any way in connection with the execution of the Contract and further, the Contractor shall indemnify Government against all claims enforceable against Government (or any agent, servant or employees of Government) or which would be so enforceable against Government, were Government a private person, in respect of any such injury resulting in death, loss or damage to any person whomsoever or property including all claim which may arise under the workmen's Compensation ACT or otherwise.

51. **Completion**

- a. The works shall be completed to the entire satisfaction of the GE and in accordance with the agreed forecast of time and progress where operative and on the completion thereof as certified by GE, the Contractor shall clear away and remove from the site all constructional plant, equipment, surplus, materials, rubbish, temporary works of every kind and things (other than such items as have been provided by Government which shall be returned to the place of issue) and leave the whole of the site and permanent works, clean and in a workmanlike condition to the satisfaction of the GE.

- b. The Controlling Officer shall have power to take over from the Contractor from time to time such sections of the Works as have been completed to the satisfaction of the GE.
- c. The GE shall certify to the Contractor the date on which the Works are completed and the state thereof. The GE shall also certify to the Contractor the state of the Works at the end of the maintenance period, where applicable.

52. **Compensation for Delay**

- a. If the Contractor fails to complete the Works and clear the site, as stated in Clause 53, on or before the date of completion stated in the Tender documents or extended under Clause 12, he shall without prejudice to any other right or remedy of Government on account of such breach be liable to pay as compensation an amount equal to one per cent of the Contract Sum or of the measured value of the Works Order for every week that the whole of the Works remain uncompleted or in the case of items for which individual dates for completion have been specified an amount equal to one percent of the Contract value of such items for every week that such items remain uncompleted even though the contract as a whole be completed by the completion date, the amount being calculated proportionately in cases where the works or items remain uncompleted for broken periods of a week as for example, 1/7% for each day for which the works or items so remain uncompleted. Provided that total amount of compensation so payable under this condition shall not exceed 10% the Contract Sum.
- b. The payment or deduction of such compensation shall not relieve the Contractor from his obligations to complete the Works or from any other of his obligations and liabilities under the contract.
- c. If before the completion of the works, any part of the Works has been certified by the Engineer-in-Charge as completed and is fit for occupation/use the amount of such compensation for delay after such certification will be reduced in the proportion which the value of the part so certified bears the value of the whole of the Works.
- d. Bonus will be paid for early completion of the works to a maximum of 5% of the Contract Sum only when time is considered at a premium and this clause is specifically provided in the special conditions of the Contract.

53. **Laws Governing the Contract**

- a. This Contract shall be governed by the laws in force for the time being in Pakistan.
- b. The contractor shall ascertain and confirm in all respect with the provisions of any general or Local Act of parliament and the Regulations and Bye-laws of any local or other statutory authority which may be applicable to the Works and with such rules and regulations of public bodies and companies as aforesaid and shall keep the government indemnified against all penalties and liability of every kind for breach of any of such Acts, Regulations or Bye-laws; Provided always that:-
 - (1) The contractor shall not be required to indemnify the Government against the consequences of any such breach which is the unavoidable result of complying with the Drawings and/or Specifications.
 - (2) If the Drawings or Specifications shall at any time be found not to be in conformity with such Act, Regulation or Bye-law, the GE shall issue such instructions including the order of a variation under Clause 10 as may be necessary to ensure conformity with such Act, Regulation or Bye-law.
- c. Provision of Performance Bond/Bank Guarantee by the Contractor. For the contracts amounting to Rs. 10 millions or more the contractor will deposit a performance bond/ bank guarantee equal to 5% of the value of the contract, with a registered/reputed bank duly pledged in favour of the accepting officer before the acceptance letter is issued to him. The bond/guarantee can be released to

the contractor by the accepting officer after successful/satisfactory completion of the entire work. In case the contractor abandons the work before completion due to any reason, whatsoever, the amount thus pledged may be utilized by the department for completing the remaining work or a portion thereof. In such an eventuality, the contractor will not have any right to claim the amount thus pledged in favour of department.

54. **Cancellation of Contract for Corrupt Acts.** The Accepting Officer, whose decision shall be final and conclusive, shall without prejudice to any other right or remedy which shall have accrued or shall accrue thereafter to Government, cancel the Contract in any of the following cases and the Contractor shall be subject to payment of any loss or damage resulting from any such cancellation to the like extent as is provided in the case of cancellation for default. If the Contractor shall:-

- a. Offer or give or agree to give any person in Government service any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of this or any other contract for Govt. service, or
- b. Try to neck fraudulent payment by producing false requisitions/bills.
- c. Enter into a contract with Government in connection with which commission has been paid or agreed to be paid by him or to his knowledge, unless the particulars of any such commission and the terms of payment thereof have previously been disclosed in writing to the Accepting, officer , or
- d. Obtained a contract with Government a.s a result of ring tendering or other non-bonafide method of competitive tendering without first disclosing the fact in writing to the Accepting Officer.

