

राजस्थान सरकार  
वित्त विभाग  
(सामान्य वित्तीय एवं लेखा नियम अनुभाग)


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समस्त लेखा संवर्ग के अधिकारी,  
समस्त उपापन संस्था/स्टेक होल्डर्स/आमजन

विषय: ड्राफ्ट स्टेण्डर्ड बिडिंग डॉक्यूमेंट्स पर सुझाव आमंत्रण

जैसा कि आपको विदित है कि राजस्थान लोक उपापन में पारदर्शिता अधिनियम, 2012 व राजस्थान लोक उपापन में पारदर्शिता नियम, 2013 को दिनांक 26.1.2013 से प्रभावी किया गया है। उक्त नियमों के अन्तर्गत जारी किये जाने वाले टेण्डर डॉक्यूमेंट्स को अंतिम रूप दिये जाने से पूर्व इसके ड्राफ्ट प्रारूप (Works) जारी किये जा रहे हैं जिस पर आपके अमूल्य सुझाव वित्त विभाग को ई-मेल "caospfc@gmail.com" अथवा पत्र के द्वारा अधोहस्ताक्षरकर्ता को 20.6.2013 तक भिजवाये जाने की व्यवस्था करें। Goods तथा Services से संबंधित SBD पूर्व में ही दिनांक 13.2.2013 को वित्त विभाग की वेबसाइट पर आपके सुझाव तथा अवलोकन हेतु जारी किये जा चुके हैं।

निकट भविष्य में SBD's पर कार्यशाला आयोजित की जानी प्रस्तावित है। अतः आपके सुझाव/टिप्पणी निर्धारित तिथि तक भिजवाने का श्रम करें।

भवदीय,  
  
(उमिला जोशी)  
संयुक्त सचिव



Government of Rajasthan

Standard Bidding Document  
(Works)

Single Stage - One Envelope  
(Single Part) Bid

**Standard Bidding Document(Works)**  
**Single Stage-One Envelope(Single Part) Bid**

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## Notice Inviting Bids

### (Format of NIB for Publication on State Public Procurement Portal)

OFFICE OF THE.....  
*[Enter Complete Address of Office of the Procuring Entity with Tel. Nos., Fax and E-mail Address]*

#### NOTICE INVITING BIDS

NIB No.....Date.....

1. Single Stage Single-Envelope unconditional sealed bids are invited on behalf of the Governor of Rajasthan / .....  
.....*[enter name of the Organisation, if other than a Department of the State Government]* for the procurement of Works as listed below, from enlisted bidders of appropriate class of the department/ organisation upto ..... AM/PM of .....*[Date]*.

S.No.	Name of Work	Estimated Cost of Work	Site of Work	Amount of Bid Security (Rupees)	Validity period of Bids	Completion Period
1						
2						
3						

2. Bidding Document containing Instructions to Bidders, Bid Data Sheet, Evaluation and Qualification Criteria, Bidding forms, Procuring Entity's Requirements, General Conditions of Contract, Contract Data/ Special Conditions of Contract, Contract Forms, etc. can be seen at or obtained from the office of the.....*[enter designation of Procuring Entity]* during office hours on working days up to one day before the date of opening of Bids, by paying a non-refundable price of Rs. .... in the form of cash, banker's cheque, Demand Draft of a Scheduled Bank in India, or eGRAS. Alternatively, these may be seen and downloaded from the website of State Public Procurement Portal <http://sppp.raj.nic.in> or the official web site *[if there is any]* www ..... of the ..... *[enter designation of Procuring Entity]* and the price of Bidding Document may be paid along

with user charges/ processing fee, if any, at the time of submission of the Bid.

3. Bids, duly signed on all pages and serially numbered, properly bound, accompanied with the Bid Security, (or Bid Securing Declaration where applicable) in the form of cash, deposit through eGRAS/ Demand Draft/ Banker's cheque/ Bank Guarantee in the specified format, from a Scheduled Bank in India, shall be submitted personally or by post in sealed envelopes upto.....AM/PM of....., to ..... *[enter address of the office where bids are to be submitted]* bearing the reference to NIB and warning as:  
"BID FOR NIB No..... for....., NOT TO BE OPENED BEFORE ..... *[Date]* at.....AM/PM",  
by post or by hand or dropped in the Bid Box at the office of the Procuring Entity.
4. Enlisted contractors shall be required to deposit 1/2% of estimated cost of work as Bid Security while bidding within their area of enlistment. For outside their area of area of enlistment, 2% Bid Security shall be required to be deposited. Degree/ Diploma holder engineers may pay Bid Security equal to one half of the normal rates, subject to the provisions of rules for enlistment of contractors.
5. In case Bids have been invited electronically, the procedure for submission of Bids including payment of price of Bidding Document, user charges/ processing fee, Bid Security, etc. shall be as provided on the State Public Procurement Portal.
6. Bids received after the specified time and date shall not be accepted and returned unopened.
7. The Bids shall be opened at .....AM/PM on dated.....  
in the office of the Procuring Entity / Engineer Incharge in the presence of the Bidders or their representatives who wish to be present.
8. The procuring Entity is not bound to accept the lowest Bid and may reject any or all Bids without assigning any reason thereof.
9. The Bidders shall have to submit a valid 'VAT' clearance certificate from the concerned Commercial Taxes Officer and the 'PAN' issued by Income Tax Department.

Designation of the Procuring Entity

**(Abridged Form of NIB for Publication in the Newspapers)**

OFFICE OF THE.....  
*[Enter Complete Address of Office of the Procuring Entity with Tel. Nos.,  
Fax and E-mail Address]*

NOTICE INVITING BIDS

NIB No.....Date.....

Sealed Bids are invited on behalf of the Governor of Rajasthan/  
..... *[enter name of the Organisation, if other  
than a Department of the State Government]* from registered bidders of  
appropriate class upto.....AM/ PM of.....for procurement of  
..... *[insert names of Works to be procured]*. Details  
may be seen in the Bidding Document at our office or the website of the  
State Public Procurement Portal <http://sppp.raj.nic.in> or our website\* www  
..... and may be downloaded from there or obtained from our  
office on payment of Rs..... in cash/ banker's cheque / demand draft/  
eGRAS\*\*.

Designation of the Procuring Entity

\*Strike out if there is no separate website.

\*\*Strike out whichever is not applicable

## **Section I : Instructions to Bidders**

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**Important Instruction:- The Law relating to procurement “The Rajasthan Transparency in Public Procurement Act, 2012” [hereinafter called the Act] and the “Rajasthan Transparency in Public Procurement Rules, 2013” [hereinafter called the Rules] under the said Act have come into force which are available on the website of State Public Procurement Portal <http://sppp.raj.nic.in>. Therefore, the Bidders are advised to acquaint themselves with the provisions of the Act and the Rules before participating in the bidding process. If there is any discrepancy between the provisions of the Act and the Rules and this Bidding Document, the provisions of the Act and the Rules shall prevail.**

1. General			
1.1	Scope of Bid	1.1.1	In support of the Invitation to Bid indicated in the Bid Data Sheet (BDS), the Procuring Entity , as indicated in the BDS ,issues this Bidding Document for the procurement of works as named in the BDS and as specified in Section V, Procuring Entity’s Requirements.
		1.1.2	Throughout this Bidding Document:  The term “in writing” means communicated in written form through letter, fax, e-mail etc. with proof of receipt.  i. if the context so requires, singular means plural and vice versa; and  ii. “Day” means calendar day.
1.2	Code of Integrity	1.2.1	Any person participating in the procurement process shall,-  a) not offer any bribe, reward or gift or any material benefit either directly or indirectly in exchange for an unfair advantage in procurement process or to otherwise influence the procurement process;  b) not misrepresent or omit that misleads or attempts to mislead so as to obtain a financial or other benefit or avoid an obligation;



			<ul style="list-style-type: none"> <li>c) not indulge in any collusion, bid rigging or anti-competitive behavior to impair the transparency, fairness and progress of the procurement process;</li> <li>d) not misuse any information shared between the Procuring Entity and the Bidders with an intent to gain unfair advantage in the procurement process;</li> <li>e) not indulge in any coercion including impairing or harming or threatening to do the same, directly or indirectly, to any party or to its property to influence the procurement process;</li> <li>f) not obstruct any investigation or audit of a procurement process;</li> <li>g) disclose conflict of interest, if any; and</li> <li>h) disclose any previous transgressions with any Entity in India or any other country during the last three years or any debarment by any other Procuring Entity.</li> </ul>
		1.2.2	<p>Conflict of Interest: A conflict of interest is considered to be a situation in which a party has interests that could improperly influence that party's performance of official duties or responsibilities, contractual obligations ,or compliance with applicable laws and regulations.</p> <p>I. A Bidder may be considered to be in conflict of interest with one or more parties in this bidding process if, including but not limited to:</p> <ul style="list-style-type: none"> <li>a. have controlling partners / shareholders in common ;or</li> <li>b. receive or have received any direct or indirect subsidy from any of them; or</li> <li>c. have the same legal representative for purposes of this Bid; or</li> <li>d. have a relationship with each other , directly or through common third parties , that puts</li> </ul>

			<p>them in a position to have access to information about or influence on the Bid of another Bidder, or influence the decisions of the Procuring Entity regarding this bidding process ; or</p> <p>e. the Bidder participates in more than one Bid in this bidding process. Participation by a Bidder in more than one Bid will result in the disqualification of all Bids in which the Bidder is involved. However, this does not limit the inclusion of the same subcontractor, not otherwise participating as a Bidder, in more than one Bid; or</p> <p>f. Bidder or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the Works that are the subject of the Bid; or</p> <p>g. Bidder or any of its affiliates has been hired (or is proposed to be hired) by the Procuring Entity as Engineer-in-charge/ consultant for the contract.</p>
		1.2.3	The Bidder shall have to give a declaration regarding compliance of the Code of Integrity prescribed in the Act, the Rules and as stated above in this Clause along with its Bid, in the format specified in Section IV, Bidding Forms.
		1.2.4	Breach of Code of Integrity by the Bidder:- Without prejudice to the provisions of Chapter IV of the Rajasthan Transparency in Public Procurement Act, in case of any breach of the Code of Integrity by a Bidder or prospective Bidder, as the case may be, the Procuring Entity may take appropriate action in accordance with the provisions of sub-section (3) of section 11 and section 46 of the Act.
1.3	Eligible Bidders	1.3.1	A Bidder may be a natural person, private Entity, government-owned Entity or, where permitted in the Bidding documents, any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a Joint Venture [JV], Consortium or Association. In the case of a Joint Venture, Consortium or

			<p>Association: -</p> <p>all parties to the Joint Venture, Consortium or Association shall sign the Bid and they shall be jointly and severally liable; and a Joint Venture, Consortium or Association shall nominate a representative who shall have the authority to conduct all business for and on behalf of any and all the parties of the Joint Venture, Consortium or Association during the Bidding process. In the event the Bid of Joint Venture, Consortium or Association is accepted, either they shall form a registered Joint Venture, Consortium or Association as company/firm or otherwise all the parties to Joint Venture, Consortium or Association shall sign the Agreement.</p>
		1.3.2	<p>A Bidder, and all parties constituting the Bidder, shall have the nationality of India. The Sub-Contractors or suppliers for any part of the Contract including related services shall also have nationality of India.</p>
		1.3.3	<p>A Bidder should not have a conflict of interest in the procurement in question as stated in the Rule 81 and this Bidding document.</p>
		1.3.4	<p>A Bidder debarred under section 46 of the Act shall not be eligible to participate in any procurement process undertaken by,</p> <ul style="list-style-type: none"> <li>a) any Procuring Entity, if debarred by the State Government; and</li> <li>b) a Procuring Entity if debarred by such procuring Entity.</li> </ul>
		1.3.5	<p>The Bidder must be a registered Contractor in appropriate class with the Department/Organisation. He shall furnish necessary valid proof for the same.</p>

		1.3.6	i. Any change in the constitution of the firm, etc., shall be notified forth with by the Bidder in writing to the Procuring Entity and such change shall not relive any former partner / member of the firm, etc., from any liability under the Contract.
			No new partner / partners shall be accepted in the firm by the Bidder in respect of the contract unless he / they agree to abide by all its terms, conditions and deposit with the Procuring Entity a written agreement to this effect. The Bidder's receipt for acknowledgement or that of any partners subsequently accepted as above shall bind all of them and will be sufficient discharge for any of the purpose of the Contract.
			Bidders shall provide such evidence of their continued eligibility satisfactory to the Procuring Entity, should the Procuring Entity request.
		1.3.7	In case a empanelment or registration process has been conducted, this Bidding shall be open only to the, empanelled or registered Bidders
		1.3.8	Each Bidder shall submit only one Bid.
		1.3.9	No Bidder who is not registered under the Sales Tax Act prevalent in the State of Rajasthan shall bid .The Sales Tax Registration Number should be quoted and a VAT/ Sales Tax Clearance certificate from the Commercial Taxes Officer of the Circle concerned shall be submitted without which the Bid is liable to be rejected. He is also required to provide proof of Service Tax Registration (if required under the law) and Permanent Account Number given by Income Tax Department.
2. Contents of Bidding Document			
2.1	Sections of the Bidding Document	2.1.1	The Bidding Document consists of Parts I, II, and III, which include all the Sections indicated below ,and should be read in conjunction with any Addenda issued in accordance with ITB Clause2.3[Amendment of Bidding Document].

			<p><b>Part I: Bidding Procedures</b></p> <p>Section I. Instructions to Bidders (ITB)</p> <p>Section II. Bid Data Sheet (BDS)</p> <p>Section III. Evaluation and Qualification Criteria</p> <p>Section IV. Bidding Forms</p> <p><b>Part II: Requirements</b></p> <p>Section V. Procuring Entity's Requirements.</p> <p><b>Part III : Contract</b></p> <p>Section VIA. General Conditions of Contract [GCC]</p> <p>Section VIB. Special Conditions of Contract [SCC]/ Contract Data</p> <p>Section VIC. Contract Forms</p>
		2.1.2	The Invitation for Bids (NIB) issued by the Procuring Entity is also part of the Bidding Document.
		2.1.3	<p>i. The sale of Bidding documents shall be commenced from the date of publication of Notice Inviting Bids and shall be stopped one day prior to the date of opening of Bids. The complete Bidding Documents shall also be placed on the State Public Procurement Portal. The prospective Bidders shall be permitted to download the bidding document from the website and pay its price while submitting the filled-up Bidding document to the Procuring Entity, or e-procurement gateway, if the facility is available.</p> <p>ii. The Bidding Document shall be made available to any Bidder who pays the price for it as specified in the BDS , in cash or by bank demand draft, banker's Cheque of a Scheduled Bank, unless the procurement is reserved for any specific category of Bidders:</p>

		2.1.4	The Procuring Entity is not responsible for the completeness of the Bidding Document and its addenda ,if they were not obtained directly from the Procuring Entity or not downloaded correctly from the Procuring Entity’s website/ State Public Procurement Portal.
		2.1.5	The Bidder is expected to examine all instructions, forms, terms ,and specifications in the Bidding Document. Failure to furnish all information or authentic documentation required by the Bidding Document may result in the rejection of the Bid.
2.2	Clarification of Bidding Document	2.2.1	The Bidder shall be deemed to have carefully examined the conditions, specifications ,size ,make and drawings, etc., of the works and related services to be provided .If any Bidder has any doubts as to the meaning of any portion of the conditions or of the specifications, drawings, etc., it shall, before submitting the Bid, refer the same to the Procuring Entity and get clarifications. A Bidder requiring any clarification of the Bidding Document shall contact the Procuring Entity in writing at the Procuring Entity’s address indicated in the Bid Data Sheet. The Procuring Entity will respond in writing to any request for clarification, within seven days provided that such request is received no later than twenty-one(21)days prior to the dead line for submission of Bids as specified in ITB Sub-Clause4.2.1[Deadline for Submission of Bids]. The Procuring Entity shall forward copies of its response to all Bidders who have acquired / procured the Bidding Document directly from it including a description of the inquiry but without identifying its source. It shall also be placed on the State Public Procurement Portal and Procuring Entity’s web site and should the Procuring Entity deem it necessary to amend the Bidding Document as a result of a clarification, it shall do so following the procedure under ITB Clause 2.3 [Amendment of Bidding Document] through an addendum which shall form part of the Bidding Document.

2.3	Amendment of Bidding Document	2.3.1	Any addendum issued shall be part of the Bidding Document and shall be communicated in writing to all Bidders who have obtained the Bidding Document directly from the Procuring Entity. It shall also be uploaded on the State Public Procurement Portal and the Procuring Entity's web site for prospective bidders to download.
		2.3.2	To give prospective Bidders reasonable time in which to take an addendum in to account in preparing their Bids, the Procuring Entity may, at its discretion ,extend the dead line for the submission of the Bids, pursuant to ITB Sub-Clause 4.2 [Deadline for Submission of Bids], under due intimation to the Bidders who have procured the Bidding Document from the Procuring Entity and also by uploading it on the State Public Procurement Portal and its official website.
<b>3. Preparation of Bids</b>			
3.1	Cost of Bidding	3.1.1	The Bidder shall bear all costs associated with the preparation and submission of its Bid , and the Procuring Entity shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
3.2	Essential Documents to be furnished	3.2.1	<p>The Bidder shall furnish the attested copies of following documents with its Bid :-</p> <ul style="list-style-type: none"> <li>i. Partnership Deed and valid registration certificate with the Registrar of Firms in case of Partnership Firms..Power of Attorney in favour of the partner signing/submitting the Bid, authorizing him to represent all partners of the firm.</li> <li>ii. VAT/ Sales Tax registration certificate and VAT/Sales Tax clearance certificate from the concerned Commercial Taxes Officer and Permanent Account Number (PAN) with the Income Tax Department.</li> <li>iii. Address of residence and office, telephone numbers e-mail address, if</li> </ul>

			<p>any, in case of sole Proprietorship.</p> <p>iv. Certificate of Registration and Memorandum of Association issued by Registrar of Companies in case of a registered company and in case of any other statutory or registered body, certificate of incorporation or registration issued by concerned authority. Power of attorney in favour of the person signing the Bid.</p> <p>v. Where permitted to bid as Joint Venture, Consortium or Association, letter of formal intent to enter into an agreement or an existing agreement in the form of a Joint Venture, Consortium or Association.</p>
3.3	Language of Bid	3.3.1	<p>The Bid, as well as all correspondence and documents relating to the Bid exchanged by the Bidder and the Procuring Entity, shall be written in the language specified in the BDS. Supporting Documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages duly accepted by the Bidder in the language specified in the BDS, in which case, for purposes of interpretation of the Bid, such translation shall govern.</p>
3.4	Documents Comprising the Bid	3.4.1	<p>The Bid properly bound, shall contain the following :</p> <p>i. Bid Submission Sheet and Bid containing the filled up Bidding Forms and Declarations related to Bid and Code of Integrity given in Section IV [Bidding Forms];</p> <p>ii. proof of payment of price of Bidding Document, processing fee/ user charges, where applicable, Bid Security or Bid Securing Declaration, in accordance with</p>



			<p>ITB Clause 3.10;</p> <ul style="list-style-type: none"> <li>iii. written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB Clause 3.11;</li> <li>iv. documentary evidence in accordance with ITB Clause 3.7 establishing the Bidder's eligibility to bid;</li> <li>v. completed Schedules as required, including priced Bill of Quantities/ Activity Schedule;</li> <li>vi. drawings / designs in support of the Works to be executed;</li> <li>vii. these Instructions to Bidders;</li> <li>viii. the Notice Inviting Bids;</li> <li>ix. any other document required in the BDS.</li> </ul>
		3.4.2	<p>The Bidder shall submit the Bid using the appropriate Bid Submission Sheet provided in Section IV [Bidding Forms]. These forms must be completed without any alterations to their format, and no substitutes shall be accepted. All blank spaces shall be filled in ink with the information requested. All cuttings shall be attested by the authorised signatory.</p>
3.5	Bid Prices	3.5.1	<p>The prices quoted by the Bidder in the Bid Submission Sheet and in the Bill of Quantities shall conform to the requirements specified following Sub-Clauses:</p>
		3.5.2	<ul style="list-style-type: none"> <li>i. In case of Item Rate Contracts, the Bidder shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items against which no rate or price is entered by the Bidder will not be paid for by the Procuring Entity but will have to be executed and shall be deemed covered by the rates for other items and</li> </ul>

			<p>prices in the Bill of Quantities.</p> <p>ii. In case of Percentage Rate Contracts, combined single percentage above or below must be quoted by the Bidder for all items of the Bill of Quantities.</p> <p>iii. In case of Lump Sum Contracts, only Total Price which the Bidder wants to charge for the entire Works with all its contingencies in accordance with drawings and specifications shall be quoted by the Bidder. A Schedule of Rates shall be specified in the Bid Data Sheet in order to regulate the amount to be added to or deducted from the fixed sum on account of additions and alterations not covered by the Contract. Payments shall be linked to various stages of completion of the Works specified in Activity Schedule given in Bid Data Sheet.</p>
		3.5.3	All duties, taxes and other levies payable by the Bidder under the contract, or for any other cause, shall be included in the rates and prices, and the total Bid Price submitted by the Bidder.
		3.5.4	Prices quoted by the Bidder shall be fixed during the Bidder's Performance of the Contract and not subject to variation on any account, unless otherwise specified in the BDS. A Bid submitted with an adjustable price quotation shall be treated as non-responsive and shall be rejected, pursuant to ITB Clause 5.7 [Responsiveness of Bids]. However, if in accordance with the BDS, prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract, a Bid submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero.
3.6	Currencies of Bid.	3.6.1	The unit rates and the prices shall be quoted by the Bidder entirely in Indian Rupees. All payments shall be made in Indian Rupees only.

