

राष्ट्रीय राजमार्ग एवं अवसंरचना विकास निगम लिमिटेड

सड़क परिवहन और राजमार्ग मंत्रालय, भारत सरकार
तीसरी मंजिल, पीटीआई बिल्डिंग, 4-संसद मार्ग, नई दिल्ली-110001

National Highways & Infrastructure Development Corporation Limited

Ministry of Road Transport & Highways, Govt. of India
3rd Floor, PTI Building, 4-Parliament Street, New Delhi-110001, +91 11 23461600, www.nhidcl.com



(भारत सरकार का उद्यम)

(A Government of India Enterprise)

WITHOUT PREJUDICE

NHIDCL/MHA/BIP/211084/2020-21/ 2091

Date: 03.04.2023

To,

M/s. Hindustan Windows Mfg. Co.,
11, Clive Row (3rd Floor, Room No. 1),
Kolkata, West Bengal - 700001.
Contact No.: 033-22424655,
Email: hindustanwindows@yahoo.com

[Kind Attention: Sh. K. L. Dhariwal, Sh. Rajesh Dhariwal]

Sub: Construction and Installation of prefabricated Office cum Residence in the States of Himachal Pradesh & Union Territory of Ladakh in high altitude remote areas (Package-II)- Termination Order under Article 53 of the Contract Agreement-reg.

- Ref: 1. NHIDCL/MHA/BIP/Pkg-II/2020-21/383 dated 23.12.2020.
2. Contract Agreement dated 29.12.2020.
3. NHIDCL/PMU(Infra)-Ladakh/Project/MHA/BIP/Pkg-II/21-22/119 dated 16.06.2021.
4. Letter no 1/C-II/2020/BIP/Package-II/2021-22 dated 17.02.2022
5. Minutes of Meeting held in NHIDCL HQ dated 30.03.2022.
6. NHIDCL/MHA/BIP/Package-II/2021-22/1915 dated 17.03.2022.
7. NHIDCL/PMU(Infra)-Ladakh/ITBF-OCR Shelter/2022-23 dated 06.04.2022
8. NHIDCL/MHA/BIP/Package-I/2021-22/1927 dated 19.05.2022.
9. NHIDCL/PMU (Infra)-Ladakh/ITBF-OCR Shelter/2022-23/1080 dated 20.05.2022.
10. NHIDCL/PMU (Infra)-Ladakh/ITBF-OCR Shelter/2022-23/1232 dated 26.06.2022
11. Minutes of Meeting held in NHIDCL HQ dated 29.06.2022
12. NHIDCL/PMU (Infra)-Ladakh/ITBF-OCR Shelter/2022-23/1326 dated 18.07.2022,
13. NHIDCL/PMU (Infra)-Ladakh/ITBF-OCR Shelter/2022-23/1365 dated 30.07.2022
14. NHIDCL/PMU (Infra)-Ladakh/ITBF-OCR Shelter/2022-23/1525 dated 19.09.2022
15. NHIDCL/PMU (Infra)-Ladakh/ITBF-OCR Shelter/2022-23/1533 dated 28.09.2022
16. Minutes of Meeting held in NHIDCL HQ dated 06.10.2022.
17. NHIDCL/PMU (Infra)-Ladakh/ITBF-OCR Shelter/2022-23/1564 dated 24.10.2022
18. Minutes of Meeting held in NHIDCL HQ dated 22.11.2022.

Sh
03/04/2023

19. NHIDCL/PMU(Infra)-Ladakh/ITBF-OCR Shelter/2022-231692 dated 16.12.2022
20. NHIDCL/PMU(Infra)-Ladakh/ITBF-OCR Shelter/2022-23 1702 dated 30.12.2022
21. NHIDCL/RO Ladakh/Infra/IB/2022-23/39 dated 06.02.2023.
22. HW/NHIDCL/Package-I/2022-23 dated 01.03.2023

Sir,

WHEREAS, M/s. Hindustan Windows Mfg. Co has been awarded the work of "Construction and Installation of prefabricated Office cum Residence in the States of Himachal Pradesh & Union Territory of Ladakh in high altitude remote areas (Package-II) (hereinafter referred as the "project") vide NHIDCL HQ letter no. NHIDCL/MHA/BIP/Pkg-II/2020-21/383 dated 23.12.2020 for the contract price of Rs. 20, 41, 78, 233/-.

