

this contract, and also of any extra work done; and if the engineer shall approve such estimate, he shall sign the same and forward it to the president and directors of the company. The final measurement of the work will comprehend simply the total excavation or embankment on the section, as the one or the other may predominate: and if the contractor, in forming spoil banks where the excavation predominates, shall waste more than the excess of excavation, and hence be obliged to borrow elsewhere to complete the embankment, such additional work will not be included in the measurement.

16. At the expiration of every two weeks' work, a report shall be made by the contractor to the assistant engineer having charge of the section, of the average force of men, carts, &c. employed upon the section for the preceding two weeks, according to such forms as shall be supplied by the engineer.

17. Within ten days after the return of any monthly estimate to the President and Directors four-fifths of the sum appearing to be due for work performed, and materials furnished since the preceding estimate, shall be paid to the contractor in the mode, by which payments are made by the regulations of this company, and no portion of the remaining fifth part shall under any circumstances be paid until this contract is fulfilled. Within thirty days after the section shall have been completed, according to the time, intent and meaning of this contract, a final estimate thereof shall be made, and within thirty days after the adjustment of the final estimate, the balance due thereon shall be paid, and it is further agreed that no draft shall be drawn upon or accepted by the President and Directors of the Rail Road Company unless such draft shall be drawn upon some particular estimate after the contractor shall have certified on the back of said estimate that he is satisfied of its correctness.

18. All buildings or fences on the line of rail way shall be preserved, in such manner as the engineer may direct by the contractor, who shall protect them from injury by his hands, and as far as practicable by any other persons.

19. The section shall be made and completed as herein described on or before the first day of may 1840, and for a failure to make and complete said section within the time fixed for its completion, the engineer for the time being, shall assess such damages as he may think the good of the work requires, and charge said contractor with the amount thereof, and the said engineer may employ other assistance to hasten the completion of said section of road way whenever in his opinion it shall be requisite to insure the completion of the work within the specified time, and the expense of such assistance shall be paid by the contractor; provided, that the board shall at all times have the power of extending the time of completion.

20. It is understood and agreed that all orders given by an engineer, and which shall cause an increase or diminution in the