3.7	Documents Establishing the Eligibility of the Bidder.	3.7.1	To establish their eligibility in accordance with ITB Clause 1.3 [Eligible Bidders], Bidders shall complete the eligibility declarations in the Bid Submission Sheet and Declaration Form included in Section IV [Bidding Forms];
3.8	Documents Establishing the Qualifications of the Bidder	3.8.1	To establish its qualifications to perform the Contract, the Bidder shall submit as part of its Bid the documentary evidence indicated for each qualification criteria specified in Section III, Evaluation and Qualification Criteria, if any.
3.9	Period of Validity of Bids	3.9.1	Bids shall remain valid for 90 days or the period specified in the BDS after the Bid submission deadline date as specified by the Procuring Entity. A Bid valid for a shorter period shall be rejected by the Procuring Entity as non-responsive.
		3.9.2	In exceptional circumstances, prior to the expiration of the Bid validity period, the Procuring Entity may request Bidders to extend the period of validity of their Bids. The request and the responses shall be made in writing. If a Bid Security is requested in accordance with ITB Clause 3.10 [Bid Security] it shall also be extended for thirty days beyond the dead line of the extended validity period. A Bidder may refuse the request without forfeiting its Bid Security. A Bidder granting the request shall not be required or permitted to modify its Bid.
3.10	Bid Security	3.10.1	Unless otherwise specified in the BDS, the Bidder shall furnish as part of its Bid, a Bid Security in the form indicated in BDS in Indian Rupees.
		3.10.2	Bid Security shall be 2% of the value of the Works indicated in the NIB. For bidders registered in appropriate class with the Procuring Entity, the bid security shall be 0.5% of the value of works indicated in the NIB.
		3.10.3	The Bid Security may be given in the form of cash, a banker's Cheque or demand draft or

			bank guarantee of a Scheduled Bank in India, in specified format, or deposited through eGRAS.
		3.10.4	In lieu of Bid Security, a Bid Securing Declaration shall be taken from Government Departments and State Government Public Sector Enterprises, Autonomous bodies, Registered Societies, Cooperative Societies which are owned or controlled or managed by the State Government, Public Sector Enterprises of Central Government. For the Bid Securing Declaration the Bidder shall use the form included in Section IV [Bidding Forms].
		3.10.5	Bid Security instrument or cash receipt of Bid Security or a Bid securing declaration shall necessarily accompany the sealed Bid. Any Bid not accompanied by Bid Security or Bid Securing Declaration, if not exempted, shall be liable to be rejected.
		3.10.6	Bid Security of a Bidder lying with the Procuring Entity in respect of other Bids awaiting decision shall not be adjusted towards Bid Security for this Bid. The Bid Security originally deposited may, however be taken into consideration in case Bids are re-invited.
		3.10.7	The bank guarantee (BG) presented as Bid Security shall be got confirmed from the concerned issuing bank. However, the confirmation of the BG shall not be valid if the issuing bank has become insolvent or has gone under liquidation or has otherwise ceased to be creditworthy.
		3.10.8	The Bid Security of unsuccessful Bidders shall be refunded soon after final acceptance of successful Bid and signing of Contract Agreement and submission of Performance Security by successful Bidder pursuant to ITB Clause 6.4 [Performance Security].
		3.10.9	The Bid Security taken from a Bidder shall be forfeited in the following cases, namely:- i. when the Bidder withdraws or modifies his Bid

			<p>after opening of Bids; or</p> <p>ii. when the Bidder does not execute the agreement in accordance with ITB Clause 6.3 [Signing of Contract] within the specified time; if any, after issue of letter of acceptance/ placement of Work order within the specified period; or</p> <p>iii. when the Bidder fails to commence the Works as per Work order within the time specified; or</p> <p>iv. when the Bidder does not deposit the Performance Security in accordance with ITB Clause 6.4 [Performance Security]; in the prescribed time limit after the work order is placed;</p> <p>v. if the Bidder breaches any provision of the Code of Integrity prescribed for Bidders specified in the Act, Chapter VI of the Rules or this Bidding Document; or</p> <p>vi. if the Bidder does not accept the correction of its Bid Price pursuant to ITB sub-Clause 5.5.[Correction of Arithmetical Errors].</p>
		3.10.10	<p>In case of the successful Bidder, the amount of Bid Security may be adjusted in arriving at the amount of the Performance Security, or refunded if the successful Bidder furnishes the full amount of Performance Security. No interest will be paid by the Procuring Entity on the amount of Bid Security.</p>
3.11	Format and Signing of Bid	3.11.1	<p>The Bidder shall prepare one original of the Bid as described in ITB Clause 3.4 and clearly mark "ORIGINAL - BID/ PROPOSAL". In addition, the Bidder shall submit copies of the Bid/ Proposal in the number specified in the BDS and clearly mark them "COPY NO... - BID/ PROPOSAL" .In the event of any discrepancy between the original and the copies, the original shall prevail. The original and copies of Bid shall be properly bound. All pages shall be serially numbered.</p>

		3.11.2	The original and all copies of the Bid shall be typed or written in ink and shall be signed by the Bidder or a person duly authorised to sign on behalf of the Bidder .This authorisation shall consist of a written confirmation as specified in the BDS and shall be attached to the Bid.
		3.11.3	Any amendments such as interlineations ,erasures ,or over writing shall be valid only if they are signed by the person signing the Bid.
<b>4. Submission and Opening of Bids</b>			
4.1	Sealing and Marking of Bids	4.1.1	Bidders may submit their Bids at the address specified in the BDS by post or by hand or directly dropped in the Bid Box, where provided but if so specified in the Bidding Documents, Bidders shall submit their Bids electronically only. Bidders submitting their Bids electronically shall follow the electronic Bid submission procedure as specified on the State Public Procurement Portal.
		4.1.2	The Bidder shall enclose the original Bid, and each copy of the Bid, in separate sealed envelopes, duly marking the envelopes as “ORIGINAL - BID”, and “COPY NO... -of the BID” as appropriate. These envelopes containing the original and the copies shall then be enclosed in one single envelope.
		4.1.3	The inner and outer envelopes shall- <ul style="list-style-type: none"> <li>a. bear the name and complete address along with telephone/ mobile number of Bidder;</li> <li>b. bear complete address of the Procuring Entity with telephone number, if any;</li> <li>c. bear the specific identification of the Bidding process pursuant to Notice Inviting Bids and the date and time of submission of Bid. Any additional identification marks as specified in the Bidding documents be also indicated; and</li> </ul>

			The outer envelopes and the inner envelopes containing the Bids shall bear a warning not to be opened before the time and date for the opening of Bids, in accordance with ITB Clause 4.5.
		4.1.4	If all envelopes are not sealed and marked as required, the Procuring Entity shall assume no responsibility about its consequences including misplacement and premature opening of the Bid.
4.2	Dead line for Submission of Bids	4.2.1	Bids shall be received, by the person designated for the purpose by the Procuring Entity or directly dropped in the Bid Box, or submitted electronically, where asked for at the place and upto the time and date specified in the Notice Inviting Bids or an extension issued thereof.
4.3	Late Bids	4.3.1	The Procuring Entity shall not consider any Bid that arrives after the dead line for submission of Bids , in accordance with ITB Clause 4.2.1. Such Bids shall be declared late, rejected, and returned unopened to the Bidder.
4.4	Withdrawal, Substitution and Modification of Bids	4.4.1	<p>A Bidder may withdraw, substitute or modify its Bid Proposal after it has been submitted by sending a written Withdrawal / substitutions/ modifications etc. Notice, duly signed by the Bidder or its authorised representative ,and shall include a copy of the authorisation in accordance with ITB Sub-Clause 3.11.2 [Format and Signing of Bid]. The corresponding Withdrawal, Substitution or Modification of the Bid must accompany the respective written Notice. All Notices must be:</p> <ul style="list-style-type: none"> <li>i. submitted in accordance with ITB Clauses 3.11 [Format and Signing of Bid] and 4.1 [Sealing and Marking of Bids], the respective inner and outer envelopes shall be clearly marked "WITHDRAWAL"; "SUBSTITUTION", or "MODIFICATION" and</li> <li>ii. received by the Procuring Entity prior to</li> </ul>

			the dead line prescribed by the Procuring Entity for submission of Bids in accordance with ITB Sub-Clause 4.2.1[Deadline for Submission of Bids].
		4.4.2	Bid Proposals that are withdrawn in accordance with ITB Sub- Clause4.4.1[Withdrawal of Bids] shall be returned unopened to the Bidders
		4.4.3	No Bid shall be withdrawn, substituted or modified in the interval between the deadline for submission of the Bid and the expiration of the period of Bid validity specified in ITB Clause 3.9 [Period of Validity of Bids] or any extension thereof.
4.5	Bid Opening	4.5.1	The sealed Bid box shall be opened by the Bids opening committee constituted by the Procuring Entity at the time, date and place specified in the Bid Data Sheet in the presence of the Bidders or their authorised representatives, who choose to be present.
		4.5.2	The Bids receiving person shall also hand over all the Bids received by him up to the time and date for submission of Bids to the Convener of Bids opening committee and obtain his signature in the Bids receipt register.
		4.5.3	The Bids opening committee may co-opt experienced persons in the committee to conduct the process of Bid opening.
		4.5.4	If electronic bidding is adopted, specific electronic bids opening procedure as specified on the State Public Procurement Portal shall be followed. The Bidders may witness the electronic Bid opening procedure online.
		4.5.5	The Bids shall be opened by the Bids opening committee in the presence of the Bidders or their authorised representatives who choose to be present. All outer envelopes and inner envelopes containing Bids shall be signed with date by the members of the committee in token of verification of the fact that they are sealed, and then opened. The envelopes shall be



			numbered as a/n, where 'a' denotes the serial number at which the Bid envelope has been taken for opening and 'n' denotes the total number of Bids received by specified time.
		4.5.6	The Bids opening committee shall prepare a list of the Bidders or their representatives attending the opening of Bids and obtain their signatures on the same. The list shall also contain the representative's name and telephone number and corresponding Bidders' names and addresses. The authority letters brought by the representatives shall be attached to the list. The list shall be signed by all the members of Bids opening committee with date and time of opening of the Bids.
		4.5.7	<p>First, envelopes marked as "WITHDRAWAL" shall be opened, read out, and recorded and the envelope containing the corresponding Bid shall not be opened, but returned to the Bidder. No Bid shall be permitted to be withdrawn unless the corresponding withdrawal notice contains a valid authorisation to request the withdrawal and is readout and recorded at Bid opening. If the withdrawal notice is not accompanied by the valid authorisation, the withdrawal shall not be permitted and the corresponding Bid shall be opened.</p> <p>Next, envelopes marked as "SUBSTITUTION" shall be opened, read out and recorded. The inner envelopes containing the Substitution Proposal and/ or Substitution Price Proposal shall be exchanged for the corresponding envelopes being substituted, which are to be returned to the Bidder unopened. Only the Substitution Proposal, if any, shall be opened, read out, and recorded. No Bid shall be substituted unless the corresponding substitution notice contains a valid authorisation to request the substitution and is read out and recorded at Bid opening.</p> <p>Outer envelopes marked as "MODIFICATION" shall be opened thereafter, read out and</p>

			recorded with the corresponding Bid. No Bid shall be modified unless the corresponding modification notice contains a valid authorisation to request the modification and is read out and recorded at opening of Bids/ Proposals. Only the Bids, both Original as well as Modification, are to be opened, read out, and recorded at the opening.
		4.5.8	<p>All other envelopes containing the Bids shall be opened one at a time and the following read out and recorded-</p> <ul style="list-style-type: none"> <li>i. the name of the Bidder;</li> <li>ii. whether there is a modification or substitution;</li> <li>iii. whether proof of providing Bid Security or Bid Securing Declaration, if required, payment of price of the Bidding Document, user charges or processing fee, where applicable, have been enclosed;</li> <li>iv. any other details as the Bids opening committee may consider appropriate.</li> </ul> <p>After all the Bids have been opened, they shall be initialed and dated on the first page, Price Proposal, Bill of Quantities and other important papers of each Bid by the members of the Bids opening committee.</p>
		4.5.9	Bids shall be read out and recorded at the bid opening and shall be considered for evaluation. No Bid shall be rejected at the time of opening of Bids except the late Bids, Bids not accompanied with the proof of payment or instrument of the required price of Bidding Document, processing fee or user charges (in case of e-procurement) and Bid Security.
		4.5.10	The Bids opening committee shall prepare a record of opening of Bids that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal, substitution, modification, any conditions put by Bidder and the presence

			<p>or absence of the price of Bidding documents, processing fee or user charges and Bid Security and the bid prices. The Bidders or their representatives, who are present, shall sign the record. The omission of a Bidder's signature on the record shall not invalidate the contents and effect of the record. The members of the Bids opening committee shall also sign the record with date.</p>
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## 5. Evaluation and Comparison of Bids

5.1	Confidentiality	5.1.1	<p>Information relating to the examination, evaluation, comparison, and post-qualification of Bids, and recommendation of contract award, shall not be disclosed to Bidders or any other persons not officially concerned with such process until information on Contract award is communicated to all Bidders or uploaded on the State Public Procurement Portal.</p>
		5.1.2	<p>Any attempt by a Bidder to influence the Procuring Entity in its examination of qualification, evaluation, comparison of the Bids or Contract award decisions may result in the rejection of its Bid, in addition to the legal action which may be taken by the Procuring Entity under the Act and the Rules.</p>
		5.1.3	<p>Notwithstanding ITB Sub-Clause 5.1.2 [Confidentiality], from the time of opening the Bid to the time of Contract award, if any Bidder wishes to contact the Procuring Entity on any matter related to the Bidding process, it should do so in writing.</p>
		5.1.4	<p>In addition to the restrictions specified in section 49 of the Act, the Procuring Entity, while procuring a subject matter of such nature which requires the Procuring Entity to maintain confidentiality, may impose condition for protecting confidentiality of</p>

			such information.
5.2	Clarification of Bids	5.2.1	To assist in the examination, evaluation, comparison of Bids and qualification of the Bidders, the Bid evaluation committee may, at its discretion, ask any Bidder for a clarification regarding his Bid. The committee's request for clarification and the response of the Bidder shall be in writing.
		5.2.2	Any clarification submitted by a Bidder with regard to his Bid that is not in response to a request by the Bid evaluation committee shall not be considered.
		5.2.3	No change in the prices or substance of the Bid shall be sought, offered, or permitted, except to confirm the correction of arithmetical errors discovered by the Bid evaluation committee in the evaluation of the financial Bids.
		5.2.4	No substantive change to qualification information or to a submission, including changes aimed at making an unqualified Bidder, qualified or an unresponsive submission, responsive shall be sought, offered or permitted.
5.3	Deviations, Reservations and Omissions in Bids	5.3.1	During the evaluation of Bids ,the following definitions apply: <ul style="list-style-type: none"> <li>i. "Deviation" is a departure from the requirements specified in the Bidding Document;</li> <li>ii. "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Document ;and</li> <li>iii. "Omission" is the failure to submit part or all of the information or documentation required in the</li> </ul>

Bidding Document.			
5.4	Non material Non conformities in Bids	5.4.1	Provided that if a Bid is substantially responsive, the Procuring Entity may waive any non conformities (with recorded reasons) in the Bid that do not constitute a material deviation, reservation or omission.
		5.4.2	Provided that a Bid is substantially responsive, the Procuring Entity may request that the Bidder to submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the Bid related to documentation requirements. Request for information or documentation on such non conformities shall not be related to any aspect of the Financial Proposal of the Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.
		5.4.3	Provided that a Bid is substantially responsive, the Procuring Entity will rectify nonmaterial nonconformities or omissions (with recorded reasons). To this effect, the Bid Price shall be adjusted during evaluation of Financial Proposals for comparison purposes only, to reflect the price of the missing or non- conforming item or component. The adjustment shall be made using the method indicated in Section III, Evaluation and Qualification Criteria.
5.5	Correction of Arithmetical Errors in Financial Bid	5.5.1	<p>Provided that a Bid is substantially responsive, the Procuring Entity will correct arithmetical errors during evaluation of Bids on the following basis:</p> <ul style="list-style-type: none"> <li>i. if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall</li> </ul>

			<p>be corrected, unless in the opinion of the Procuring Entity there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;</p> <p>ii. if there is an error in a total corresponding to the addition or subtraction of sub totals, the subtotals shall prevail and the total shall be corrected ;and</p> <p>iii. if there is a discrepancy between words and figures , the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error ,in which case the amount in figures shall prevail subject to (i) and (ii) above.</p>
		5.5.2	<p>If the Bidder that submitted the lowest evaluated Bid does not accept the correction of errors, its Bid shall be disqualified and its Bid Security shall be forfeited or its Bid Securing Declaration shall be executed.</p>
5.6	Preliminary Examination of Bids	5.6.1	<p>The Procuring Entity shall examine the Bids to confirm that all documents requested in ITB Sub-Clause 3.4 [Documents Comprising the Bid] have been provided, and to determine the completeness of each document submitted.</p>
		5.6.2	<p>The Procuring Entity shall confirm, following the opening of the Bids, that the following documents and information have been provided :</p> <p>i. Bid is signed, as per the requirements listed in the Bidding Document;</p> <p>ii. Bid has been sealed as per</p>

			<p>instructions provided in the Bidding Document;</p> <p>iii. Bid is valid for the period, specified in the Bidding documents;</p> <p>iv. Bid is accompanied by Bid Security or Bid securing declaration;</p> <p>v. Bid is unconditional and the Bidder has agreed to give the required Performance Security; and</p> <p>vi. Price Schedules in the Bids are in accordance with ITB Clause 3.4 [Documents Comprising the Bid];</p> <p>vii. written confirmation of authorisation to commit the Bidder;</p> <p>viii. Declaration by the Bidder in compliance of Section 7 and 11 of the Act;</p> <p>ix. other conditions, as specified in the Bidding Document are fulfilled.</p>
5.7	Responsiveness of Bids	5.7.1	The Procuring Entity's determination of the responsiveness of a Bid is to be based on the contents of the Bid itself, as defined in ITB Clause 3.4 [Documents Comprising the Bid].
		5.7.2	<p>A substantially responsive Bid is one that meets without material deviation, reservation, or omission to all the terms, conditions, and specifications of the Bidding Document. A material deviation, reservation, or omission is one that:</p> <p>if accepted, would-</p> <p>i. affect in any substantial way the scope and quality of works specified in Section V, Procuring Entity's requirements.</p> <p>ii. limits in any substantial way, in consistent with the Bidding</p>