55. **Cancellation of Contract for Default**

- a. The Accepting Officer may without prejudice to any other right or remedy which shall have deemed or shall accrue thereafter to Government, cancel the Contract in any of the following cases, if the Contractor:-
 - (1) Being an individual, or if a firm, any partner thereof shall at any time be adjudged bankrupt or have a receiving order or order for administration of his estate made against him or shall take any proceedings for liquidation or composition under any Bankruptcy Act for the time being in force or make any conveyance or assignment of his effects or composition or arrangement for the benefit of his creditors or purport so to do, or if any application be made under any Bankruptcy Act for the time being in force for the sequestration of of his estate or if a trust deed be granted by him on behalf of his creditors, or
 - (2) Being a Company, shall pass a resolution or the Court shall make an order for the liquidation of its affairs, or a receiver or manager on behalf of the debenture holders shall be appointed or circumstances shall arise which entitle the Court or debenture holders to appoint receiver or manager, or
 - (3) Fails to comply with any of the Terms and Conditions of the Contract or after reasonable notice in writing, with order properly issued thereunder, or
 - (4) Fails to complete the Woks and clear the Site on or before the date of completion, or
 - (5) Assigns, transfers, sublets or attempts to assign, transfer or sublet any portion of the Work without the prior written approval of the Accepting Officer.
- b. Whenever the Accepting Officer exercises his authority to cancel the Contract under this Condition he may complete the woks by any means at the Contractor's risk and expense. The Contractor shall be entitled to receive payment of work performed, in the Contract value thereof less the cost of completing the Works in his default as certified by the GE and if the cost so certified exceeds the sum of

money held by Government as otherwise due to the Contractor, the Accepting Officer may recover the deficit from the Contractor by other means but if such cost of the work so completed is less than the contract value of the work the contractor shall not be entitled to any credit therefor.

56. **Termination of Contract (Applicable only to Term Contracts).** Unless cancelled under Clause 57 or where order to the full amount contracted for have been placed on the contractor in which case the contract will automatically be considered to have been terminated, the contract shall remain in force for a period of not less than six months and may be terminated at the end of that period or at any time thereafter, provided that six weeks notice in writing to the effect shall have previously been given by either party. The work for which written orders have been issued before the termination of the contract shall be deemed to be within the contract although the time for completion is beyond the date of termination of the contract and the contractor will be bound to complete the same.

57. **Special Powers of Determination (Applicable only to Measurement and Lump Sum Contracts):-**

- a. If at any time after the acceptance of the tender. Government shall for any reason whatsoever decide to foreclose the whole or part of the contract, the Accepting Officer shall give notice in writing of the fact to the Contractor, who shall have no claim to any payment of compensation or otherwise 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 derive in consequence of the foreclosing of the works.
- b. He shall be paid at Contract rates, for the full amount of the work executed including such additional works e.g. clearing of Site, etc., as may be rendered necessary by the said foreclosing. He shall also be allowed a reasonable payment (as decided by the Accepting Officer) for any expenses sustained on account of labour and materials collected but which could not be utilised on the works, as verified by the GE.

CHAPTER IV - VALUATION AND PAYMENT

58. **Records and Measurements**

- a. All items having a financial value shall be entered in the MES Measurement Book PAFW-2261 or in the case of Term Contracts for maintenance and repair work, on other approved Army Form, as applicable so that a complete record is obtained of all work performed under the Contract.
- b. Buildings, etc, priced in Schedule 'A' as a unit lump sum will be entered by number at the unit lump sum. Work carried out for agreed lump sums will be described and similarly recorded. Lump sum omissions will be entered for deduction. Measurement shall be restricted to that required to ascertain the financial liability of Government under the Contract.
- c. Work which falls to be measured in details shall be measured physically without reference to any local custom that may obtain, excepting where it may otherwise be directed in the tender documents. The measurements shall be taken jointly by any person or persons, duly authorised on the part of the MES and by the Contractor. The Engineer-in-Charge shall give reasonable notice in writing to the Contractor and the Contractor shall, without extra charge, provide assistance with every appliance and other things necessary for measurement. The Contractor shall bear all the costs of his own measurement.
- d. Measurements shall be entered in the MES Measurement Book or approved other Army Form as applicable and signed and dated by both parties each day on the Site on completion of measurement. If the Contractor objects to any of the measurements recorded on behalf of the MES, a note to that effect will be made in the MES Measurement Book or other approved Army Form as applicable against the item or items objected to; and such note shall be signed and dated by

both parties engaged in taking the measurement.