2. **WHEREAS,** the Contract Agreement was signed on the 29th day of December,2020 between National Highways & Infrastructure Development Corporation Limited (hereinafter referred as "NHIDCL") and **M/s. Hindustan Windows Mfg. Co.** (hereinafter referred as "Contractor"). In accordance with para 33.1 of ITB of the Contract Agreement, the Contractor has submitted a Bank Guarantee amounting to Rs 61,25,347/ (Rs. Sixty One Lakh Twenty Five Thousand Three Hundred Forty Seven only) towards performance security on 23.01.2021.

3. **WHEREAS,** upon furnishing the performance security as stipulated in the Contract Agreement, you were instructed to proceed with the execution of the said project, with a completion period of 09 (Nine) months.

4. **WHEREAS,** as per the Note 2 in Section VI of the Contract Agreement (refer page no 258 of CA), the design drawings had to be vetted from an IIT/NIT/any reputed Government Institution. The designs were submitted to IIT, Bombay (as directed by IB MHA) and the same were rectified and revised as specified by the IIT Professors. However, as the approval from IIT, Bombay was delayed from April 2021 to June 2021 affecting the work substantially, the approval of the designs was obtained from IIT, Delhi on 12.07.2021. However, it has been intimated by the RO that ink signed copy of vetted Design and Drawing is still not submitted even after a delay of more than 619 days.

5. **WHEREAS,** RO has intimated that ink signed copy of vetted Design and Drawing is still not submitted till date despite of several reminders by RO vide letters no. NHIDCL/PMU (Infra)-Ladakh/ITBF-OCR Shelter/2022-23/1326 dated 18.07.2022, NHIDCL/PMU (Infra)-Ladakh/ITBF-OCR Shelter/2022-23/1232 dated 26.06.2022 & no NHIDCL/PMU (Infra)-Ladakh/ITBF-OCR Shelter/2022-23/1080 dated 20.05.2022.

6. **WHEREAS,** as per clause 18.6 of the Contract Agreement (CA), a sample structure had to be erected in the fabrication yard/factory at Kolkata within 30 (Thirty) days time after the

De
03/04/2023

approval of the designs by the Engineer In-Charge and the same had to be inspected by the Employer/Engineer In-Charge within seven days of the intimation by Contractor.

7. WHEREAS, due to exigency of the work as well as onset of the COVID-19 pandemic, it was mutually agreed that the sample structure may be erected at Dungti. The location was finalized and it was intimated to start the work on site on 16.06.2021. However, the work at site was started on 15.08.2021 after a delay of 61 days.

8. WHEREAS, the work was undertaken by **M/s. Hindustan Windows Mfg. Co** and the sample structure to be constructed in 30 (Thirty) days was finally completed and handed over to the end user on 27.01.2022 i.e. after a delay of 196 days.

9. WHEREAS, on approval of the Pilot Structure go ahead for all the 16 remaining locations was given on 17.03.2022, and keeping in view the exigency of work and on the contractor's request, an amount of Rs. 2, 25, 42, 384/- was released by NHIDCL as per the Serial No 1 of the table in Clause 40.2 of the Contract Agreement. The payment was released on 25.05.2022 to maintain proper cash flow of the contractor.

10. WHEREAS for the remaining 16 locations in this Project details were intimated to **M/s. Hindustan Windows Mfg. Co** vide this office letter dated 17.03.2022 and it was instructed in meetings held in NHIDCL, HQ, dated 30.03.2021, 29.06.2022, 06.10.2022 & 22.11.2022 that the work may be undertaken simultaneously and completed before the winter season approaches. However, till date, out of 16 locations the erection of superstructure has been completed on two locations only even after a delay of 735 days.

11. WHEREAS, IB MHA (the client department) has notified vide their letter dated 05.04.2022 that the sample structure at Dungti had encountered several defects and the same needs rectification. The same was intimated to **M/s. Hindustan Windows Mfg. Co** several times by RO Ladakh vide letter no NHIDCL/PMU(Infra)-Ladakh/ITBF-OCR Shelter/2022-23 dated 06.04.2022. NHIDCL/PMU(Infra)-Ladakh/ITBF-OCR Shelter/2022-23 1702 dated 30.12.2022, letter no. NHIDCL/PMU(Infra)-Ladakh/ITBF-OCR Shelter/2022-231692 dated 16.12.2022, and also through telecon but proper rectification of the same has not been undertaken till date even after a delay of 350 days

12. WHEREAS, as per Clause B of Section VI of the Contract Agreement, proper furniture of approved make had to be provided at all locations of the OCRs. Despite several reminders vide letter no. 1232 dated 26.06.2022 & 1365 dated 30.07.2022, no requisite furniture has been made available at the sample structure at Dungti till date even after a delay of 269 days.