			<p>Document, the Procuring Entity's rights or the Bidder's obligations under the proposed Contract; or</p> <p>iii. if rectified, would unfairly affect the competitive position of other Bidders presenting substantially responsive Bids.</p>
		5.7.3	The Procuring Entity shall examine the technical aspects of the Bid in particular, to confirm that requirements of Section V, Procuring Entity's Requirements have been met without any material deviation or reservation.
		5.7.4	If a Bid is not substantially responsive to the Bidding Document, it shall be rejected by the Procuring Entity and may not subsequently be made responsive by the Bidder by correction of the material deviation, reservation, or omission.
5.8	Examination of Terms and Conditions of the Bids	5.8.1	The Procuring Entity shall examine the Bids to confirm that all terms and conditions specified in the GCC and the SCC have been accepted by the Bidder without any material deviation or reservation.
5.9	Evaluation of Bids	5.9.1	The Procuring Entity shall use the criteria and methodologies listed in this Clause. No other evaluation criteria or methodologies shall be permitted.
		5.9.2	<p>To evaluate a bid, the Procuring Entity shall consider the following:</p> <p>a) the bid price, excluding Provisional Sums and the provision, if any, for contingencies in the Summary Bill of Quantities, but including Day work items, where priced competitively;</p> <p>b) price adjustment for correction of arithmetic errors in accordance with ITB Clause 5.5;</p>



			<ul style="list-style-type: none"> <li>c) converting the amount resulting from applying (a) to (b) above;</li> <li>d) adjustment for nonconformities in accordance with ITB Clause 5.4;</li> <li>e) application of all the evaluation factors indicated in Section III (Evaluation and Qualification Criteria);</li> </ul>
5.10	Comparison of Bids	5.10.1	The Procuring Entity shall compare all substantially responsive Bids to determine the lowest-evaluated Bid, in accordance with ITB Clause 5.9 [Evaluation of Bids].
5.11	Negotiations	5.11.1	To the extent possible, no negotiations shall be conducted after the pre-Bid stage. All clarifications needed to be sought shall be sought in the pre-Bid stage itself.
		5.11.2	<p>Negotiations may, however, be undertaken only with the lowest Bidder under the following circumstances-</p> <ul style="list-style-type: none"> <li>i. when ring prices have been quoted by the Bidders for the subject matter of procurement; or</li> <li>ii. when the rates quoted vary considerably and considered much higher than the prevailing market rates.</li> </ul>
		5.11.3	The Bid evaluation committee shall have full powers to undertake negotiations. Detailed reasons and results of negotiations shall be recorded in the proceedings.
		5.11.4	The lowest Bidder shall be informed about negotiations in writing either through messenger or by registered letter and e-mail (if available). A minimum time of seven days shall be given for calling negotiations. In case of urgency the Bid evaluation committee, after recording reasons, may reduce the time, provided

			the lowest Bidder has received the intimation and consented to holding of negotiations.
		5.11.5	Negotiations shall not make the original offer made by the Bidder inoperative. The Bid evaluation committee shall have option to consider the original offer in case the Bidder decides to increase rates originally quoted or imposes any new terms or conditions.
		5.11.6	In case of non-satisfactory achievement of rates from lowest Bidder, the Bid evaluation committee may choose to make a written counter offer to the lowest Bidder and if this is not accepted by him, the committee may decide to reject and re-invite Bids or to make the same counter-offer first to the second lowest Bidder, then to the third lowest Bidder and so on in the order of their initial standing in the bid evaluation and work order shall be awarded to the Bidder who accepts the counter-offer.
		5.11.7	In case the rates even after the negotiations are considered very high, fresh Bids shall be invited.
5.12	Procuring Entity's Right to Accept Any Bid, and to Reject Any or All Bids	5.12.1	The Procuring Entity reserves the right to accept or reject any Bid, and to annul the Bidding process and reject all Bids at any time prior to Contract award without assigning any reasons thereof and without there by incurring any liability to the Bidders
<b>6. Award of Contract</b>			
<b>6.1</b>	<b>Procuring Entity's Right to Vary Quantities at Time of Award</b>	6.1.1	At the time of award of contract, the Works originally specified in the Bidding Documents may be increased or decreased by a percentage specified in BDS, but such increase or decrease shall not exceed twenty percent, of the quantity

			specified in the Bidding Document. It shall be without any change in the unit prices or other terms and conditions of the Bid and the Bidding Document.
		6.1.2	If the Procuring Entity does not procure any subject matter of procurement or procures less than the quantity specified in the Bidding Document due to change in circumstances, the Bidder shall not be entitled for any claim or compensation except otherwise provided in the Bidding Document.
<b>6.2</b>	<b>Acceptance of the successful Bid and award of contract</b>	6.2.1	The Procuring Entity after considering the recommendations of the Bid Evaluation Committee and the conditions of Bid, if any, financial implications, shall accept or reject the successful Bid.
		6.2.2	Before award of the Contract, the Procuring Entity shall ensure that the price of successful Bid is reasonable and consistent with the required specifications.
		6.2.3	A Bid shall be treated as successful only after the competent authority has approved the procurement in terms of that Bid.
		6.2.4	The Procuring Entity shall award the contract to the Bidder whose offer has been determined to be the lowest in accordance with the evaluation criteria set out in the Bidding Document if the Bidder has been determined to be qualified to perform the contract satisfactorily on the basis of qualification criteria fixed for the Bidders in the Bidding Document for the subject matter of procurement.
		6.2.5	Prior to the expiration of the period of validity of Bid, the Procuring Entity shall inform the successful Bidder in writing, by registered post or email, that its Bid has been accepted.

		6.2.6	If the issuance of formal letter of acceptance (LOA) is likely to take time, in the meanwhile a Letter of Intent (LOI) may be sent to the Bidder. The acceptance of an offer is complete as soon as the letter of acceptance or letter of intent is posted and/ or sent by email (if available) to the address of the Bidder given in the Bidding Document.
<b>6.3</b>	<b>Signing of Contract</b>	6.3.1	In the written intimation of acceptance of its Bid sent to the successful Bidder, he shall also be requested to execute an agreement in the format given in the Bidding Document on a non-judicial stamp of requisite value at his cost and deposit the Performance Security or a Performance Security Declaration, if applicable, within a period specified in the BDS or where the period is not specified in the BDS, then within fifteen days from the date on which the LOA or LOI is dispatched to the Bidder.
		6.3.2	If the Bidder, whose Bid has been accepted, fails to sign a written procurement contract or fails to furnish the required Performance Security or Performance Security Declaration, as the case may be, within the specified time period, the Procuring Entity shall forfeit the Bid security of the successful bidder / execute the Bid Securing Declaration and take required action against him as per the provisions of the Act, the Rules and this Bidding Document. In that event the Procuring Entity may either cancel the procurement process, or, if deemed fit, award the Contract at the rates of the lowest Bidder to the next lowest evaluated Bidder whose offer is substantially responsive and is determined by the Procuring Entity to be qualified to perform the Contract satisfactorily.

		6.3.3	The Bid Security, if any, of the Bidders whose Bids could not be accepted shall be refunded soon after the contract with the successful Bidder is signed and his Performance Security is obtained. Until a formal contract is executed, LOA or LOI shall constitute a binding contract.
6.4	Performance Security	6.4.1	Performance Security shall be solicited from all successful Bidders except State Govt. Departments and undertakings, corporations, autonomous bodies, registered societies, co-operative societies which are owned or controlled or managed by the State Government and undertakings of Central Government. However, a Performance Security Declaration shall be taken from them. The State Government may relax the provision of Performance Security in particular procurement.
		6.4.2	<ul style="list-style-type: none"> <li>i. The amount of Performance Security shall be ten percent, or as specified in the BDS, of the amount of the Work Order. The currency of Performance Security shall be Indian Rupees.</li> <li>ii. If the Bid, which results in the lowest evaluated bid price, is seriously unbalanced or front loaded in the opinion of the Procuring Entity, the Procuring Entity may require the Bidder to produce detailed price analysis for any or all items of the Bill of Quantities, to demonstrate the internal consistency of those prices with the construction methods and schedule proposed. After evaluation of the price analysis, taking into consideration, the schedule of estimated Contract payments, the Procuring Entity may require that the amount of the performance security be increased (to a</li> </ul>

			<p>maximum of 20% of the bid value of such items) at the expense of the successful Bidder to a level sufficient to protect the Procuring Entity against financial loss in the event of default by the successful Bidder under the Contract.</p>
		<p>6.4.3</p>	<p>Performance Security shall be furnished in one of the following forms-</p> <ul style="list-style-type: none"> <li>i. Deposit through eGRAS; or</li> <li>ii. Bank Draft or Banker's Cheque of a Scheduled Bank in India; or</li> <li>iii. National Savings Certificates and any other script/ instrument under National Savings Schemes for promotion of small savings issued by a Post Office in Rajasthan, if the same can be pledged under the relevant rules. They shall be accepted at their surrender value at the time of Bid and formally transferred in the name of the Procuring Entity with the approval of Head Post Master; or</li> <li>iv. Bank guarantee. It shall be got verified from the issuing bank. Other conditions regarding bank guarantee shall be same as specified in ITB Clause 3.10 [Bid Security]; or</li> <li>v. Fixed Deposit Receipt (FDR) of a Scheduled Bank. It shall be in the name of the Procuring Entity on account of Bidder and discharged by the Bidder in advance. The Procuring Entity shall ensure before accepting the Fixed Deposit Receipt that the Bidder furnishes an undertaking from the bank to make payment/ premature payment of the Fixed Deposit Receipt on demand</li> </ul>

			<p>to the Procuring Entity without requirement of consent of the Bidder concerned. In the event of forfeiture of the Performance Security, the Fixed Deposit shall be forfeited along with interest earned on such Fixed Deposit.</p> <p>vi. The successful Bidder may opt to deposit the amount of Performance Security by way of deduction of 10% amount from each Bill/ payment certificate.</p>
		6.4.4	<p>Performance Security furnished in the form of a document mentioned at options (ii) to (v) of Sub-Clause 6.4.3 above, shall remain valid for a period of sixty days beyond the date of completion of all contractual obligations of the Bidder, including operation and / or maintenance and defect liability period, if any.</p>
		6.4.5	<p>Forfeiture of Performance Security: Amount of Performance Security in full or part may be forfeited in the following cases:-</p> <ul style="list-style-type: none"> <li>i. when the Bidder does not execute the agreement in accordance with ITB Clause 6.3 [Signing of Contract] within the specified time; after issue of letter of acceptance; or</li> <li>ii. when the Bidder fails to commence the Works as per Work Order within the time specified; or</li> <li>iii. when Bidder fails to complete Contracted Works satisfactorily within the time specified; or</li> <li>iv. when any terms and conditions of the contract is breached; or</li> <li>v. to adjust any established dues against the Bidder from any other</li> </ul>

			<p>contract with the Procuring Entity;                      or</p> <p>vi. if the Bidder breaches any provision of the Code of Integrity prescribed for Bidders specified in the Act and Chapter VI of the Rules</p> <p>vii. Notice of reasonable time will be given in case of forfeiture of Performance Security. The decision of the Procuring Entity in this regard shall be final.</p>
<b>7. Redressal of Grievances during Procurement Process (Appeals)</b>			
7	Grievance handling during procurement process	7.1	Any grievance of a Bidder pertaining to the procurement process shall be by way of filing an appeal to the First or Second Appellate Authority, as the case may be, as specified in the BDS, in accordance with the provisions of chapter III of the Act and chapter VII of the Rules and as given in Appendix A to these ITB.



## Appendix A : Grievance Handling Mechanism during Procurement Process

1. Filing an appeal.- If any Bidder or prospective Bidder is aggrieved that any decision, action or omission of the Procuring Entity is in contravention to the provisions of the Act or the Rules or the Guidelines issued there under , he may file an appeal to First or Second Appellate Authority, as the case may be, as may be designated for the purpose, within a period of ten days or such other period as may be specified in the pre-qualification documents, Bidder registration documents or Bidding documents, as the case may be, from the date of such decision, action, or omission, as the case may be, clearly giving the specific ground or grounds on which he feels aggrieved:

Provided that after the declaration of a Bidder as successful in terms of section 27 of the Act, the appeal may be filed only by a Bidder who has participated in procurement proceedings:

Provided further that in case a Procuring Entity evaluates the technical bid before the opening of the financial bid, an appeal related to the matter of financial Bid may be filed only by a Bidder whose technical bid is found to be acceptable.

2. Appeal not to lie in certain cases.- No appeal shall lie against any decision of the Procuring Entity relating to the following matters, namely:-
  - a. determination of need of procurement;
  - b. provisions limiting participation of Bidders in the Bid process;
  - c. the decision of whether or not to enter into negotiations;
  - d. cancellation of a procurement process;
  - e. applicability of the provisions of confidentiality.
3. Form of Appeal.-
  - a) An appeal under sub-section (1) or (4) of section 38 shall be in the annexed Form along with as many copies as there are respondents in the appeal.
  - b) Every appeal shall be accompanied by an order appealed against, if any, affidavit verifying the facts stated in the appeal and proof of payment of fee.

- c) Every appeal may be presented to First Appellate Authority or Second Appellate Authority, as the case may be, in person or through registered post or authorised representative.
4. Fee for filing appeal.-
- a) Fee for first appeal shall be rupees two thousand five hundred and for second appeal shall be rupees ten thousand, which shall be non-refundable.
  - b) The fee shall be paid in the form of bank demand draft or banker's Cheque of a Scheduled Bank payable in the name of Appellate Authority concerned.
5. Procedure for disposal of appeal.-
- a) The First Appellate Authority or Second Appellate Authority, as the case may be, upon filing of appeal, shall issue notice accompanied by copy of appeal, affidavit and documents, if any, to the respondents and fix date of hearing.
  - b) On the date fixed for hearing, the First Appellate Authority or Second Appellate Authority, as the case may be, shall,
    - i. hear all the parties to appeal present before him; and
    - ii. peruse or inspect documents, relevant records or copies thereof relating to the matter.
  - c) After hearing the parties, perusal or inspection of documents and relevant records or copies thereof relating to the matter, the Appellate Authority concerned shall pass an order in writing and provide the copy of order to the parties to appeal free of cost.
  - d) The order passed under sub-clause (c) above shall be placed on the State Public Procurement Portal.

**Annexure**

**FORM No. 1**

[See rule 83]

**Memorandum of Appeal under the Rajasthan Transparency in  
Public Procurement Act, 2012**

Appeal No .....of .....

Before the ..... (First / Second Appellate Authority)

Particulars of appellant:

- (i) Name of the appellant:
- (ii) Official address, if any:
- (iii) Residential address:

Name and address of the respondent(s):

- (1).
- (2).
- (3).

Number and date of the order appealed against  
and name and designation of the officer / authority  
who passed the order (enclose copy), or a statement  
of a decision, action or omission of the Procuring  
Entity in contravention to the provisions of the Act  
by which the appellant is aggrieved:

If the Appellant proposes to be represented  
by a representative, the name and postal address  
of the representative:

Number of affidavits and documents enclosed with the appeal:

6. Grounds of appeal: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (Supported by an affidavit)

7. Prayer: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Place \_\_\_\_\_

Date \_\_\_\_\_

Appellant's Signature

## **Section II : Bid Data Sheet**

This section consists of provisions that are specific to each procurement and supplement the information or requirements included in Section I: Instructions to Bidders

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**1. General**

<b>ITB 1.1.1</b>	(i) The number of the Invitation for Bids is: (ii) The Procuring Entity is: (iii) The name of the Works is:
<b>ITB 1.3.1</b>	Joint Venture/ Consortium is permitted/ Not permitted

**2. Contents of Bidding Document**

<b>ITB 2.2.1</b>	For <u>clarification purposes</u> only, the Procuring Entity's address is: Attention: Street Address: Floor/ Room number: City: PIN Code: Telephone No.: Facsimile No.: E-mail address:
------------------	--

**3. Preparation of Bids**

<b>ITB 3.3.1</b>	The language of the bid shall be :
<b>ITB 3.4.1</b>	The Bidder shall submit the following additional documents with its properly bound Bid : (i) (ii)
<b>ITB 3.5.2</b>	i. In case of Lump Sum Contract, in order to regulate the amount to be added to or deducted from the fixed sum on account of additions and alterations not covered by the Contract, the Schedule of Rates to be applied shall be ..... ii. In case of Lump Sum Contract, the Activity Schedule includes following stages of completion of the Works: 1. 2. -----



**5. Evaluation and Comparison of Bids**

**6. Award of Contract**

<b>ITB 6.1.1</b>	At the time of award of contract, the Works originally specified in the Bidding Documents may be increased or decreased by ..... percent.
<b>ITB 6.3.1</b>	The period within which the Performance Security shall be submitted by the successful Bidder and an Agreement shall be signed is : ..... Days.
<b>ITB 6.4.2</b>	(i) Performance Security at the rate of ..... percent of the contract value shall be required.  (ii) In case of Item Rate Contracts the amount of additional performance security, if required shall be ..... % of the amount of unbalanced or front loaded items, subject to a maximum of 20% value of such items.

**7. Redressal of Grievances during Procurement Process (Appeals)**

<b>ITB 7.1</b>	(i) The Designation and address of the First Appellate Authority is ..... (ii) The Designation and address of the Second Appellate Authority is .....
----------------	--



## **Section III : Evaluation and Qualification Criteria**

### **A. Evaluation Criteria:**

**1.1** The successful Bid will be the lowest evaluated responsive Bid, which meets all the requirements of the Procuring Entity and Qualification Criteria specified, if any.

### **1.2 Bid capacity :**

Bidders who meet the minimum qualification criteria shall be qualified only if their available bid capacity at the time of submission of Bid is more than the total estimated cost of the works for which the bid has been submitted. The available bid capacity shall be calculated as under:

$$\text{Assessed Available Bid Capacity} = (A*N*2 - B)$$

Where,

A= Maximum value of works executed in any one year during the last five years (updated to the current price level) taking into account the completed as well as works in progress;

N = Number of years prescribed for completion of the Works for which the Bids have been invited, and

B = Value at current price level of the existing commitments and ongoing works to be completed during the next ----- years (period of completion of the Works for which bids have been invited)

### **B. Qualification Criteria :**

**2.1** The Bidder must be registered/ empanelled in appropriate Class/ Category in the Department/ Organisation.

**2.2** Other Qualifications required, if any, which can be assessed with the Financial Bid without inviting a separate Technical Bid.

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#### 4.1 Letter of Bid

Date: Invitation for Bid No. :

To:

We, the undersigned, declare that:

We have examined and have no reservations to the Bidding Documents, including

Addenda is sued in accordance with Instructions to Bidders (ITB)2.3;

- a) We offer to execute in conformity with the Bidding Documents the following Works:

The total price of our Bid is: Rupees( in figures)

and Rupees (in words)

- b) Our bid shall be valid for a period of ..... days from the date fixed for the bid submission deadline in accordance with the Bidding Document, and it shall remain binding upon us and may be accepted at anytime before the expiration of that period;
- c) If our bid is accepted, we commit to submit a performance security in accordance with the Bidding Document;
- d) We, including any subcontractors or suppliers for any part of the contract, do not have any conflict of interest in accordance with ITB clause 1.2 and we have complied with and shall continue to comply with the Code of Integrity contained in the Act, the Rules and ITB clause 1.2 till completion of all our obligations under the contract;
- e) We are not participating, as a Bidder or as a subcontractor, in more than one bid for this work in this bidding process in accordance with ITB clause 1.2.2;
- f) Our firm, its affiliates or subsidiaries, including any subcontractors or suppliers for any part of the contract, have not been debarred by Government of Rajasthan or the Procuring Entity;
- g) We understand that this bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal contract is prepared and executed; and
- h) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.