- e. If as a result of such objection, it becomes necessary to re-measure the work wholly or in part, the expense of such re-measurement shall be borne by the Party requiring the measurements to be retaken provided that a net error is found by this re-measurements to amount to less than 5 per cent of the value as recorded by the first measurement. But where the net errors amount to 5 per cent or over of the said value, then the cost is to be borne by the other party. In any case, if the net value of errors found exceeds Rs. 500 (Rupees five hundred only) the expense of re-measurement is to be borne by the other party.
- f. If the Contractor's representative fails to attend when required, the Engineer-in-Charge shall have power to proceed by himself to take measurements and in that case these measurements shall be accepted by the Contractor as final.

59. **Valuation of Deviations.** The value of all deviations shall be ascertained by measurement or Lump Sum assessment in accordance with the following principles:-

- a. **Priced Bills of Quantities are Part of Contract.** The valuation shall be on the basis of rates or prices for similar work in Schedule. A and/or bill of quantities in so far as such rate or prices apply. Where the rates or prices in Schedule A and/or bills of quantities do not apply, the value shall be based on rates or prices deduced therefrom so far as it is practicable to do so; failing which, on rates or prices from both Schedule A and/or bill of quantities and Schedule of rates and where not directly applicable on rates or prices deduced therefrom. Where none of the foregoing methods is applicable the Schedule of rates as relevant shall be adopted. Provided further that where rates or prices from Schedule of rates are adopted, these shall be subject to contractor's percentage.
- b. **Priced Bills of Quantities are Not Part of Contract.** The valuation shall be on the basis of rates or prices of similar works in Schedule A in so far as such rates or prices apply and where such rates or prices do not directly apply the value shall be based on rates or prices deduced therefrom so far as it is practicable to do so. Failing this, the valuation shall be on the rates or prices from both Schedule A and Schedule of rates, and where not directly applicable on rates or prices deduced therefrom. Where none of the foregoing methods is applicable the Schedule of rates as relevant shall be adopted. Provided further that where rates or prices from Schedule of rates are adopted, these shall be subject to contractor's percentage.

60. **Advances on Account**

- a. The Contractor may at intervals of not less than one month submit claims on PAFW-2263 for payment of advances on account of work done and of materials delivered in connection with Measurement and Lump Sum Contracts. Advance payments will also be made on account of works done under Term Contracts provided that the estimated value of work performed is Rs. 5,000 or more and that the value of the payments on account is not less than Rs. 2,500.
- b. The Contractor shall be entitled to be paid in respect of such claims ninety per cent of the value of work executed on the Site to the satisfaction of the GE.
- c. In the case of Measurement and Lump Sum Contracts the Contractor shall also be entitled to be paid during the progress of the works 75 per cent of the value of any materials which are in the opinion of the GE in accordance with the Contract and which have reasonably been brought on the Site in connection therewith and are adequately stored and/or protected against damage by weather or other causes, but which have not at the time of the advance been incorporated in the Works.
- d. Provided always that payment shall not be made under these periodical certificates in respect of perishable materials' except in the case of timber brought to site in the form of planks and/or scantling for which payment to the extent 75% of its value may be made provided further that the following conditions are fulfilled:-

- (1) The contractor has brought the total quantity of timber required for incorporation in the work on the acceptance of contract.
- (2) It is stacked at site in such a manner as to allow natural seasoning to take place for as long as possible.
- e. Any sum due from the contractor on account of transport, stores, or any such matter provided by Government shall be deducted from the first advance paid after the sum becomes due.
- f. The GE shall from time to time certify the sum to which the Contractor is entitled after retaining the reserve. Any certificate relating to work done or materials delivered may be modified or corrected by any subsequent interim certificate or by the final certificate and no certificate of the GE supporting on advance payment shall of itself be conclusive evidence that any work or materials to which it relates are in accordance with the Contract.

61. **Final Bill (Applicable only to Measurement and Lump Sum Contracts)**

- a. As soon as possible after the completion of the works to the satisfaction of the GE, the Contractor shall forward a certified final account on PAFW-2262 in duplicate. It shall be accompanied by all abstracts, vouchers, etc supporting it and shall be prepared in the manner prescribed by the GE. No claims will be entertained after the contractor has signed the no demand certificate.
- b. The Contractor shall be entitled to be paid the final sum after deductions of the following amounts, subject to the certifications of the final bill by the GE:-
 - (1) The value of payments already made on account and of any charges properly preferred under the conditions of Contract.
 - (2) Security money under Clause-63.
- c. No charges shall be allowed to the Contractor on account of the preparations of the final bill. If the final bill is not submitted by the contractor within 30 days after the completion of the work or if the contractor expresses in writing his inability to do so, then the final bill shall be prepared by the department.