13. WHEREAS, vide meetings held on 30.03.2022, 29.06.2022, 06.10.2022, and 22.11.2022 with **M/s. Hindustan Windows Mfg. Co** and its representatives, it has been intimated time and again that the progress of work is very slow and needs to be expedited so that desirable progress of works can be achieved at all locations. However no further substantial progress is seen at the entire work site and the same was intimated vide letter no. 1564 dated 24.10.2022, letter no. 1533 dated 28.09.2022, letter no. 1525 dated 19.09.2022, letter no. 1365 dated 30.07.2022 & letter no. 1326 dated 18.07.2022.


03/04

14. WHEREAS vide the meeting held at NHIDCL HQ on dated 22.11.2022, it was instructed that the sample structure in all respects should be completed latest by 15.12.2022 and failure to comply with the instructions shall be dealt as non-compliance of the Contract Agreement and necessary action shall be initiated against your firm as per the provisions of the Contract Agreement. No work in this regard has been carried out even after a delay of 120 days.

15. Whereas as per the work programme submitted on 17.12.2022, it has been intimated by **M/s. Hindustan Windows Mfg. Co** that the "*Furniture has been ordered and required minor rectification work will be rectified during the furniture installation*" which shows unprofessional and non-serious attitude of the contractor towards the subject project as already pointed out by NHIDCL on various instances.

16. The failure of the Contractor towards achieving the targeted progress as agreed upon in the meeting dated 22.11.2022, has only justified a lack of planning and co-ordination and also inadequate resources deployed on site for the project.

17. Keeping in view the above facts, M/s Hindustan Windows Mfg. Co. has been found to be in default as per the Article 53 of the Contract Agreement, in respect of the following clauses:

Sr. no.	Clause of the Contract Agreement	Description
1.	Clause 53.2 (a)	The contractor stops the work for 28 days when no stoppage of work is shown in the work programme and the stoppage has not been authorized by the Engineer In-Charge
2.	Clause 53.2 (c)	The Engineer/Employer gives notice that failure to correct a particular defect is a fundamental breach of the contract and the contractor fails to correct it within as reasonable period of time determined by the Engineer.
3.	Clause 53.2 (e)	The contractor has delayed the completion of works by the number of days for which the maximum amount of liquidated damages can be paid as defined in clause 45;

18. Whereas, an Intention to Terminate the Contract Agreement was also issued vide letter no. NHIDCL/RO Ladakh/Infra/IB/2022-23/39 dated 06.02.2023 to M/s Hindustan Windows Mfg. Co, keeping in view the above stated facts and substances, it is evident that M/s Hindustan Windows Mfg. Co have failed to adhere with the various timelines stipulated during various meetings.

19. M/s Hindustan Windows Mfg. Co vide letter no HW/NHIDCL/Package-I/2022-23 dated 01.03.2023 replied to the said Intention to Termination Notice dated 06.02.2023, which was found to be non-satisfactory. In the light of aforesaid facts and circumstances, non-exhaustive fundamental breach of the contract and Contractor's persistent & sustained gross default in

DL
03/04/2023

fulfilling contractual obligations, leading to a material adverse effect on the Project, the Authority has now after giving sufficient time to cure the defaults and extending all possible support to the Contractor and after observing no improvement in the attitude of the Contractor with the sole intention of gaining monetary benefits from the Authority without doing the work, is left with no other option but to terminate the contract with M/s Hindustan Windows Mfg. Co forthwith in accordance with Article 53 of the Contract Agreement with immediate effect. The Contract Agreement is hereby terminated with immediate effect.

20. Upon termination of this Agreement in accordance with the terms of Article 53, the provisions of Article 54 shall henceforth apply.

21. This order is issued without prejudice to any other right or remedy available with the Authority under the Contract Agreement and applicable law

22. This issues with the approval of Competent Authority.


(M. S. Deol)

Executive Director (T)
NHIDCL HQ, New Delhi

Copy to:

- i. PS to MD NHIDCL
- ii. PS to Dir (T)
- iii. ED(T/P)s, NHIDCL
- iv. GM (IT), NHIDCL HQ (to upload the notice on the website)
- v. Shri. Anil Kumar Saha, Additional Deputy Director, IB MHA for information please.