- i) We agree to permit the Procuring Entity or its representative to inspect our accounts and records and other documents relating to the bid submission and to have them audited by auditors appointed by the Procuring Entity.

Name \_\_\_\_\_

In the capacity of \_\_\_\_\_

Signed \_\_\_\_\_

Duly authorized to sign the Bid Security for and on behalf of

Date \_\_\_\_\_

#### **4.2.1 Bid Security (Bank Guarantee Unconditional)**

### **Bid Security**

**(To be issued by a Scheduled Bank in India)**

[insert Bank's Name, and Address of Issuing Branch or Office]

Beneficiary: [insert Name and Address of Procuring Entity]

Date: [insert date]

BID GUARANTEE No.: [insert number]

We have been informed that [insert name of the Bidder] (hereinafter called "the Bidder") has submitted to you its bid dated [insert date] (hereinafter called "the Bid") for the execution of [insert name of contract] under Notice Inviting Bids No. [insert NIB number] ("the NIB").

Furthermore, we understand that, according to your conditions, bids must be supported by a bid guarantee.

At the request of the Bidder, we [insert name of Bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of \_\_\_\_\_ [insert amount in figures][insert amount in words] upon receipt by us of your first demand in writing accompanied by a written statement stating that the Bidder is in breach of its obligation(s) under the bid conditions, because the Bidder: has withdrawn its Bid during the period of bid validity specified by the Bidder in the Form of Bid; or having been notified of the acceptance of its Bid by the Procuring Entity during the period of bid validity, fails or refuses to execute the Contract Form, fails or refuses to furnish the performance security, in accordance with the Instructions to Bidders (hereinafter "the ITB"), has not accepted the correction of errors in accordance with the ITB, or has breached a provision of the Code of Integrity specified in ITB;

This guarantee will expire: (a) if the Bidder is the successful Bidder, upon our receipt of copies of the contract signed by the Bidder and the performance security issued to you upon the instruction of the Bidder; and (b) if the Bidder is not the successful Bidder, upon the earlier of (i) our receipt of a copy your notification to the Bidder of the name of the successful Bidder; or (ii) thirty days after the expiration of the Bidder's bid.

Consequently, any demand for payment under this guarantee must be received by us at the office on or before that date.

Name \_\_\_\_\_

In the capacity of \_\_\_\_\_

Signed \_\_\_\_\_

Duly authorized to sign the Bid Security for and on behalf of

Date \_\_\_\_\_

Bank's Seal \_\_\_\_\_

#### 4.2.2 Bid Securing Declaration

### **Bid-Securing Declaration**

Date: [insert date (as day, month and year)]

Notice Inviting Bids No.: [insert number of NIB]

To: [insert complete name of Procuring Entity]

We, the undersigned, declare that:

We understand that, according to your conditions, bids must be supported by a Bid-Securing Declaration.

We accept that we will automatically be suspended from being eligible for bidding in any contract with the Procuring Entity for the period of time of [Procuring Entity to indicate here the period of time for which the Procuring Entity will declare a Bidder ineligible to be awarded a Contract if the Bid Securing Declaration is to be executed.] starting on the date that we receive a notification from the Procuring Entity that our Bid Securing Declaration is executed, if we are in breach of our obligation(s) under the bid conditions, because we:

- a) have withdrawn our Bid during the period of bid validity specified in the Form of Bid; or
- b) having been notified of the acceptance of its Bid by the Procuring Entity during the period of bid validity, fail or refuse to execute the Contract Form, if required, fail or refuses to furnish the performance security, in accordance with the Instructions to Bidders (hereinafter "the ITB"),
- c) have not accepted the correction of errors in accordance with the ITB, or
- d) have breached a provision of the Code of Integrity specified in ITB;

We understand this Bid-Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of (i) our receipt of your notification to us of the name of the successful Bidder; or (ii) thirty days after the expiration of our Bid.

Signed: \_\_\_\_\_

[insert signature of person whose name and capacity are shown]

In the capacity of: \_\_\_\_\_

[insert legal capacity of person signing the Bid-Securing Declaration]

Name: \_\_\_\_\_

[insert complete name of person signing the Bid-Securing Declaration]

Duly authorized to sign the bid for and on behalf of: \_\_\_\_\_

[insert complete name of Bidder]

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ [insert date of signing]

Corporate Seal



#### **4.3 Bill of Quantities/ Activity Schedule [In case of Lump Sum Contract]**

1. The Bill of Quantities shall be read in conjunction with the Conditions of Contract, Technical Specifications (including BIS and IRC), design and Drawings.
2. The quantities given in the Bill of Quantities are estimated and provisional, and are given to provide a common basis for bidding, The basis of payment will be the actual quantities of work ordered and carried out, as measured and verified by the Engineer-in-charge and valued at the rates and prices tendered in the priced Bill of Quantities, where applicable, and otherwise at such rates and prices as the Engineer-in-charge may fix within the terms of the Contract.
3. The rates and prices tendered in the priced Bill of Quantities shall, except in so far as it is otherwise provided under the Contract, include all constructional plant, labour supervision, materials, T&P, quality assurance , erection, maintenance, insurance, profit, taxes and duties, together with all general risks, liabilities and obligations set out or implied in the Contract.
4. The rates and prices shall be quoted in the units indicated and entirely in Indian Rupees.
5. The whole cost of complying with the provisions of the Contract shall be included in the items provided in the priced Bill of Quantities, including miscellaneous items involved in the concerned item, and items not mentioned in the BOQ but required to be executed will be considered as variation items.
6. General directions and descriptions of works and materials are not necessarily repeated or summarized in the Bill of Quantities. References to the relevant sections of the Basic Schedule of Rates / Contract Document, shall be made before entering rates or prices against each item in the Bill of Quantities. The execution of various items shall be in full conformance to the relevant specifications and codes, drawings and designs as confirmed through sampling and testing by the Contractor and the Engineer-in-Charge at the field laboratory established by the Contractor at his cost. All payments shall be duly linked to the satisfactory testing results on works. Non-conformance, reported if any by the Engineer-in-Charge shall be complied to with suggested and appropriate remedial measures.
7. The method of measurement of completed work for payment shall be in accordance with IS 1200.
8. In case of Lump Sum Contract, the payments shall be linked to completion of various stages of the Works as per design, drawings and specifications.

**Bill of Quantities:** .....( Name/ location/ type of work).

**A1: For Works items on BSR for Percentage Rate Contract**

S. No	Reference to BSR item.	Description of item ( with reference to the specifications/ codes, sanctioned estimate)	Quantity	Unit	Unit Rate	Amount (Rupees)

We quote ..... % above/ below the rates of bill of quantities.

**A2: For Item rate Contracts**

S. No	Description of item (with reference to the BIS / IRC Code or departmental book of specifications)	Quantity	Unit	Rate in Rupees		Amount in Rupees(in figures)
				In figures	In words	

**Notes:**

1. Item for which no rate or price has been entered in, will not be paid for by the Procuring Entity when executed and shall be deemed covered by the other rates and prices in the bill of quantities.
2. Unit rates and prices shall be quoted by the bidder in Indian Rupees

3. Where there is a discrepancy between the rate in figures and words, the rates in words will govern

**A3: For Lump Sum Contracts**

We agree to execute the complete Works with all its contingencies in accordance with the drawings and specifications for a fixed sum of Rupees ..... (in figures) ..... (in words).

We further agree that in order to regulate the amount to be added to or deducted from this fixed sum on account of additions and alterations not covered by this Contract, the Schedule of Rates applied by you shall be ..... *[The Procuring Entity shall specify the Schedule of Rates].*

We further agree that payments in respect of the Works executed by us under this Contract shall be released by you as percentages of the fixed sum quoted by us at the stages of completion of the Works as per the following Schedule (Activity Schedule):-

- 1.
- 2.
- 3.

*[The Procuring Entity shall specify the Schedule of stages of completion of the Works (Activity Schedule) and release of payments as percentages of the fixed sum ]*

**B. Day work schedules** *[Not applicable in case of Lump Sum Contract]*

1. Labour : wages and out put.
2. Materials : rates at site.
3. Contractor's Equipment : per day/per hour including POL and operators

**C. Provisional Sums** *[Not applicable in case of Lump Sum Contract]*

Bidder's Signature with seal of the firm

#### **4.4 Bid / Proposal**

A Bid must necessarily contain the following:

1. Proof of payment of Bid security.
2. Proof of payment of Cost of Bidding document.
3. Proof of payment of Bid processing fee, in case of e-procurement.
4. Bid capacity stipulations.
5. Any modifications, substitution or withdrawal.
6. Mobilization Schedule.
7. Construction Schedule.
8. Construction safety plan ( subject to safety audit).
9. Method Statement.
10. Completed Bid document as procured or down loaded beginning with content, properly bound, page numbered, each page signed by the authorised signatory (including original of the valid Power of attorney/ authority) and the seal of the Bidder.
11. Others considered necessary to strengthen the bid.

#### 4.4.1 Personnel

Bidders should provide the names of suitably qualified personnel to meet the requirements specified in Section VI (Procuring Entity's Requirements). The data on their experience should be supplied using the Form below for each candidate.

##### 4.4.1 (a) Form PER-1: Proposed Personnel

1.	Title of position*
	Name
2.	Title of position*
	Name
3.	Title of position*
	Name
4.	Title of position*
	Name

\*As listed in Section V [Procuring Entity's Requirements]

**4.4.1 (b) Form PER-2: Resume (recently signed) of Proposed Personnel (attach a recent coloured photograph).**

Position		
Personnel information	Name	Date of birth
	Professional qualifications ( attach a copy of Degree/Diploma)	
Present employment	Name of Procuring Entity	
	Address of Procuring Entity	
	Telephone	Contact(Manager/Personnel officer)
	Fax	E-mail
	Job title	Years with present Procuring Entity

Summarize professional experience in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

From ..... To ..... Company/Project Position Relevant technical and management experience

#### **4.4.2 Site Organization**

Comment on site office, Quality Control Laboratory, Procuring Entity's site office, labour camps, safety plan, Security, storage of material, enabling services etc.

#### **4.4.3 Method Statement**

(State the methodological process to execute the key items of works) :

- i) Controlled, design mix Cement Concrete,
- ii) Steel interlocking props, steel plates for shuttering,
- iii) Drum mixers for production of mortars,
- iv) Use of pretested or tested at site materials (including water),
- v) Others



#### **4.4.4 Construction Schedule**

The Bidder shall submit a Construction Schedule as to how he proposes to commence the Works and there after shall complete various stages of the Works within the time schedule given by the Procuring Entity for stagewise completion of the Works.

**4.5 (a) Form FIN-1:Current Contract Commitments/ Works in Progress**

Bidders and each partner to a JV (if JV is permitted to bid) shall provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

CURRENT CONTRACT COMMITMENTS					
S.No	Name of Contract	Procuring Entity's Contact Address Telephone/ Mobile No., Fax No., e-mail id	Value of Outstanding work in Rupees	Estimated Completion Date	Average Monthly Invoicing Last 6 months. Rupees/ month

**4.5 (b) Form FIN-2 : Maximum value of work done during any one year of the last five years**

The value may be brought to current price level by a multiplier of 8% for one year

*[To be supported by Audited Statement of Accounts]*

**4.5 (c) Form FIN-3 : Calculation of Bid Capacity**

As explained in Section III : Evaluation and Qualification Criteria

Bid Capacity =  $(A \cdot N^2 - B)$

**4.6 Schedule of Materials and Machinery and Equipment to be Supplied by the Procuring Entity with Issue Rates/ Hire Charges**

#### **4.7 Declaration by the Bidder in compliance of Section 7 & 11 of the Act**

Declaration by the Bidder

In relation to my/our Bid submitted to ..... for procurement of ..... in response to their Notice Inviting Bids No..... Dated..... I/we hereby declare under Section 7 and 11 of the Rajasthan Transparency in Public Procurement Act, 2012, that;

1. I/we possess the necessary professional, technical, financial and managerial resources and competence required by the Bidding Document issued by the Procuring Entity;
2. I/we have fulfilled my/our obligation to pay such of the taxes payable to the Union and the State Government or any local authority as specified in the Bidding Document;
3. I/we are not insolvent, in receivership, bankrupt or being wound up, not have my/our affairs administered by a court or a judicial officer, not have my/our business activities suspended and not the subject of legal proceedings for any of the foregoing reasons;
4. I/we do not have, and our directors and officers not have, been convicted of any criminal offence related to my/our professional conduct or the making of false statements or misrepresentations as to my/our qualifications to enter into a procurement contract within a period of three years preceding the commencement of this procurement process, or not have been otherwise disqualified pursuant to debarment proceedings;
5. I/we do not have a conflict of interest as specified in the Act, Rules and the Bidding Document, which materially affects fair competition;
6. I/We have complied with and shall continue to comply with the Code of Integrity as specified in the Act, the Rules and the Bidding Document, till completion of all our obligations under the Contract.

Date:

Signature of Bidder

Place:

Name :

Designation:

Address:

## **Section V : Procuring Entity's Requirements**

This Section contains the Specifications, the Drawings, and supplementary information that describe the Works to be procured.

## **5.1 Specifications**

1. The General Specifications should cover all classes of workmanship, materials, and equipment commonly involved in construction, although not necessarily to be used in a particular Works contract. Deletions or addenda should then adapt the General Specifications to the particular Works.
2. The surveys, investigations, designs, drawings and other details provided by the Procuring Entity shall be verified and confirmed by the Contractor to his entire satisfaction in consultation with the Engineer-in-Charge before commencement of works. The Contractor shall hold the Procuring Entity indemnified against possible errors in execution on account of the data and details provided by the Procuring Entity.

## **5.2 Drawings**

1. It is customary to bind the drawings in a separate volume, The size will be dictated by the scale of the drawings, which must not be reduced to the extent that details are rendered illegible.
2. A simplified map showing North , the location of the Site in relation to the local geography, including major roads, airports, and railroads, is helpful.
3. The fit for construction drawings, must show sufficient details to enable bidders to understand the type and complexity of the work involved and to price the Bill of Quantities.
4. After the completion of the work, the Contractor shall get as built drawings prepared, cross checked by the Engineer-in-Charge and submit along with the final bill.

### **5.3 Procuring Entity's General Requirements**

The Procuring Entity requires that:

- i. The Contractor pretests and confirm /seek approval from the Procuring Entity of all input materials. Suggest any suitable local materials along with its test data for use in the works. Any non-conformance or failure of the works on account of use of such materials shall be the responsibility of the Contractor.
- ii. Ensure use of specified and approved materials, specified procedures, proper equipment and the specified output to ensure proper quality and durability of works.
- iii. Prepare a detailed quality assurance plan for execution with the help of a field laboratory established at his cost. Keep all BIS, IRC and other required codes available in the field laboratory for use. This plan should be complied with in totality.
- iv. Minimize the variations and extensions in the time for completion.
- v. Protect the environment at the site.
- vi. Promote a congenial working atmosphere at the site.
- vii. Serve faithfully the defect liability and the maintenance period, if any.
- viii. Prepare the as built drawings and designs for submission to Engineer-in-Charge.
- ix. Employ skilled and other labour in planned manner and the team of Engineers as under :



S.No	Position	For works costing upto Rs.100 lakh	For works costing more than Rs.100 lakh and upto Rs. 500 lakh	For work costing more than Rs.500 lakh and upto Rs. 1000 lakh
1.	Project Engineer; Graduate in relevant branch of engineering	1	1	1
2.	Materials Engineer –do-	nil	1	1
3.	Site Engineer (Diploma in relevant branch of Engineering)	1	1	1
4.	Quantity Surveyor (-do-)	1 (Also to work as Quality Assurance Engineer)	1	1
5.	Quality Assurance Engineer (-do-)	nil	1	1
6.	Others: as appropriate.			

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## Conditions of Contract

### A. General

#### 1. Definitions

##### 1.1 The defined terms are in boldface type:

**The Act** means the Rajasthan Transparency in Public Procurement Act, 2012.

**Bill of Quantities** means the priced and completed Bill of Quantities forming part of the Bid.

**Compensation Events** are those defined in Clause 41.1 hereunder.

The **Completion Date** is the date of actual completion of the Works as certified by the Engineer Incharge in accordance with Sub Clause 49.1.

The **Contract** is the contract between the Procuring Entity and the Contractor to execute, complete and maintain the Works. It consists of the documents listed in Clause 2.3 below.

The **Contract Data** defines the documents and other information which comprise the Contract. They alongwith the **Special Conditions of Contract (SCC)** modifies and specifies these General Conditions of Contract (GCC)

The **Contractor** is a person or corporate body whose Bid to carry out the Works has been accepted by the Procuring Entity.

The **Contractor's Bid** is the completed Bidding document submitted by the Contractor to the Procuring Entity.

The **Contract Price** is the price stated in the Letter of Acceptance and thereafter as adjusted in accordance with the provisions of the Contract.

**Days** are calendar days; **months** are calendar months.

**Day Works** are varied Works inputs subject to payment on a time basis for the Contractor's employees and equipment, in addition to payments for associated materials.

A **Defect** is any part of the Works not completed in accordance with the Contract.

The **Defects Liability Certificate** is the certificate issued by Engineer Incharge upon correction of defects by the Contractor.

The **Defects Liability Period** is the period named in the Contract Data and calculated from the Completion Date.

**Drawings** include calculations and other information provided or approved by the Engineer Incharge for the execution of the Contract.

The **Engineer Incharge** is the person named in the Contract Data (or any other competent person appointed by the Procuring Entity and notified to the Contractor to act in replacement of the Engineer Incharge) who is responsible for supervising the execution of the Works and administering the Contract.

**Equipment** is the Contractor's machinery and vehicles brought temporarily to the Site to construct the Works. The Procuring Entity may also lend its equipment to the Contractor on hire.

The **Government** means the Government of Rajasthan.

The **Governor** means the Governor of Rajasthan.

The **Initial Contract Price** is the Contract Price listed in the Procuring Entity's Letter of Acceptance.

The **Intended Completion Date** is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date is specified in the Contract Data. The Intended Completion Date may be revised only by the Engineer Incharge by issuing an extension of time.

**Materials** are all supplies, including consumables, used by the Contractor for incorporation in the Works, whether procured by himself or issued by the Procuring Entity.

**Plant** is any integral part of the Works which is to have a mechanical, electrical, electronic or chemical or biological function.

The **Procuring Entity** is the party who employs the Contractor to carry out the Works.

**The Rules** means the Rajasthan Transparency in Public Procurement Rules, 2013.

**Site** is the area defined as such in the Contract Data.

**Site Investigation Reports** are those which were included in the Bidding Document and are factual interpretative reports about the surface and sub-surface conditions at the Site. The Contractor must satisfy himself about the correctness of these reports at his level.

**Specification** means the BIS, IRC or any other departmental Specification of the Works included in the Contract and any modification or addition made or approved by the Engineer Incharge.

The **Start Date** is given in the Contract Data. It is the latest date when the Contractor shall commence execution of the Works. It does not necessarily coincide with any of the Site Possession Dates.

A **Sub Contractor** is a person or corporate body who, with the approval of the Procuring Entity, has a Contract with the Contractor to carry out a part of the Works in the Contract, which includes Works on the Site.

**Temporary Works** are Works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Works.

A **Variation** is an instruction given by the Engineer Incharge which varies the Works.

The **Works** are what the Contract requires the Contractor to construct, install, and turn over to the Procuring Entity, as defined in the Contract Data.

## 2. Interpretation

**2.1** In interpreting these Conditions of Contract, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Engineer Incharge will provide instructions clarifying queries about the Conditions of Contract.

