

## **8.0 DELAY / EXTENSION OF COMPLETION TIME/LIQUIDATED DAMAGE /TERMINATION OF CONTRACT.**

### ***Extension of completion time***

8.1 Should the quantum of extra or additional work of any kind or delayed availability of the Trustees' materials to be supplied as per contract or exceptionally adverse climatic conditions and natural phenomenon or strikes, lock-outs, civil commotions or other special circumstances of any kind beyond the control of the Contractor, cause delay in completing the work, the contractor shall apply to the Engineer in writing for suitable extension of completion time within 7 days from the date of occurrence of the reason and the Engineer shall thereupon consider the stated reasons in the manner deemed necessary and shall either reject the application or determine and allow in writing the extension period as he would deem proper For completion of the work, with or without the imposition of "Liquidated Damage" Clause (No. 8.3 hereof) on the Contractor and his decision shall be binding on the Contractor. If an extension of completion time is granted by the Engineer, the Clause No. 8.3 of the Liquidated damage shall apply from its date of expiry, if the work be not completed within the extended time, unless stated otherwise in the decision communicated by the Engineer, as aforesaid.

### ***'Liquidated Damage' and other compensation due to Transtees.***

8.2 a) If the Contractor fails to complete the work within the stipulated dates or such extension thereof as communicated by the Engineer in writing, the Contractor shall pay as compensation (Liquidated Damage) to the Trustees and not as a penalty, 1/2% (half percent) of the total value of work (contract price) as mentioned in the letter of acceptance of the tender/offer, for every week or part thereof the work remains unfinished. Provided always that the amount of such compensation shall not exceed 10% of the said value of work.

b) Without prejudice to any of their legal rights, the Trustees shall have the power to recover the said amount of compensation/damage in Sub-Clause (a) of this clause, from any money due or likely to become due to the Contractor. The payment or deduction of such compensation/damage shall not relieve the Contractor from his obligation to complete the work or from any of his other obligations/liabilities under the contract and in case of the Contractor's failure and at the absolute discretion of the Engineer, the work may be ordered to be completed by some other agency at the risk and expense of the Contractor, after a minimum three days' notice in writing has been given to the Contractor by the Engineer or his Representative.

### ***Default of the Contractor: remedies & powers/Termination of contract***

8.3 Without being liable for any compensation to the Contractor, the Trustees may, in their absolute discretion, terminate the contract and enter upon the site and works and expel the Contractor there from after giving him a minimum 3 days' notice in writing,

due to occurrence of any of the following reasons and decision of the Trustees in this respect, as communicated by the Engineer shall be final and conclusive:

i) The Contractor has abandoned the contract.

ii) In the opinion of the Engineer, either the progress of work is not satisfactory or the work is not likely to be completed within the agreed period on account of Contractor's lapses.

iii) The Contractor has failed to commence the works or has without any lawful excuse under these conditions, has kept the work suspended for at least 15 days despite receiving the Engineer's or his Representative's written notice to proceed with the work.

iv) The Contractor has failed to remove materials from site or to dismantle or demolish

and replace work for 7 days after receiving from the Engineer or his Representative the written notice stating that the said materials or work were condemned and rejected by him under these conditions.

v) The Contractor is not executing the works in accordance with the contract or is persistently or flagrantly neglecting to carry out his obligations under the contract.

vi) Any bribe, commission, gift or advantage is given, promised or offered by or on behalf of the contractor to any officer, servant or representative of the Trustees or to any person on his or their behalf in relation to the obtaining or to the execution of the contract.

vii) The Contractor is adjudged insolvent or enters into composition with his creditors or being a company goes into liquidation either compulsory or voluntary.

8.3.1. Upon receipt of the letter of termination of work, which may be issued by the Engineer on behalf of the Trustees, the Contractor shall hand over all the Trustees' tools, plant and materials issued to him at the place to be ascertained from the Engineer, within 7 days of receipt of such letter.

8.3.2. In all such cases of Termination of work, the Trustees shall have the power to complete the work through any other agency at the Contractor's risk and expense and the Contractor shall be debited any sum or sums that may be expended in completing the work beyond the amount that would have been due to the Contractor, had he duly completed the whole of the work in accordance with the contract.

8.3.3. Upon termination of contract, the Contractor shall be entitled to receive payment of only 90% of the value of work actually done or materials actually supplied by him and subject to recoveries as per contract, provided the work done and materials conform to specifications at the time of taking over by the Trustees. The payment for work shall be

based on measurements of actual work done and priced at approved contract rates or other rates, as decided by the Engineer. The payment for materials supplied shall be at the rates as decided by the Engineer, which shall in no case be more than market rates prevailing at the time of taking over by the Trustees. The Engineer's decision in all such case shall be final, binding and conclusive.

8.3.4 The Trustees shall have the power to retain all moneys due to the Contractor until the work is completed by other agency and the Contractor's liabilities to the Trustees and known in all respect.