62. **Final Bill (Applicable only to Term Contracts)**

- a. As soon possible, after the completion of the works to the satisfaction of the Engineer-in-Charge, the contractor shall forward, a certified final account on PAFW-2262 in duplicate, accompanied by all supporting abstracts, vouchers, etc prepared in the manner prescribed by the GE. In respect of work Orders arising out of unit requisitions of MES inspections for maintenance and repairs, any portion of such an order which remains uncompleted at the date of the next subsequent requisition or inspection may, purely to facilitate payment for completed work and without prejudice to any other right or remedy of Government in respect of any such delay, be deleted and the work Orders as so amended, forthwith billed for. final payment.
- b. No claim will be entertained in respect of the works after the contractor has signed No Demand Certificate.
- c. The Contractor shall be entitled to be paid the final sum after deductions of the following amounts, subject to the certification of the final bill by the GE:-
 - (1) The value of payments already made on account and of any charges properly preferred under the condition of contract.
 - (2) Security money under Clause 63.
- d. No charges shall be allowed to the contractor on account of the preparation of the final bill. If the final bill is not submitted by the contractor within 30 days after

the completion of the work or if the contractor expresses in writing his inability to do so then the final bill shall be prepared by the department.

63. **Security Money During Maintenance Period.** An amount equal to two per cent of the work done shall be deducted from the final bill and retained as Security during the Maintenance period and shall be released on the expiration of the maintenance period to the satisfaction of Engineer-in-Charge. CMES shall however be competent to release this amount up to maximum of fifty per cent of the amount so retained after the expiry of half the period of maintenance.

Instead of making deductions of Security money from the final bill, the Contractor may deposit the said amount in cash or in the form of Standing Security Bond as under:-

- (a) Government Securities.
- (b) Provincial and Municipal Debentures.
- (c) Port Trust Bonds.
- (d) Deposit Receipts of Nationalised Banks.
- (e) Post Office 5-year Cash Certificates.
- (f) Post Office Savings Bank Pass Books.
- (g) Prize Bonds.

64. **Payment of Bills.** Payment of bills will be made by means of a crossed cheque to the Contractor within a reasonable time, after completion and their certification by the GE.

65. **Recovery/Refund**

- a. Whenever under the contract any sum of money shall be recoverable from or payable by the contractor the same may be deducted from any sum then due or which at any time thereafter may become due to the contractor under the contract or under any other contract with Government, or from his Security Bond. or he shall pay the claim on demand, provided that in case of recovery from a contract other than the one to which the recovery pertains, the mode of effecting the recovery shall be decided by the controlling officer of the former contract.
- b. Notwithstanding anything to the contrary herein contained the Government reserve the right to carry out a post payment audit and technical examination of the final bill including all supporting vouchers and abstracts, etc. In addition to site check of the completed and ongoing projects by DI&E.
- c. If as a result of such audit and technical examination any over-payment is discovered in respect of any work done by the contractor, or alleged to have been done by him under the Contract, it shall be recovered by Government from the Contractor by any or all of the methods prescribed above or any under-payment is discovered the amount shall be duly paid to the contractor by Government.
- c. Provided that nothing stated herein before shall entitle the Government to recover any over-payment or refund any under-payment in respect of any price agreed between the CMES or GE and the contractor or under the circumstances specifically prescribed for such method of assessment, and that the said right of Government to adjust over and under-payments shall not extend beyond a period of three years from the date of payment of the final sum.

66. **Deduction of Income Tax.** Deduction of Income Tax will be effected in accordance with rules framed by the competent authorities from time to time and the laws on the subject.

67. **Arbitration.** All disputes between/among the parties to the contract arising out and or relating to the contract or execution of work, other than those for which the decision of GE/CsMES/ DW&CEs or of any other person is under the contract expressed to be final shall, after written notice by either party to the other be referred to the sole arbitrator to be appointed by the Secretary, Law, Justice and Human Rights Division. While appointing the sole arbitrator, he may also consider the panel submitted by Engineer-in-Chief of Pakistan Army. Unless the parties otherwise agree, such reference shall not be made until after completion/alleged completion, abandonment of work of the termination of the contract. The venue of arbitration

shall be fixed by the sole arbitrator at his discretion. The award thus made shall be final and binding on the parties to the arbitration.