**2.2** If sectional completion is specified in the Contract Data, references in the Conditions of Contract to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion date for the whole of the Works).

**2.3** The documents forming the Contract shall be interpreted in the following order of priority:

- 1) Agreement,
- 2) Letter of Acceptance,
- 3) Contractor's Bid,
- 4) Contract Data, including Special Conditions of Contract, if any,
- 5) General Conditions of Contract,

- 6) Standard Specifications, BIS, IRC, other relevant codes and departmental specifications,
- 7) The approved Design & Drawings,
- 8) Bill of Quantities (Activity Schedule in case of Lump Sum Contract),
- 9) Performance Security,
- 10) Insurance,
- 11) Instructions to Bidders,
- 12) Notice Inviting Bids,
- 13) Any other document listed in the Contract Data as forming part of the Contract.

### **3. Language and Law**

**3.1** The language of the Contract shall be English and the law governing the Contract shall be the Laws of the Union of India and the State of Rajasthan.

### **4. Engineer Incharge's Decisions**

**4.1** Except where otherwise specifically stated, the Engineer Incharge will decide contractual matters between the Procuring Entity and the Contractor in the role representing the Procuring Entity.

### **5. Delegation**

**5.1** The Engineer Incharge may delegate any of his duties and responsibilities to other people after notifying the Contractor and may cancel any delegation after notifying the Contractor.

### **6. Communications**

**6.1** Communications between parties which are referred to in the conditions are effective only when in writing. A notice shall be effective only when it is delivered.

### **7. Subcontracting**

**7.1** The Contractor may subcontract any parts of the Works to other Contractors with the approval of the Engineer Incharge in writing but shall not assign the Contract. Subcontracting does not alter the Contractor's obligations.



## **7.2 Works not to be sub-let, contract may be rescinded and Performance Security forfeited for sub-letting, bribing or if Contractor becomes insolvent**

The contract shall not be assigned or sublet without the written approval of the Engineer Incharge, and if the Contractor shall assign or sublet his contract or attempt so to do, or become insolvent, or commence any insolvency proceedings, or make any composition with his creditors, or attempt to do so, or if any bribe, gratuity, gift, loan, requisite reward or advantage, pecuniary or otherwise, shall either, directly or indirectly be given, promised or offered by the Contractor or any of his servants or agents to any public officer or person, in the employ of Government, in any way, relating to his office or employment, or if, any such officer or person shall become, in any way, directly or indirectly, interested in the contract, the Engineer Incharge may, thereupon, by notice in writing, rescind the contract and the Performance Security of the Contractor shall, thereupon stand forfeited and be absolutely at the disposal of Government and the same consequences shall ensue as if the Contract had been rescinded under clause 3 hereof, and in addition the Contractor shall not be entitled to recover or be paid for any Works therefor, actually performed under the Contract.

## **7.3 Changes in Constitution of firm**

Where the Contractor is a partnership firm, the previous approval, in writing of the Engineer Incharge shall be obtained before any change is made in the constitution of the firm. Where the Contractor is an individual or a Hindu Undivided Family business concern, such approval, as aforesaid, shall likewise be obtained before the Contractor enters into any partnership agreement where under the partnership firm would have the right to carry out the Works thereby undertaken by the Contractor. If previous approval, as aforesaid, is not obtained, the contract shall be deemed to have been assigned in contravention of Sub-Clause 16.6 hereof, and the same action may be taken, and the same consequence shall ensue, as provided in the said Sub-Clause 16.6.

## **8. Other Contractors**

**8.1** The Contractor shall cooperate and share the Site with other Contractors, public authorities, utilities, and the Procuring Entity between the dates given in the Schedule of Other Contractors, as referred to in the Contract Data. The Contractor shall provide facilities and services for them as described in the Schedule. The Procuring Entity may modify the Schedule of Other Contractors and shall notify the Contractor of any such modification.

## **8.2 Contractor liable for settlement of claims caused by his delays**

If the progress of the Works has fallen so much in arrears as to prevent other Contractors on the Works from carrying out their part of the Works within the stipulated time, the Contractor shall be liable for the settlement of any claim, put in by any of these Contractors for the expenses of keeping their labour and equipment unemployed, to the extent considered reasonable by the Engineer Incharge.

## **9. Personnel**

**9.1** The Contractor shall employ the key personnel named in the Schedule of Key Personnel, as referred to in the Contract Data, to carry out the functions stated in the Schedule or other personnel approved by the Engineer Incharge. The Engineer Incharge will approve any proposed replacement of key personnel only if their qualifications, abilities, and relevant experience are substantially equal to or better than those of the personnel listed in the Schedule.

**9.2** If the Engineer Incharge asks the Contractor to remove a person who is a member of the Contractor's staff or his Works force stating the reasons the Contractor shall ensure that the person leaves the Site within seven days and has no further connection with the Works in the Contract.

## **10. Procuring Entity's and Contractor's Risks**

**10.1** The Procuring Entity carries the risks which this Contract states are Procuring Entity's risks, and the Contractor carries the risks which this Contract states are Contractor's risks.

### **10.2 Indemnities**

The Contractor shall indemnify and hold harmless the Procuring Entity, the Procuring Entity's Personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of:

- i. bodily injury, sickness, disease or death, of any person whatsoever arising out of or in the course of or by reason of the Contractor's design (if any), the execution and completion of the Works and the remedying of any Defects, unless attributable to any negligence, willful act or breach of the Contract by the Procuring Entity, the Procuring Entity's Personnel, or any of their respective agents, and

- ii. damage to or loss of any property, real or personal (other than the Works), to the extent that such damage or loss arises out of or in the course of or by reason of the Contractor's design (if any), the execution and completion of the Works and the remedying of any Defects, unless and to the extent that any such damage or loss is attributable to any negligence, willful act or breach of the Contract by the Procuring Entity, the Procuring Entity's Personnel, their respective agents, or anyone directly or indirectly employed by any of them.
- iii. The Procuring Entity shall indemnify and hold harmless the Contractor, the Contractor's Personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of (1) bodily injury, sickness, disease or death, which is attributable to any negligence, willful act or breach of the Contract by the Procuring Entity, the Procuring Entity's Personnel, or any of their respective agents, and (2) the matters for which liability may be excluded from insurance cover.

### **10.3 Contractor to indemnify for infringement of Patent or design.**

The Contractor shall fully indemnify the Procuring Entity against any action, claim or proceeding, relating to infringement or 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 made under or action brought against the Procuring Entity. In respect of any such matters, as aforesaid, the Contractor shall be, immediately, noticed thereof, and the Contractor shall be at liberty, at his own expense, to settle any dispute or to conduct any litigation, that may arise there from provided that the Contractor shall not be liable to indemnify the Procuring Entity, if the infringement of the patent or design or any alleged patent or design, right is the direct result of an order passed by the Engineer Incharge in this behalf.

### **10.4 Limitation of Liability**

Neither Party shall be liable to the other Party for loss of use of any Works, loss of profit, loss of any Contract or for any indirect or consequential loss or damage which may be suffered by the other Party in connection with the Contract, other than as specifically provided in the Contract. The total liability of the Contractor to the Procuring Entity, under or in connection with the Contract other than pertaining to use of Electricity, Water and Gas, Procuring Entity's

Equipment and Free-Issue Materials, Indemnities and Intellectual and Industrial Property Rights, shall not exceed TWICE the Accepted Contract Amount.. This Sub-clause shall not limit liability in any case of fraud, deliberate default or reckless misconduct by the defaulting Party.

## **11. Procuring Entity's Risks**

**11.1** The Procuring Entity is responsible for the excepted risks which are (a) in so far as they directly affect the execution of the Works in the Procuring Entity's country, the risks of war, hostilities, invasion, act of foreign enemies, rebellion, revolution, insurrection or military or usurped power, civil war, riot commotion or disorder (unless restricted to the Contractor's employees), and contamination from any nuclear fuel or nuclear waste or radioactive toxic explosive, or (b) a cause due solely to the design of the Works, other than the Contractor's design.

## **12. Contractor's Risks**

**12.1** All risks of loss of or damage to physical property and of personal injury and death which arise during and in consequence of the performance of the Contract other than the excepted risks are the responsibility of the Contractor.

### **12.2 Contractor's Care of the Works**

- i. The Contractor shall take full responsibility for the care of the Works and Goods from the Commencement Date until the Taking-Over Certificate is issued (or is deemed to be issued for the Works, when responsibility for the care of the Works shall pass to the Procuring Entity. If a Taking-Over Certificate is issued (or is so deemed to be issued) for any Section or part of the Works, responsibility for the care of the Section or part shall then pass to the Procuring Entity.
- ii. After responsibility has accordingly passed to the Procuring Entity, the Contractor shall take responsibility for the care of any Works which is outstanding on the date stated in a Taking-Over Certificate, until this outstanding Works has been completed.
- iii. If any loss or damage happens to the Works, Goods or Contractor's Documents during the period when the Contractor is responsible for their care, from any cause not listed in Procuring Entity's Risks, the Contractor shall rectify the loss or damage at the Contractor's risk and Cost, so that the Works, Goods and Contractor's Documents conform with the Contract.

- iv. The Contractor shall be liable for any loss or damage caused by any actions performed by the Contractor after a Taking-Over Certificate has been issued. The Contractor shall also be liable for any loss or damage which occurs after a Taking Over Certificate has been issued and which arose from a previous event for which the Contractor was liable

### **13. Insurance**

**13.1** The Contractor shall provide, in the joint names of the Procuring Entity and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period (and maintenance period, if applicable), in the amounts and deductibles stated in the Contract Data for the following events which are due to the Contractor's risks:

- (a) loss of or damage to the Works, Plant and Materials;
- (b) loss of or damage to Equipment;
- (c) loss of or damage of property (except the Works, Plant, Materials and Equipment) in connection with the Contract; and
- (d) personal injury or death.

**13.2** Policies and certificates for insurance shall be delivered by the Contractor to the Engineer Incharge for the Engineer Incharge's approval before the Start Date. All such insurance shall provide for the amount of compensation to be payable to rectify the loss or damage incurred.

**13.3** If the Contractor does not provide any of the policies and certificates required, the Procuring Entity may effect the insurance which the Contractor should have provided and recover the premiums the Procuring Entity has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be recovered from any other dues and securities of the Contractor.

**13.4** Alterations to the terms of an insurance shall not be made without the approval of the Engineer Incharge.

**13.5** Both parties shall comply with any conditions of the insurance policies.

### **14. Site Investigation Reports**

**14.1** The Contractor, in preparing the Bid, may rely on any site Investigation Reports referred to in the Contract Data, supplemented by any

information available to him. However, the Contractor must satisfy himself about the correctness of these reports at his level.

**15. Queries about the Contract Data**

**15.1** The Engineer Incharge will clarify queries on the Contract Data.

**16. Contractor to Construct the Works**

**16.1 Works to be under direction of Engineer Incharge**

All the Works, to be executed under the Contract, shall be executed under the direction and subject to the approval, in all respect, of the Engineer Incharge, who shall be entitled to direct, at what point or points, and in what manner, they are to be commenced, and from time to time, carried on.

**16.2 Works to be executed in accordance with Specifications, Drawings, Orders, etc.**

The Contractor shall execute the whole and every part of the Works in the most substantial and satisfactory manner and both as regards materials and otherwise in every respect, in strict accordance with the specifications. The Contractor shall also conform exactly fully and faithfully to the designs, drawings and instructions in writing relating to the Works signed by the Engineer Incharge and lodged in his office and to which the Contractor shall be entitled to have access at such office or on the Site of the Works for the purpose of inspection during office hours and the Contractor shall, if he so requires, be entitled, at his own expense, to make or cause to be made copies of specifications and of all such designs, drawings and instructions as aforesaid. A certificate of executing Works as per approved design, drawings and specifications etc. shall be given on each Running Account Bill.

The specifications of the Works, materials, methodology of execution, drawings and designs shall be signed by the Contractor and the Engineer Incharge while executing agreement and shall form part of the agreement.

The revisions of the designs, drawings and specifications if any shall also be signed by the Engineer Incharge and the Contractor.

**16.3 Action and compensation payable by the Contractor in case of bad Works**

If it shall appear to the Chief Engineer or any authorised authority or agency or the Engineer Incharge or his subordinates in charge of the Works, or to the committee of retired officers appointed by the State Government for the purpose that any Works has been executed with unsound, imperfect or

unskillful Worksmanship, or with materials of any inferior specification, or that any materials or articles provided by him for the execution of the Works are unsound or of a quality inferior to that contracted, or otherwise not in accordance with Contract, the Contractor shall on demand in writing from the Engineer Incharge, specifying the Works/materials or articles complained of, notwithstanding that the same may have been inadvertently passed, certified and paid for, will rectify or remove and reconstruct the Works, so specified, in whole or in part, as the case may be, remove the materials or articles , so specified. and provide other proper and suitable materials or articles, at his own cost and in the event of his failing to do so, within a period to be specified by the Engineer Incharge in his demand, as aforesaid, then the Contractor shall be liable to pay compensation, at the rate of one percent, on the bid amount of the Works for every week but not exceeding ten percent, while his failure to do so shall continue, and in the case of any such failure, the Engineer Incharge may rectify or remove and re-execute the Works or remove and replace with others, the materials or articles complained of as the case may be, at the risk and expense, in all respects of the Contractor.

#### **16.4 Works to be open to inspection: Contractor or his responsible Agent to be present**

All Works, under or in course of execution or executed in pursuance of the Contract shall, at all times, be open to inspection and supervision of the Engineer Incharge and his superior officers e.g. Superintending Engineer, Additional Chief Engineer, Chief Technical Examiner, Quality Inspection Agency, Chief Engineer, and his subordinates and any other authorised agency of the Government and the Contractor shall, at all times during the usual Working hours, and at all other times at which reasonable notice of agency of Government or committee of retired officers/officers appointed by the State Government for the purpose to visit the Works shall have been given to the Contractor, either himself be present to receive orders and instructions or have a responsible agent, duly accredited in writing, present for the purpose. Orders given to the Contractor's agent shall be considered to have the same force as if they had been given to the Contractor himself.

#### **16.5 Contractor liable for damage done and for imperfections**

If the Contractor or his Works people or servants shall break, deface, injure or destroy any part of a building, in which they may be Working or any building, road fence, enclosure, or cultivated ground contiguous to the premises on which the Works or any part of it being executed, or if any damage shall happen to the Works, while in progress from any cause, whatsoever or any imperfections become apparent in it, within the period ( including defect liability period and/or maintenance period, if any) upto which

the full amount of Performance Security shall have been refunded, after a Certificate, final or otherwise of its completion, shall have been given by the Engineer Incharge, shall be corrected by the Contractor. If the Contractor does not rectify the defect, the Engineer Incharge may cause the same to be made good by other Workmen and deduct the expense (of which the certificate of the Engineer Incharge shall be final) from any sums that may be then, or at any time thereafter may become due to the Contractor, or from his Performance Security, or the proceeds of sale thereof, or of a sufficient portion thereof.

#### **16.6 Contractor to supply Plant, Ladders, Scaffolding, etc.**

The Contractor shall arrange and supply, at his own cost, all material (except such special materials, if any. as may, in accordance with the Contract, be supplied from the Engineer Incharge's stores), plants, tools, appliances, implements, ladders, cordage, tackle, scaffolding and temporary Works requisite for the proper execution of the Works whether original, altered, or substituted, and whether included in the specifications or other documents, forming part of the Contract, or referred to in these conditions or not. or which may be necessary for the purpose of satisfying or complying with the requirements of the Engineer Incharge, as to any matter as to which, under these conditions, he is entitled to be satisfied or which he is entitled to require, together with carriage thereof, to and from the Works. The Contractor shall also arrange and supply, without charge, the requisite number of skilled persons with the means and materials, necessary for the purpose of setting out the Works and counting, weighing and assisting in the measurement or examination at any time and from time to time of the Works, or materials. Failing his so doing, the same may be provided by the Engineer Incharge at the expense of the Contractor, and the expenses may be deducted from any money due to the Contractor under the Contract, or from his Performance Security or the proceeds of sale thereof or a sufficient portion thereof. The Contractor shall also provide at his cost all necessary fencing and lights required to protect the public from accident and shall be bound to bear the expenses of defense of every suit, action or other proceeding at law, that may be brought by any person for injury sustained owing to neglect of the above precautions and to pay any damages and costs, which may be awarded in any such suit, action, proceeding to any such person or which may, with the consent of the Contractor, be paid to compromise any claim by any such person.

#### **16.7 Lump-sums in estimates**

When the estimate, on which a bid is made includes lump sums, in respect of parts of the Works, the Contractor shall be entitled to payment in



respect of the item of Works invoked, or the part of the Works in question at the same rates, as are payable under the Contract for such items or if the part of the Works in question is not, in the opinion of the Engineer Incharge, capable of measurement, the Engineer Incharge may at his discretion pay the lump sum amount entered in the estimate and the certificate in writing of the Engineer Incharge shall be final and conclusive with regard to any sum or sums payable to him under the provisions of this Sub-Clause.

#### **16.8 Action where no Specification**

In case of any Class of Works for which there is no specification as is mentioned in the Contract, such Works shall be carried out in accordance with the detailed specification of the department/ organisation and also in accordance with the instructions and requirement of the Engineer Incharge.

**16.9** The Contract includes clearance, leveling and dressing of the Site within a distance of 15 meter (or as directed by the Engineer Incharge) of the Works on all sides except where the building adjoins another building.

#### **16.10 Protection of Works**

The Contractor shall arrange to protect, at his own cost, in an adequate manner, all cut stone Works and other Works, requiring protection and to maintain such protection, as long as Works is in progress. He shall remove and replace this protection, as required by the Engineer Incharge, from time to time. Any damage to the Works, so protected, no matter how it may be caused, shall be made good by the Contractor at his cost.

All templates, forms, moulds, centering/shuttering, false Works and models, which in the opinion of the Engineer Incharge are necessary for the proper and Workman like execution of the Works, shall be provided by the Contractor at his cost

#### **16.11 Near Relatives barred from bidding**

The Contractor shall not be permitted to bid for Works in Circle, in which his near relative is posted as Divisional Accountant or as an officer in any capacity between the grades of the Superintending Engineer and Assistant Engineer (both inclusive). He shall also intimate the names of persons, who are working with him in any capacity, or are subsequently employed by him and who are near relative to in any capacity, or are subsequently employed by him and who are near relatives to any gazetted officer in the Organization/Department. Any breach of this condition by the Contractor would render him liable to be removed from the approved list of Contractors of the department. If such fact is noticed (a) before sanction of the

bid, his offer shall be declared invalid and the bid security shall be forfeited, (b) after sanction of the bid the Procuring Entity may at his discretion forfeit his bid security, performance security and enlistment deposit and shall take action under Section 11(3) of the Act.

Note : By the term 'near relative' is meant wife, husband, parents and grandparents, children and grand children, brothers and sisters, uncles and cousins and their corresponding in-laws.

#### **16.12 Retired Gazetted Officers barred for 2 years**

No Engineer of Gazetted rank or other Gazetted Officer, employed in Engineering or Administrative duties in an Engineering Department of the Government of Rajasthan, is allowed to Works as a Contractor for a period of 2 years of his retirement from Government service without the previous permission of the Government of Rajasthan. The Contract is liable to be cancelled, if either the Contractor or any of his employees is found, at any time, to be such a person, who had not obtained the permission of the Government, as aforesaid, before submission of the bid or engagement in the Contractor's service, as the case may be.

**16.13** The Works (whether fully constructed or not) and all materials, machines, tools and plant, scaffolding, temporary buildings and other things connected therewith, shall be at the risk of the Contractor until the Works has been delivered to the Engineer Incharge, and a certificate from him, to the effect, obtained.

#### **16.14 Death of Contractor**

Without prejudice to any of the rights or remedies under the Contract, if the Contractor dies, the legal heirs of the Contractor or the Procuring Entity shall have the option of terminating the Contract without any compensation.

#### **16.15 General Discrepancies and Errors**

In case of percentage rate contracts, if there is any typographical or clerical error in the rates shown in the Bill of Quantities, the rates as given in the relevant Basic Schedule of Rates of the Department/ Organisation for the area shall be taken as correct.

#### **16.16 Dismantled Materials**

The Contractor, in course of the Works, should understand that all materials e.g. stone, bricks, steel and other materials obtainable in the Works by dismantling etc. will be considered as the property of the Procuring Entity and

will be disposed off to the best advantage of the Procuring Entity, as per directions, of the Engineer Incharge.

## **17. Approval by the Engineer Incharge**

**17.1** The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Engineer Incharge, who is to approve them if they comply with the Specifications and Drawings. If the approval is not issued or modifications suggested within 7 days of the submission of the letter of approval, the Contractor may presume approval of the Engineer Incharge.

**17.2** The Contractor shall be responsible for proper design and safety of Temporary Works.

**17.3** The Engineer Incharge's approval shall not alter the Contractor's responsibility for proper design and safety of the Temporary Works.

**17.4** All Drawings prepared by the Contractor for the execution of the temporary or permanent Works, are subject to prior approval by the Engineer Incharge before their use in execution of works.

## **18. Safety**

**18.1** The Contractor shall be responsible for the safety of all persons, structures, materials and activities on the Site. He shall submit a safety plan for approval by the Engineer Incharge and act as per the approved plan.

### **18.2 Safety Code**

The Contractor shall follow the safety code of the Department/Organisation or the BIS or IRC or other relevant safety code.

## **19. Compliance with Labour Laws**

### **19.1 Contractor to adhere to labour laws/regulation**

The Contractor shall adhere to the requirements of the Workmen's Compensation Act and Labour Legislation in force from time to time and be responsible for and shall pay any compensation to his workmen which would be payable for injuries under the Workmen's Compensation Act, here-in-after called the said Act. . If such compensation is made to be paid by the Procuring Entity as principal employer under Sub Section (1) of section 12 of the said Act, on behalf of the Contractor, it shall be recoverable by the Procuring Entity from the Contractor under Sub Section (2) of the said section. Compensation so paid, shall be recovered with 15% agency charges in the manner laid down in Clause.....

[Note: All Contracts with Government shall require registration of Workers under the Building & other Construction Workers (Regulation of Employment & Conditions of Services) Act, 1996 and extension of benefit to such Workers under the Act. Deductions of cess at source will be made as per provisions of the said Act, in force from time to time.]

## 19.2 Fair Wage Clause

(a) The Contractor shall pay not less than fair wages/ minimum wages to labourers engaged by him on the Works as revised from time to time by the Government.

**Explanation:** "Fair Wage" means minimum wages for time or piece Works, fixed or revised, by the State Government under the Minimum Wages Act, 1948.

(b) The Contractor shall, notwithstanding the provisions of any contract to the contrary, cause to be paid fair wages to labourers indirectly engaged on the Works, including any labour engaged by his sub-Contractors in connection with the said Works as if the labourers have been immediately or directly employed by him.

(c) In respect of all labourers, immediately or directly employed on the Works, for the purpose of Contractor's part of this agreement, the Contractor shall comply with or cause to be complied with the Public Works Department Contractor's Labour Regulations made, or that may be made by the Government from time to time, in regard to payment of wages, wage period, deductions from wages, recovery of wages not paid, and unauthorised deductions, maintenance of wages register, wage card, publication of scale of wages, and other terms of employment, inspection and submission of periodical returns and other matters of a like nature.

(d) The Engineer Incharge shall have the right to deduct ( and take further action as per the provisions of Minimum Wages Act/ Rules) from the money due to the Contractor any sum required or estimated to be required for making good the loss suffered by a Worker or Workers, by reasons of non-fulfillment of the Conditions of the Contract, for the benefit of the Worker or Workers, non-payment of wages or of deductions made therefrom, which are not justified by the terms of the Contract, or as a result of non-observance of the aforesaid regulations.

(e) Vis-a-Vis the Government of Rajasthan, the Contractor shall be primarily liable for all payments to be made and for the observance of the regulations aforesaid, without prejudice to his right to claim indemnity from his sub-Contractors.

(f) The regulations, aforesaid, shall be deemed to be part of this Contract and any breach, thereof, shall be deemed to be breach of the Contract.

**19.3** The Contractor shall comply with the provisions of the Apprenticeship Act. 1961. and the Rules and Orders issued, thereunder, from time to time. If he fails to do so, his failure will be a breach of Contract. The Contractor shall also be liable for any pecuniary liability arising on account of any violation by him of the provisions of the said Act.

## **20. Discoveries**

**20.1** Anything of historical or other interest or of significant value unexpectedly discovered on the Site is the property of the Procuring Entity. The Contractor is to notify the Engineer Incharge of such discoveries and carry out the Engineer Incharge's instructions for dealing with them.

## **21. Possession of the Site**

**21.1** The Procuring Entity shall give possession of 80% (eighty percent) parts of the Site to the Contractor. If possession of a part is not given by the date stated in the Contract Data the Procuring Entity is deemed to have delayed the start of the relevant activities and this will be a Compensation Event.

## **22. Access to the Site**

**22.1** The Contractor shall allow the Engineer Incharge and any person authorized by the Engineer Incharge free and frequent access to the Site, to any place where Works in connection with the Contract is being carried out or is intended to be carried out and to any place where materials or plant are being manufactured / fabricated / assembled for the Works.

## **23. Instructions, Inspections and Audits**

**23.1** The Contractor shall carry out all instructions of the Engineer Incharge which comply with the applicable laws where the Site is located.

**23.2** The Contractor shall permit, and shall cause its Sub Contractors to permit, the Procuring Entity and/or persons appointed by the Procuring Entity to inspect the Site and/or the accounts and records of the Contractor and its Sub Contractors relating to the performance of the Contract and the submission of the Bid, and to have such accounts and records audited by auditors appointed by the Procuring Entity. The Contractor's and its Sub Contractors' attention is drawn to Sub-Clause 52.2 which provides, inter alia, that acts intended to materially impede the exercise of the Procuring Entity's inspection and audit rights provided for under this Sub-Clause constitute a

prohibited practice and may lead to breach of Contract or termination of Contract.

### **23.3 Post payment Audit & Technical Examination**

The Government/ Procuring Entity shall have right to cause an audit and technical examination of the Works, and the final bills of the Contractor, including all supporting vouchers, abstracts etc., to be made within 2 years after payment of the final bill, and if, as a result of such audit and technical examination, any sum is found to have been over paid in respect of any Works done by the Contractor under the Contract, or any Works claimed by him to have been done by him under the contract and found not to have been executed or executed below specifications, the Contractor shall be liable to refund the amount of over payment, and it shall be lawful for Procuring Entity to recover the same from him, in the manner prescribed in Clause 40.13 or in any other manner legally permissible, and if it is found that the Contractor was paid less (except at reduced rates wherever applicable) than what was due to him under the Contract in respect of any Works executed by him under it, the amount of such under-payment shall be duly paid by the Procuring Entity to the Contractor.

### **23.4 Pre Check or Post check of Bills**

The Government/ Procuring Entity shall have right to provide a system of pre-check of Contractor's bills by a specified Organisation, and payment by an Engineer or an Accounts Officer/ Sr. Accounts Officer/ Chief Accounts Officer/ Financial Advisor, as the Government/ Procuring Entity may in its absolute discretion prescribe. Any over-payments/ excess payments detected, as a result of such pre-check or post-check of Contractor's bills, shall be refunded by the Contractor on demand or recovered from the Contractor's bills, or in the manner prescribed in Clause 40.14.

## **24. Standing Committee for Settlement of Disputes**

**24.1** If any question, difference or objection, whatsoever shall arise in any way, in connection with or arising out of this instrument, or the meaning of operation of any part thereof, or the rights, duties or liabilities of either party then, save in so far, as the decision of any such matter, as herein before provided for, and been so decided, every such matter constituting a total claim of Rs. 50,000/- or above, whether its decision has been otherwise provided for and whether it has been finally decided accordingly, or whether the Contract should be terminated, or has been rightly terminated, and as regards the rights or obligations of the parties, as the result of such termination, shall be

referred for decision to the empowered Standing Committee, which would consist of the followings:-

- (i) Administrative Secretary concerned.
- (ii) Finance Secretary or his nominee, not below the rank of Deputy Secretary.
- (iii) Law Secretary or his nominee, not below the rank of Joint Legal Remembrancer.
- (iv) Chief Engineer-cum-Addl. Secretary of the concerned department.
- (v) Chief Engineer concerned (Member - Secretary)

The Engineer Incharge, on receipt of application along with non-refundable prescribed fee, (the fee would be two percent of the amount in dispute, not exceeding Rupees One lakh) from the Contractor, shall refer the disputes to the committee, within a period of three month from the date of receipt of application.

Procedure and Application for referring cases for settlement by the Standing Committee shall be, as given in Form RPWA 90.

#### **24.2 Jurisdiction of Court**

In the event of any dispute arising between the parties hereto, in respect of any of the matters comprised in this agreement , the same shall be settled by a competent Court having jurisdiction over the place, where agreement is executed and by no other court, after completion of proceedings under Sub-Clause 24.1 of this Contract.

### **B. Time Control**

#### **25. Program**

**25.1** Within the time stated in the Contract Data the Contractor shall submit to the Engineer Incharge for approval a Program for execution of the Works including Environmental Management Plan showing the general methods, arrangements, order, and timing for all the activities in the Works along with monthly cash flow forecast. The programme shall be updated monthly by the Contractor showing the actual progress achieved on each activity and the efforts which shall be made by him to make up for the shortfall, if any in the progress achieved and its effect on the completion period of the project, and submitted to the Engineer Incharge by 7th day of the succeeding month for review

## 25.2 Compensation for delay

The time allowed for carrying out the Works, as entered in the Contract, shall be strictly observed by the Contractor and shall be reckoned from the ..... th (to be specified by the Procuring Entity) day after the date of written order to commence the Works given to the Contractor. If the Contractor does not commence the Works within the period specified in the Work Order, he shall stand liable for the forfeiture of the amount of Bid Security, and Performance Security. Besides, appropriate action may be taken by the Engineer Incharge/ competent authority to debar him from taking part in future invitations to bid for a specified period or proceed to black list him. The Works shall, through-out the stipulated period of completion of the Contract, be proceeded with all due diligence, time being essence of the Contract, on the part of the Contractor. To ensure good progress during the execution of the Works, the Contractor shall be bound, in all cases in which the time allowed for any Works exceeds one month (save for special jobs), to complete 1/8th of the whole of the Works before 1/4th of the whole time allowed under the Contract has elapsed, 3/8th of the Works before 1/2 of such time has elapsed and 3/4th of the Works before 3/4 of such time has elapsed. If the Contractor fails to complete the Works in accordance with this time schedule in terms of cost in money, and if the delay in execution of Works is attributable to the Contractor, the Contractor shall be liable to pay compensation to the Government/ Procuring Entity at every time span as below :-

A.	Time Span of full stipulated period	1/4th (.....days	1/2th (.....days)	3/4th (.....days)
B.	Works to be completed Full in terms of money	1/8th (Rs.....)	3/8th (Rs.....)	3/4th (Rs.....)
C	Compensation payable by the Contractor for delay attributable to Contractor at the stage of :	Delay upto one fourth period of the prescribed time span - 2.5% of the Works remained unexecuted.  Delay exceeding one fourth period but not exceeding half of the prescribed time span. - 5% of the Works remained unexecuted.  Delay exceeding half of the period but not exceeding three fourth of the prescribed time span. - 7.5% of the Works remained unexecuted.		



Delay exceeding three fourth of the prescribed time span.-10% of the Works remained unexecuted.

**Note 1 :** In case delayed period over a particular span is split up and is jointly attributable to the Procuring Entity and the Contractor, the competent authority may reduce the compensation in proportion of delay attributable to the Procuring Entity over entire delayed period over that span after clubbing up the split delays attributable to the Procuring Entity and this reduced compensation would be applicable over the entire delayed period without paying any escalation.

**Note 2 :** The compensation, levied as above, shall be recoverable from the Running Account Bill to be paid immediately after the concerned time span. Total compensation for delays shall not exceed 10 percent of the total value of the Works.

The Contractor shall, further, be bound to carry out the Works in accordance with the date and quantity entered in the progress statement attached to the Contract.

In case the delay in execution of Works is attributable to the Contractor, the spanwise compensation, as laid down in this clause shall be mandatory. However, in case the slow progress in one time span is covered up within original stipulated period, then the amount of such compensation levied earlier shall be refunded. The Price escalation, if any, admissible under clause 44 would be admissible only on such rates and cost of Works, as would be admissible if Works would have been carried out in that particular time span. The Engineer Incharge shall review the progress achieved in every time span, and grant stagewise extension in case of slow progress with compensation, if the delay is attributable to Contractor, otherwise without compensation.

However, if for any special job, a time schedule has been submitted by the Contractor before execution of the agreement, and it is entered in agreement as well as same has been accepted by the Engineer Incharge, the Contractor shall complete the Works within the said time schedule. In the event of the Contractor failing to comply with this condition, he shall be liable to pay compensation as prescribed in forgoing paragraph of this Clause provided that the entire amount of compensation to be levied under the provisions of this Clause shall not exceed 10% of the value of the Contract. While granting extension in time attributable to the Procuring Entity, reasons shall be recorded for each delay.

### **25.3 Risk and Cost of the Contractor**

The Engineer Incharge or the Competent Authority may, without prejudice to his rights against the Contractor, in respect of any delay or inferior workmanship or otherwise, or to any claims for damages in respect of any breaches of the Contract and without prejudice to any right or remedies under any of the provisions of this Contract or otherwise, and whether the date for completion has or has not elapsed, by notice in writing absolutely determine the contract in any of the following cases:-

If Contractor having been given by the Engineer Incharge, a notice in writing to rectify, reconstruct or replace any defective Works or that the Works is being performed in any inefficient or otherwise improper or unworkman like manner, shall omit to comply with the requirements of such notice for a period of seven days, thereafter, or if the Contractor shall delay or suspend the execution of the Works so that either in the judgment of the Engineer Incharge (which shall be final and binding) he will be unable to secure completion of the Works by the date for completion or he has already failed to complete the Works by that date,

If the Contractor, being a company, shall pass a resolution of the Court shall make an order that the company shall be wound up or if a receiver or a manager, on behalf of a creditor, shall be appointed or if circumstances shall arise, which entitle the Court or Creditor to appoint a receiver or a manager or which entitle the Court to make a winding up order,

If the Contractor commits any acts mentioned in Clause.....[Code of Integrity] hereof.

When the Contractor has made himself liable for action under any of the cases aforesaid, the Engineer Incharge on behalf of the Governor of Rajasthan/ Procuring Entity shall have powers:-

(a) To determine or rescind the Contract, as aforesaid (of which determination or rescission notice in writing to the Contractor under the hand of the Engineer Incharge shall be conclusive evidence), upon such determination or rescission, the Bid Security, full Performance Security of the Contract shall be liable to be forfeited and shall be absolutely at the disposal of the Government/ Procuring Entity.

(b) To employ labour paid by the Department/ Organisation and to supply materials to carry out the Works or any part of the Works, debiting the Contractor with the cost of the labour and the price of the materials (of the amount of which cost and price certified by the Engineer Incharge shall be final and conclusive against the Contractor) and crediting him with the value of

the Works done in all respects in the same manner and at the same rates, as if it had been carried out by the Contractor under the terms of this Contract. The certificate of the Engineer Incharge, as to the value of the Works done, shall be final and conclusive evidence against the Contractor provided always that action under this Sub-Clause shall only be taken after giving notice in writing to the Contractor. Provided also that if the expenses incurred by the Department/ Organisation are less than amount payable to the Contractor at his agreement rates, the difference shall not be paid to the Contractor.

(c) After giving notice to the Contractor to measure up the Works of the Contractor and to take such part thereof, as shall be unexecuted out of his hands and to give it to another Contractor to complete, in which case any expenses which may be incurred in excess of the sum which would have been paid to the original Contractor, if the whole Works had been executed by him (of the amount of which excess, the certificate in writing of the Engineer Incharge shall be final and conclusive) shall be borne and paid by the original Contractor and may be deducted from any money due to him by Government/ Procuring Entity under this Contract or on any other account, whatsoever, or from his Bid Security, Performance Security, Enlistment Security or the proceeds of sales thereof, or a sufficient part thereof, as the case may be.

In the event of any one or more of the above courses being adopted by the Engineer Incharge, the Contractor shall have no claim to compensation for any loss sustained by him by reason of his having purchased or procured any materials or entered into any engagements or made any advances on account or with a view to the execution of the Works or the performance of Contract. And, in case action is taken under any of provisions aforesaid, the Contractor shall not be entitled to recover or be paid, any sum for any Works thereof or actually performed under this Contract unless and until the Engineer Incharge has certified, in writing, the performance of such Works and the value payable in respect thereof, and he shall only be entitled to be paid the value so certified.

**25.4 Contractor remains liable to pay compensation, if action not taken under Sub-Clause 25.2**

In any case in which any of the powers conferred by Sub-Clause 25.2 hereof, shall have become exercisable and the same shall have not been exercised, the non-exercise thereof shall not constitute waiver of any of the conditions hereof, and such power shall, notwithstanding, be exercisable in the event of any future case of default by the Contractor for which, by any Clause or Clauses hereof, he is declared liable to pay compensation amounting to the whole of his Performance Security/ Bid Security/ Enlistment Security and the

liability of the Contractor for past and future compensation shall remain unaffected.

### **25.5 Powers to take possession of, or require removal, sale of Contractor's tools, plants, materials**

In the event of the Engineer Incharge putting in force, powers vested in him under the preceding Sub-Clause 27.2 he may, if he so desires, take possession of all or any machines, tools, plants, materials, laboratories and stores, in or upon the Works or the Site, thereof, or belonging to the Contractor or procured by him and intended to be used for the execution of the Works or any part thereof, paying or allowing for the same in account, at the contract rates or, in case of these not being applicable, at current market rates, to be certified by the Chief Engineer or duly authorised Engineer (whose certificate thereof, shall be final and conclusive), otherwise the Engineer Incharge may, by notice in writing to the Contractor or his clerk of the Works, foreman or other authorised agent, require him to remove such machines, tools, plants, materials, laboratories, or stores from the premises (within a time to be specified in such notice), and in the event of the Contractor failing to comply with any requisition, the Procuring Entity or his other duly authorised Engineer may remove them at the Contractor's expenses, sell them by auction or private sale on account of the Contractor and at his risk in all respects, and the certificate of the Procuring Entity or his other duly authorised Engineer, as to the expense of any such removal, and the amount of the proceeds and expense of any such sale shall be final and conclusive against the Contractor.

### **25.6 Sums payable by way of compensation to be considered as reasonable compensation without reference to actual loss**

All sums payable by way of compensation under any of these conditions shall be considered as reasonable compensation to be applied to the use of Government/ Procuring Entity without reference to the actual loss or damage sustained and whether or not any damage shall have been sustained.

## **26. Extension of the Intended Completion Date**

**26.1** If the Contractor shall desire an extension of time for completion of the Works on the ground of his having been unavoidably hindered in its execution or on any other grounds, he shall apply, in writing, to the Engineer Incharge within 30 days of the date of the hindrance, on account of which he desires such extension as aforesaid, and the authority competent to grant extension under the delegation of powers or other duly authorised Engineer

shall, if in his opinion, (which shall be final) reasonable grounds be shown therefore, authorise such extension of time, if any, as may, in his opinion, be necessary or proper, if the period of completion of Contract expires before the expiry of the period of one month provided in this Clause, the application for extension shall be made before the expiry of the period stipulated for completion of the Contract. The competent authority shall grant such extension at each such occasion within a period of 30 days of receipt of application from Contractor and shall not wait for finality of the Works. Such extensions shall be granted in accordance with provisions under Clause..... of agreement.

**26.2** The Engineer Incharge shall extend the Intended Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Intended Completion Date.

**26.3** The Engineer Incharge shall decide whether and by how much to extend the Intended Completion Date within 21 days of the Contractor asking the Engineer Incharge for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date.

## **27. Delays Ordered by the Engineer Incharge**

**27.1** The Engineer Incharge may instruct the Contractor to delay the start or progress of any activity within the Works.

## **28. Management Meetings**

**28.1** Either the Engineer Incharge or the Contractor may require the other to attend a management meeting. The business of a management meeting shall be to review the plans for remaining Works and to deal with matters raised in accordance with the early warning procedure.

**28.2** The Engineer Incharge shall record the business of management meetings and is to provide copies of his record to those attending the meeting and to the Procuring Entity. The responsibility of the parties for actions to be taken is to be decided by the Engineer Incharge either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.

## **29. Early Warning**

**29.1** The Contractor is to warn the Engineer Incharge at the earliest opportunity of specific likely future events or circumstances that may

adversely affect the quality of the Works, increase the Contract Price or delay the execution of Works. The Engineer Incharge may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate is to be provided by the Contractor as soon as reasonably possible.

**29.2** The Contractor shall cooperate with the Engineer Incharge in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the Works and in carrying out any resulting instruction of the Engineer Incharge.

### **C. Quality Control**

#### **30. Quality Control and Tests**

**30.1** The Procuring Entity shall exercise proper Quality Control measures. The Contractor shall provide all assistance to conduct such tests.

**30.2** The Contractor shall establish a fully equipped field laboratory, at the site at his cost for adequate Quality Control. All equipment in the laboratory shall be calibrated at regular intervals and the copies of the calibration certificates shall be submitted to the Engineer Incharge.

**30.3** The Quality control shall be ensured through specified tests in following manner:

i. The Contractor's Engineers shall conduct 100% of the tests specified in the Contract Data and ensure conformance of the executed work to the specifications of the Contract/ BIS/ IRC or the departmental specifications.

ii. The Engineers of the Procuring Entity shall conduct a minimum percentage of the number of tests specified in the Contract Data to confirm the quality of acceptable works and all payments to the Contractor shall be linked to these tests. The Contractor's Engineer may witness all these tests.

iii. If provided in the Contract Data, a percentage of the specified number of tests shall be conducted by an Independent Engineer or any independent agency (quality control divisions or the Technical Examiners of the Department/ Organisation) nominated by the Procuring Entity/ Head of the Department/ Organisation. The testing done in the earlier two tiers shall be cross matched with the tests at this stage. In case of variance, repeat tests shall be conducted to convince the Contractor with the results of the Quality of executed works. The final payments of the items shall be linked to these results. The Engineer Incharge and the Contractor's Engineers may witness these tests.

All tests which cannot be conducted at the field laboratory, shall be outsourced to an NABL accredited or any other equally equipped and reliable laboratory approved by the Procuring Entity/ Department/ Organisation.

**Note:** Where in certain cases, the technical specifications provide for acceptance of Works within specified tolerance limits at reduced rates, Engineer Incharge will certify payments to Contractor accordingly.

**30.4** If the Engineer Incharge instructs the Contractor to carry out a test not specified in the Specification to check whether any Works has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect the test shall be a Compensation Event.

### **31. Identifying Defects**

**31.1** The Engineer Incharge shall check the Contractor's Works and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor's responsibilities. The Engineer Incharge may instruct the Contractor to search for a Defect and to uncover and test any Works that the Engineer Incharge considers may have a Defect.

**31.2** The Contractor shall permit the Procuring Entity's Technical auditor to check the Contractor's Works and notify the Engineer Incharge and Contractor of any defects that are found. Such a check shall not affect the Contractor's or the Engineer Incharge's responsibility as defined in the Contract Agreement.

### **32. Correction of Defects**

**32.1** The Engineer Incharge shall give notice to the Contractor of any Defects found during execution of the Works or the Defects Liability or maintenance period, as applicable and defined in the Contract Data. The Defects Liability Period shall be extended for as long as Defects remain to be corrected

**32.2** Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the time period specified by the Engineer Incharge's notice.

**32.3** If the Contract provides for maintenance of the Works and correction of defects in it during the maintenance period specified in the Contract Data, the Contractor shall be bound to maintain the Works and correct the defects in it at his cost.

### **33. Uncorrected Defects**

**33.1** If the Contractor has not corrected a Defect within the time specified in the Engineer Incharge's notice, the Engineer Incharge shall get maintained the Works and corrected the defects at the risk and cost of the Contractor.

## **D. Cost Control**

### **34. Bill of Quantities\***

**34.1** The Bill of Quantities shall contain items for the construction, installation, testing, and commissioning Works to be done by the Contractor.

**34.2** The Bill of Quantities is used to calculate the Contract Price. The Contractor is paid for the quantity of the Works done at the rate in the Bill of Quantities for each item.

**\*[ In case of Lump Sum contract, delete 'Bill of Quantities' and replace with 'Activity Schedule,' and replace Sub-Clauses 34.1 and 34.2, as follows:**

**34.1** The Contractor shall provide updated Activity Schedules within 14 days of being instructed to by the Engineer Incharge. The activities on the Activity Schedule shall be coordinated with the activities on the Program.

**34.2** The Contractor shall show delivery of Materials to the Site separately on the Activity Schedule if payment for Materials on Site shall be made separately.]

### **35. Issue of Materials and letting of the Machinery and Equipment by the Procuring Entity**

#### **35.1 Stores supplied by the Procuring Entity**

If the specification or estimate of the Works provide for the use of any special description of material, to be supplied from the Engineer Incharge's stores, or if, it is required that Contractor shall use certain stores to be provided by the Engineer Incharge specified in the Schedule or Memorandum hereto annexed, the Contractor shall be bound to procure and shall be supplied such materials and stores as are, from time to time, required to be used by him for the purpose of the Contract only, and the value of the full quantity of materials and stores, so supplied, at the rates specified in the said Schedule or Memorandum, may be set off or which may be deducted from any sum, then due or thereafter become due, to the Contractor under the Contract or otherwise or against or from the Performance Security or the



proceeds of sale, if the same is held in Government securities, the same or a sufficient portion thereof being in this case, sold for this purpose. All materials supplied to the Contractor, either from departmental stores or with the assistance of the Procuring Entity, shall remain the absolute property of the Procuring Entity. The Contractor shall be the trustee of the stores/ materials, so supplied/ procured and these shall not, on any account, be removed from the Site of the Works and shall be, all times, open to inspection by the Engineer Incharge. Any such materials, unused and in perfectly good condition at the time of completion or determination or rescinding of the Contract, shall be returned to the Engineer Incharge's Stores, if, by a notice in writing under his hand, he shall so require, and if on service of such notice, the Contractor fails to return the materials, so required, he shall be liable to pay the price of such materials in accordance with the provision of Sub-Clause 37.3. But the Contractor shall not be entitled to return any such materials, unless with such consent, and shall have no claim for compensation on account of any such materials, so supplied to him as aforesaid being unused by him, or for any wastage in or damage to any such materials. For the stores returned by the Contractor, he shall be paid for, at the price originally charged excluding storage charges, in case of materials supplied from departmental stores and actual cost including freight, cartage, taxes etc., paid by the Contractor, in case of supplies received with the assistance of the Procuring Entity, however, should in no case exceed market rate prevailing at the time the materials are taken back. The decision of the Engineer Incharge, as to the price of the stores returned, keeping in view its condition etc., shall be final and conclusive. In the event of breach of the aforesaid condition, the Contractor shall, in addition to throwing himself open to account for contravention of the terms of the license or permit and/or for criminal breach of trust, pay to the Procuring Entity, all advantages or profits resulting or which in the usual course, would result to him by reason of such breach. Provided that the Contractor shall, in no case be entitled to any compensation or damage on account of any delay in supply, or non-supply thereof, all or any such materials and stores.

### **35.2 Penal rate in case of excess consumption**

The Contractor shall also be charged for the materials consumed in excess of the requirements calculated on the basis of standard consumption approved by the Procuring Entity, at double of the issue rate including storage and supervision charges or market rate, whichever is higher. A Materials Supply and Consumption Statement, in prescribed Form RPWA 35A , shall be submitted with every Running Account Bill, distinguishing materials supplied by the Procuring Entity and materials procured by the Contractor himself. The recovery for such materials shall be made from Running Account Bill next

after the consumption and shall not be deferred. Certificate of such nature shall be given in each Running Account Bill.

### **35.3 Imported Store articles to be obtained from Government**

The Contractor shall obtain from the stores of the Engineer Incharge, all imported store articles, which may be required for the Works or any part thereof, or in making up articles required thereof, or in connection therewith, unless he has obtained permission, in writing, from the Engineer Incharge. to obtain such stores and articles from elsewhere. The value of such stores and articles, as may be supplied to the Contractor by the Engineer Incharge, will be debited to the Contractor, in his account, at the rates shown in the Schedule attached to the Contract, and if they are not entered in the Schedule, they will be debited at cost price, which for the purposes of this Contract, shall include the cost of carriage and all other expenses, whatsoever, which shall have been incurred in obtaining delivery of the same at the stores aforesaid plus storage charges.

### **35.4 Hire of Plant and Machinery**

Special Plant and Machinery, required for execution of the Works, may be issued to the Contractor, if available, on the rates of hire charges and other terms and conditions as per the departmental/ Organisation Rules, as per Schedule annexed to these conditions. Rates of such Plant & Machinery shall be got revised periodically so as to bring them at par with market rate.

### **35.5 Rejection of materials procured by the Contractor**

The Engineer Incharge shall have full powers to require the removal from the premises of all materials which in his opinion, are not in accordance with the specifications and, in case of default, the Engineer Incharge shall be at liberty to employ other person(s) to remove the same without being answerable or accountable for any loss of damage, that may happen or arise to such materials to be substituted thereof, and in case of default, the Engineer Incharge may cause the same to be supplied and all costs, which may attend such removal and substitution, are to be borne by the Contractor.

### **36. Measurement of Works done and Check Measurement [In case of Lump Sum Contract, measurement of only addition/ alteration works shall be carried out.]**

**36.1** The measurement of all items having financial value shall be entered in Measurement Book and/or level field book jointly by the Contractor and the representative of the Engineer Incharge so that a complete record is obtained of all Works performed under the Contract. Except as otherwise

stated in the Contract and notwithstanding local practice, the measurement shall be made of the net quantity executed as per drawings, designs and specifications of each item of the Permanent Works, and the method of measurement shall be in accordance with the Bill of Quantities or other applicable Schedules. The measurements shall, preferably be taken on a fixed date every month or immediately after execution and curing of the items likely to be buried, overlaid or covered with other layers/ items, even if the Contractor or his authorised representative is not able to be present despite due information.

### **36.2 Contractor to be given time to file objection to the Measurements recorded by the Engineer Incharge**

Before taking any measurement of any work, the Engineer Incharge or a subordinate, deputed by him, shall give reasonable notice to the Contractor. If the Contractor fails to be present at the time of taking measurements after such notice or fails to sign or to record the difference within a week from the date of measurement in the manner required by the Engineer Incharge or by the subordinates deputed by him, as the case may be, shall be final and binding on the Contractor and the Contractor shall have no right to dispute the same.

### **36.3 Notice to be given before any work is covered up**

The Contractor shall give not less than 7 days notice, in writing to the Engineer Incharge or his subordinate incharge of the Works, before covering up or otherwise placing beyond the reach of measurement, any work before covering up or otherwise placing beyond the reach of measurement, any work in order that the same may be measured and correct dimensions thereof, be taken before the same is so covered up or placed beyond the reach of measurement and shall not cover up or place beyond the reach of measurement any work without the consent in writing of the Engineer Incharge, and if any work shall be covered up or placed beyond the reach of measurement without such notice having been given or consent obtained, the same shall be uncovered at the Contractor's expense or in default thereof, no payment or allowance shall be made for such work, or for their materials with which the same was executed.

### **36.4 Check Measurements**

The department/ organisation reserves to itself, the right to prescribe a scale of check measurement of work, in general, or specific scale for specific works, or by other special orders (about which the decision of the department/ organisation shall be final). Checking of measurement by superior officer shall

supersede measurements by the subordinate officer, and the former shall become the basis of the payment.. Any over/excess payments detected, as a result of such check measurement or otherwise at any stage upto the date of completion and the defect removal period specified elsewhere in this Contract, shall be recoverable from the Contractor, as any other dues payable to the Procuring Entity.

### **37 Variations**

**37.1** The Engineer Incharge shall have power to make any alterations, omissions or additions to or substitutions for the original specifications, drawings, designs and instructions (all without compromising the quality of the executed items, capability and the durability of the structure), that may appear to him to be necessary during the progress of the Works and the Contractor shall carry out the Works in accordance with any instructions which may be given to him in writing signed by the Engineer Incharge, and such alterations, omission, additions or substitutions shall not invalidate the Contract and any altered, additional or substituted Works, which the Contractor may be directed to do in the manner above specified as part of the Works shall be carried out by the Contractor on the same conditions in all respects on which he agreed to do the main Works. The time for the completion of the Works shall be extended in the proportion that the altered, additional or substituted Works bears to the original Contract Works, and the certificate of the Engineer Incharge shall be conclusive as to such proportion. The rates for such additional, altered or substituted Works under this Sub-Clause shall be worked out in accordance with the following provisions in their respective order:

- i. If the rates for the additional, altered or substituted Works are specified in the Contract for the Works, the Contractor is bound to carry out the additional, altered or substituted Works at the same rates as are specified in the Contract for the Works.
- ii. If the rates for the additional, altered or substituted Works are not specifically provided in the Contract for the Works, the such rates will be derived from the rates for a similar class of Works as are specified in the Contract for the Works.
- iii. If the rates for the altered, additional or substituted Works can not be determined in the manner specified in the sub-clauses (i) to (ii) above, then the rates for such composite Works item shall be worked out on the basis of the concerned Schedule of Rates of the District/area specified above [minus/plus the percentage which the total tendered amount bears to the estimated cost of the entire Works put to tender]\*. Provided always that if the

rate for a particular part or parts of the item is not in the Schedule of Rates, the rate for such part or parts will be determined by the Engineer Incharge on the basis of the prevailing market rates when the Works was done.

iv. If the rates for the altered, additional or substituted Works item can not be determined in the manner specified in sub-clauses (i) to (iii) above , then the Contractor shall within 7 days of the date of receipt of order to carry out the Works, inform the Engineer Incharge of the rate which it is his intention to charge for such class of Works supported by analysis of the rate or rates claimed and the Engineer Incharge shall determine the rates or rates on the basis of prevailing market rates, and pay the Contractor accordingly. However, the Engineer Incharge, by notice in writing will be at liberty to cancel his order to carry out such class of Works and arrange to carry it out in such manner as he may consider advisable. But under no circumstances, the Contractor shall suspend the variation item of Works on the plea of non-settlement of rates on items failing under this Sub-Clause.

***\*[Not applicable in case of Item Rate Contract or Lump Sum Contract]***

**37.2** The quantum of additional work for each item shall not exceed 50% of the original quantity of the item given in the agreement and the total value of additional quantities of existing items of Works and extra items shall not exceed 20% of the total Contract value.

**\*[ In case of Lump Sum Contract replace Clause 37.2 with following:**

37.2 The Activity Schedule shall be amended by the Contractor to accommodate changes of Program or method of working made at the Contractor's own discretion. Prices in the Activity Schedule shall not be altered when the Contractor makes such changes to the Activity Schedule.]

**37.3 No compensation for alterations in or restriction of Works to be carried out.**

If, at any time after the commencement of the Works, the Procuring Entity shall, for any reason, whatsoever, not require the whole Works, thereof as specified in the Contract, to be carried out, the Engineer Incharge shall give notice, in writing, of the fact to the Contractor, who shall have no claim to any payments or compensation, whatsoever, on account of any profit or advantage, which he might have derived from the execution of the Works in full but which he did not derive in consequence of the full amount of the Works not having been carried out. Neither shall he have any claim for compensation by reason of alterations having been made in the original specifications,

drawings and design and instructions, which shall involve any curtailment of Works , as originally contemplated. Provided that the Contractor shall be paid the charges for the cartage only, of materials actually brought to the Site of the Works by him for bonafide use and rendered surplus as a result of the abandonment or curtailment of the Works or any portion thereof, and taken them back by the Contractor provided, however that the Engineer Incharge shall have, in all such cases, the option of taking over all or any such materials at their purchase price or at local market rates whichever may be less. In the case of such stores having been issued from Procuring Entity's stores, charges recovered, including storage charges, shall be refunded after taking into consideration any deduction for claim on account of any deterioration or damage while in the custody of the Contractor and in this respect the decision of the Engineer Incharge shall be final.

#### **37.4 Monthly return of Extra Claims**

Contractor has to submit a return every month for any Works claimed as extra. The Contractor shall deliver the return in the office of the Engineer Incharge and obtain Receipt Number of the Receipt Register of the day on or before 10th day of every month during the continuance of the Works covered by this Contract, a return showing details of any Works claimed as extra by the Contractor and which have been ordered approved by the Engineer Incharge, value of which shall be based upon the rates and prices mentioned in the Contract or in the Schedule of Rates in force in the District for the time being or as provided in Sub-Clause 37.1. The Contractor shall be deemed to have waived all claims, not included in such return, and will have no right to enforce any such claims not included, whatsoever be the circumstances.

#### **38. Cash flow forecasts**

**38.1** When the Program (Activity Schedule in case of Lump Sum Contract) is updated, the Contractor is to provide the Engineer Incharge with an updated cash flow forecast.

#### **39. Payment Certificates**

**39.1** The Contractor shall submit to the Engineer Incharge monthly statements of the value of the Works completed and measured less the cumulative amount certified previously.

**39.2** The Engineer Incharge shall check the details given in the Contractor's monthly statement and within 14 days certify the amounts to be paid to the Contractor after taking into account any credit or debit for the month in question in respect of materials for the Works and Secured Advance, if any.

**39.3** The value of Works executed shall be determined by the Engineer Incharge after due check measurement of the quantities claimed as executed by the Contractor.

**\*39.4** The value of Works executed shall comprise the value of the quantities of the items in the Bill of Quantities completed as per design, drawings and specifications.

**\*[ In case of Lump Sum Contracts, replace this paragraph with the following: 'The value of work executed shall comprise the value of completed activities in the Activity Schedule.']**

**39.5** The value of Works executed shall include the valuation of Variations and Compensation Events.

**39.6** The Engineer Incharge may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.

**39.7** Items of the Works for which no rate or price has been entered in the Bill of Quantities shall not be paid for by the Procuring Entity and shall be deemed covered by other rates and prices in the Contract.

#### **40 Payment on Intermediate Certificate to be regarded as advance**

**40.1** No payments shall be made for Works estimated to cost less than rupees one lakh, till after the whole of the Works shall have been completed and a certificate of completion given. But in the case of Works estimated to cost more than Rupees one lakh, the Contractor shall on submitting the bill therefore, be entitled to receive a monthly payment proportionate to the part, thereof, then approved and passed by the Engineer Incharge, whose certificate of such approval and passing of sum, so payable, shall be final and conclusive. Running Account bill shall be paid within 15 days from presentation. But all such intermediate payments shall be regarded as payments by way of advance against the final payment only and not as payments for Works actually done and completed, and shall not preclude the requiring of bad unsound and imperfect or unskillful Works to be removed and taken away and re-constructed or re-erected, or considered as an admission of the due performance of the Contract, or any part thereof, in any respect or the accruing of any claim, nor shall it conclude, determine, or effect in any way the powers of the Engineer Incharge under these conditions or any of them to the final settlement and adjustment of the accounts or otherwise or in any other way vary or affect the Contract. The final bill shall be made/submitted by the Contractor within one month of the date fixed for completion of the Works otherwise the Engineer Incharge's certificate of the

measurement and of the total amount payable for the Works accordingly shall be final and binding on all parties.

#### **40.2 Time Limit for Payments of Final Bills**

The final bill shall be paid within 3 months on presentation by the Contractor after issuance of final completion certificate in accordance with GCC Clause 49.1. If, there shall be any dispute about any item(s) of the Works, then the undisputed item(s) only, shall be paid within the said period of 3 months. If a final bill (which contains no disputed item or disputed amount of any item) is not paid within the period of 3 months from presentation of final bill or 6 months from the date of receipt of registered notice regarding completion of Works in accordance with GCC Clause 49.1, the defects, if any, shall be brought to the notice of the higher authority. The period of 3 months shall commence from the date of rectification of the defects. The higher authority shall ensure that in no case final bill should be left unpaid after 9 months from the receipt of registered notice regarding completion of Works. The Contractor shall submit a memorandum of the disputed items alongwith justification in support within 30 days from the disallowance thereof, and if he fails to do so, his claims shall be deemed to have been fully waived and absolutely extinguished.

#### **40.3 Bills to be submitted monthly**

A bill shall be submitted by the Contractor each month on or before the date fixed by the Engineer Incharge for all Works executed in the previous month and the Engineer Incharge shall take or cause to be taken the requisite measurement for the purpose of having the same verified and the claim, as far as admissible, authorised or paid, if possible, before the expiry of fifteen days from the presentation of the bill. If the Contractor does not submit the bill within the time fixed, as aforesaid, the Engineer Incharge may depute a subordinate to measure up the said Works in the presence of the Contractor, whose signature in the Measurement Book will be sufficient warrant and the Engineer Incharge may prepare a bill from such Measurement Book, which shall be binding on the Contractor in all respects.

#### **40.4 Recovery of cost of preparation of the Bill**

In case of Contractors of Class "A" and "AA" do not submit the bill within time fixed, the Engineer Incharge may prepare the bill as per provision of Sub-Clause 40.3 but deduction @ 0.5% of amount of such a bill shall be made and credited to the general revenue on account of preparation of bill.



#### **40.5 Bills to be submitted on printed forms**

The Contractor shall submit all bills on the printed forms, to be had on application, at the office of the Engineer Incharge and the charges in the bills shall always be entered at the rates specified in the Bill of Quantities or in the case of any extra works ordered in pursuance of these conditions, and not mentioned or provided for in the Bill of Quantities, at the rates arrived at in accordance with GCC Clause 37.1.

#### **40.6 Payments of Contractor's Bills to Banks**

Payments due to the Contractor may if so desired by him, be made to his Bank instead of direct to him, provided that the Contractor has furnished to the Engineer Incharge (i) an authorisation in the form of a legally valid document, such as a Power of Attorney conferring authority on the Bank to receive payments, and (ii) his own acceptance of the correctness of the account made out, as being due to him, by the Procuring Entity, or his signature on the bill or other claim preferred against the Procuring Entity before settlement by the Engineer Incharge of the account or claim, by payment to the Bank. While the receipt given by such bank shall constitute a full and sufficient discharge for the payment, the Contractor should, whenever possible, present his bill duly receipted and discharged through his Banker. Nothing, herein contained, shall operate to create in favour of the Bank any rights vis-a-vis the Governor of Rajasthan/ the Procuring Entity.

#### **40.7 Payments at reduced rates on account of items of Works not accepted and not completed to be at the discretion of the Engineer Incharge**

The rates for several items of Works, estimated to cost more than Rs. 1,000/-, agreed within, will be valid only when the item concerned is accepted, as having been completed fully in accordance with the approved designs, drawings and specifications. In cases, where the items of Works are not accepted, as so completed, the Engineer Incharge may make payment on account of such items, at such reduced rates, as he considers reasonable, in the preparation of final or on account bills, and his decision in the matter shall be final and binding. The structural deficiency in the execution of such items, should not be such that the structural capability of the work/ structure is compromised reducing durability of its designed life.

#### **40.8 Payments at part rates**

The rates for several items of Works may be paid at part rates provisionally in running bills in proportion to the stage/ quantum of items executed at the discretion of Engineer Incharge. In case of item rates, if the

rate quoted for certain items are very high in comparison to the average/overall Bid premium, then the payment at running stages shall not be made more than the average sanctioned premium. The deferred payment, will however be released after successful completion of the Works.

**\*40.9 Contractor's percentage, to be applied to gross amount**

The percentage referred to in the "Tender for Works" will be deducted/added from/to the gross amount of the bill before deducting the value of any stock issued.

***\*[Not applicable in case of Item Rate Contract or Lump Sum Contract]***

**40.10** The liability, if any, on account of quarry fees, royalties, octroi and other taxes and duties in respect of materials actually consumed on the works, shall be borne by the Contractor.

**40.11** The cost of all water connections necessary for the execution of Works, and the cost of water consumed and hire charges of meters and the cost of electricity consumed in connection with the execution of Works shall be paid by the Contractor except where otherwise specifically indicated.

**40.12 Payment of VAT, and any other taxes**

i. Royalty, VAT or other tax on materials, issued in the process of fulfilling the Contract payable to the Government under rules in force, shall be paid by the Contractor himself.

ii. In respect of goods and materials procured by the Contractor, for use in Works under the Contract, VAT will be paid by the Contractor himself. But in respect of all such goods manufactured and supplied by the Contractor and Works executed under the Contract, the responsibility of payment of VAT would be that of the Engineer Incharge.

**40.13 Recovery from Contractor**

Whenever any claim against the Contractor for the payment of a sum of money arises out of or under the Contract, the Procuring Entity shall be entitled to recover such sum by appropriating, in part or whole of the Performance Security and the Security deposited at the time of enlistment of the Contractor. In the event of the security being insufficient, or if no security has been taken, then the balance or the total sum recoverable, as the case may be, shall be deducted from any sum, then due or which at any time, thereafter, may become due to the Contractor, under this or any other

Contract with the Governor of Rajasthan/ the Procuring Entity. Should this sum be not sufficient to cover the full amount recoverable, the Contractor shall pay to the Procuring Entity on demand the balance remaining dues. The Procuring Entity shall have the right to effect recovery as arrears of land revenue under Section 53 of the Act.

#### **41. Compensation Events**

**41.1** The following are Compensation Events unless they are caused by the Contractor:

(a) The Procuring Entity does not give access to a part of the Site by the Site Possession Date stated in the Contract Data.

(b) The Procuring Entity modifies the schedule of other Contractors in a way which affects the Works of the Contractor under the Contract.

(c) The Engineer Incharge orders a delay or does not issue drawings, specifications or instructions required for execution of Works on time.

(d) The Engineer Incharge instructs the Contractor to uncover or to carry out additional tests upon Works which is then found to have no Defects.

(e) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of Letter of Acceptance from the information issued to Bidders (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site.

(f) The Engineer Incharge gives an instruction for dealing with an unforeseen condition, caused by the Procuring Entity, or additional Works required for safety or other reasons.

(g) Other Contractors, public authorities, utilities or the Procuring Entity does not Works within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor.

(h) The effect on the Contractor of any of the Procuring Entity's Risks.

(i) The Engineer Incharge unreasonably delays issuing a Certificate of Completion.

(j) Other Compensation Events listed in the Contract Data or mentioned in the Contract.

**41.2** If a Compensation Event would cause additional cost or would prevent the Works being completed before the Intended Completion Date, the Contract Price shall be increased and/or the Intended Completion Date shall be extended. The Engineer Incharge with the approval of the competent authority, shall decide whether and by how much the Contract Price shall be increased and whether and by how much the Intended Completion Date shall be extended.

**41.3** As soon as information demonstrating the effect of each Compensation Event upon the Contractor's forecast cost has been provided by the Contractor, it is to be assessed by the Engineer Incharge and the Contract Price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Engineer Incharge shall adjust the Contract Price based on Engineer Incharge's own forecast. The Engineer Incharge will assume that the Contractor will react competently and promptly to the event.

**41.4** The Contractor shall not be entitled to compensation to the extent that the Procuring Entity's interests are adversely affected by the Contractor not having given early warning or not having cooperated with the Engineer Incharge.

## **42. Tax**

**42.1** The rates quoted by the Contractor shall be deemed to be inclusive of the sales tax, contract tax, royalty and other taxes and duties that the Contractor will have to pay for the performance of this Contract. The Procuring Entity will perform such duties in regard to the deduction of such taxes at source as per applicable law.

## **43. Currencies**

**43.1** All payments shall be made in Indian Rupees.

## **44. Price Adjustment**

### **44.1 Price Variation due to changes in the prices of labour, materials, bitumen, petroleum, cement and steel**

If, during the progress of the contract of value exceeding Rs. 50 lac (accepted Contract Price minus cost of material supplied by the Procuring Entity), and where stipulated completion period is more than 3 months (both the conditions should be fulfilled), the price, of any materials/bitumen/diesel and petrol/cement/steel incorporated in the Works (not being materials to be supplied by the Procuring Entity) and/or wages of labour increases or decreases, as compared to the price and/or wages prevailing at the date of opening of bids or date of negotiations for the Works, the amounts payable to

Contractors for the Works shall be adjusted for increase or decrease in the rates of materials (excepting those materials supplied by the Procuring Entity) /labour/ bitumen /diesel and petrol/ cement/ steel. If negotiated rates have been accepted, prices as on the date of negotiation shall be considered for price adjustment. Similarly, if rates received on the date of opening of bids have been accepted, then prices on the date of opening of bids shall be considered for price adjustment.

Increase or decrease in the cost of labour/ material/ diesel and petrol/ cement/ steel shall be calculated quarterly and cost of bitumen shall be calculated on monthly basis in accordance with the following formula:-

**(A) Labour**

$$VL = 0.75 \times \frac{PL}{100} \times R \times \frac{(IL1 - IL0)}{IL0}$$

VL = Increase or decrease in the cost of Works during the quarter under consideration due to change in rates for labour.

R = The value of the Works done in rupees during the quarter under consideration excluding the cost of materials supplied by the Procuring Entity and excluding other items as mentioned in this Clause.

IL0= The average consumer price index for industrial workers (whole-sale prices) for the quarter in which bids were opened/ negotiated (as published in Reserve Bank of India Journal/ Labour Bureau Simla, for the area).

IL1= The average consumer price index for industrial workers (whole-sale prices) for the quarter of calendar year under consideration (as published in Reserve Bank of India Journal/ Labour Bureau Simla, for the area).

PL= Percentage of labour components.

Note : In case of revision of minimum wages by the Government or other competent authority, nothing extra would be payable except the price escalation permissible under this Clause.

**(B) Materials** (excluding materials supplied by the Procuring Entity).

$$VM = 0.75 \times \frac{PM}{100} \times R \times \frac{(LM1 - LM0)}{LM0}$$

VM = Increase or decrease in the cost of Works during the quarter under consideration due to change in rates for materials.

R = The value of the Works done in rupees during the quarter under consideration excluding the cost of materials supplied by the Procuring Entity and excluding other items as mentioned in this Clause.

LM0 = The average wholesale price index (all commodities) for the quarter in which bids were opened/ negotiated (as published in Reserve Bank of India Journal/ Economic Adviser to Government of India, Ministry of Industries, for the area).

LMI= The average wholesale price index (all commodities) for the quarter under consideration (as published in Reserve Bank of India Journal/ Economic Adviser to Government of India, Ministry of Industries, for the area).

PM= Percentage of materials components (excluding materials supplied by the Procuring Entity).

**(C) Bitumen**

$$V_b = 0.85 \times \frac{P_b}{100} \times R \times \frac{(B_i - B_o)}{B_o}$$

Vb = Increase or decrease in the cost of Works during the month under consideration due to changes in the rate for bitumen.

R = The value of the Works done in rupees during the month under consideration excluding the cost of materials supplied by the Procuring Entity and excluding other items as mentioned in this Clause.

Bo = The official retail price of bitumen at the IOC depot at nearest center on the day 28 days prior to date of opening of Bids.

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

Pb= Percentage of bitumen components of the Works.]

**(D) Petroleum**

$$V_f = 0.75 \times \frac{P_f}{100} \times R \times \frac{(F_i - F_o)}{F_o}$$

100 Fo

Vf = Increase or decrease in the cost of Works during the quarter under consideration due to change in rates for fuel and lubricants.

R = The value of the Works done in rupees during the quarter under consideration excluding the cost of materials supplied by the Procuring Entity and excluding other items as mentioned in this Clause.

F0 = The average wholesale price index of High Speed Diesel (HSD) as published by the Economic Adviser to the Government of India, Ministry of Industry on the day of opening of bids/ negotiations.

Fi = The average whole sale price Index of HSD for the quarter under consideration as published weekly by the Economic Adviser to the Government of India, Ministry of Industry for the quarter under consideration.

Pf = Percentage of fuel and lubricants components excluding fuel and lubricants supplied by the Procuring Entity (Specified in the sanctioned estimate for the Works).

R = Total Works done during the quarter as prescribed under this Clause.

Note : For application of this clause price of HSD is chosen to indicate fuel and lubricants components.

**(E) Cement**

$$VC = 0.75 \times \frac{PC}{100} \times R \frac{(LC1 - LC0)}{LC0}$$

VC = Increase or decrease in the cost of Works during the quarter under consideration due to change in the rates of cement.

R = The value of the Works done in rupees during the quarter under consideration excluding the cost of cement supplied by the Procuring Entity and excluding other items as mentioned in this Clause.

LC0 = The average wholesale price index for the quarter in which bids were opened/ negotiated (as published by the Economic Adviser to the Government of India, Ministry of Industries).

LCI = The average whole sale price Index for the quarter under consideration (as published by the Economic Adviser to Government of India, Ministry of Industries).

PC = Percentage of cement components (excluding cement supplied by the Procuring Entity).

**(F) Steel**

$$VS = 0.75 \times \frac{PS}{100} \times R \frac{(LS1 - LS0)}{LS0}$$

VS = Increase or decrease in the cost of Works during the quarter under consideration due to change in the rates of steel.

R = The value of the Works done in rupees during the quarter under consideration excluding the cost of steel supplied by the Procuring Entity and excluding other items as mentioned in this Clause.

LS0 = The average wholesale price index for the quarter in which bids were opened/ negotiated (as published by the Economic Adviser to the Government of India, Ministry of Industries).

LSI = The average wholesale price Index for the quarter under consideration (as published by the Economic Adviser to Government of India, Ministry of Industries).

PS = Percentage of steel components (excluding steel supplied by the Procuring Entity).

**44.2 Price Variation in installation of elevators, supply/ installation of Centrally Air Conditioning and Central Evaporating Cooling Works.**

In all cases of contracts for installation of elevators, supply/ installation of Central Air Conditioning and Central Evaporating Cooling Works, the price quoted shall be based on the Indian Electrical and Electronics Manufacturers Association (IEEMA) price variation clause based on the cost of raw materials/ components and labour cost as on the date of quotation/ bid, and the same is deemed to be related to wholesale price index number of metal products and All India Average consumer price index number of industrial workers as specified below. In case of any variation in these index numbers, the prices shall be subject to adjustment up or down in accordance with following formula:



$$P = \frac{PO}{100} \left( 15 + 55 \frac{MP}{MP0} + 15 \frac{WO(D)}{W0} + 15 \frac{WO(1)}{W0} \right)$$

Where :

P = Price payable as adjusted in accordance with the above price variation formula.

P0 = Price quoted/ confirmed.

MP0 = Wholesale Price Index Number for Metal Products as published by the office of the Economic Adviser, Ministry of Industry, Government of India, in their weekly bulletin, Revised Index Number of Wholesale Prices (Base: 1981- 82 = 100) for the week ending first Saturday of the relevant calendar month. The relevant month shall be that in which price was offered or negotiated whichever is later.

W0 = All India Average Consumer Price Index Number for Industrial workers (Base : 1982 = 100), as published by Labour Bureau, Ministry of Labour, Government of India, for relevant calendar month. The relevant month shall be that in which price was offered or negotiated whichever is later.

The above index number MP0 & W0 are those published by IEEMA as prevailing on the first working day of the calendar month FOUR months prior to the date of bidding.

MP = Wholesale Price Index Number for Metal Products as published by the office of the Economic Adviser, Ministry of Industry, Government of India, in their weekly bulletin Revised Index Number of Wholesale Prices (Base: 1981- 82 = 100). The applicable wholesale price Index Number for Metal Products as prevailing on 1st Saturday of the month covering the date FOUR months prior to .the date of delivery and would be as published by IEEMA.

WO(D) = All India Average Consumer Price Index Number for Industrial Workers prevailing for the month covering the date FOUR months prior to the date of delivery of manufactured material and would be as published by IEEMA.

WO (1) = All India Average Consumer Price Index Number for Industrial Workers (Base : 1982 = 100) as published by Labour Bureau, Ministry of Labour, Government of India. The applicable All India Consumer Price Index Number of Industrial Workers prevailing for the FOUR months prior to the date of completion of installation/ progress parts of installation and would be as published by IEEMA. The date of delivery shall be the date on which the

manufactured material is actually supplied at Site. The date of completion of installation (or progress part of installation) shall be the date on which the Works is notified as being completed and is available for inspection/ duly tested. In the absence of such notification, the date of completion is not intimated, such completion shall be considered by the Engineer Incharge which shall be final.

**Note-1** The Wholesale Price Index Number for Metal Products is published weekly by the office of the Economic Adviser, but if there are any changes, the same are incorporated in the issue appearing in the following week. For the purpose of this Price Variation Clause, the final index figures shall apply.

**Note-2** The sole purpose of the above stipulation is to arrive at the entire Contract under the various situations. The above stipulation does not indicate any intentions to sell materials under this Contract as movables.

**Note-3** The indices MP & Wo are regularly published by IEEMA in monthly basic price circulars based on information bulletins from the authorities mentioned. These will be used for determining price variation and only IEEMA Circulars will be shown as evidence, if required.

#### **General Conditions for admissibility of Escalation**

1. The exact percentage of labour/ material (excluding materials to be supplied by the Procuring Entity)/ bitumen/ diesel and petrol/ cement/ steel component for the Works shall be approved by the authority while sanctioning the detailed Estimates.

2. The breakup of components of labour/ materials (excluding materials to be supplied by the Procuring Entity)/ bitumen/ diesel and petrol/ cement/ steel as indicated in this Clause have been pre-determined as below:-

- (a) Labour -----percent
- (b) Material -----percent
- (c) Bitumen -----percent
- (d) Diesel and Petrol -----percent
- (e) Cement -----percent
- (f) Steel -----percent

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Total-----100%]

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3. While allowing price escalation the following shall be deducted from the value of Works done (R):

- (a) Cost of material supplied by the Procuring Entity.
- (b) Cost of services rendered for protection of the Works.
- (c) Secured Advance/ any advance added earlier but deducted now after Works is measured.
- (d) Cost of extra items, the rates for which have been worked out based on market rates/ mutually agreed rates.

4. The first statement of escalation shall be prepared at the end of three months in which the Works was awarded and the Works done from the date of start to the end of this period shall be taken into account. For subsequent statement, cost of Works done during every quarter shall be taken into account. At the completion of Works, the Works done during the last quarter or fraction, thereof, shall be taken into account.

5. For the purpose of reckoning the Works done during any period, the bills prepared during the period shall be considered. The dates of recording measurements in the Measurement Book by the Assistant Engineer shall be the guiding factor to decide the bills relevant to any period. The date of completion, as finally recorded by the competent authority in the Measurement Book, shall be the criterion.

6. The index relevant to any quarter, for which such compensation is paid, shall be the arithmetical average of the indices relevant of the calendar month.

7. Price adjustment clause shall be applicable only for the Works that is carried out within the stipulated time, or extension thereof, as are not attributable to the Contractor.

8. If during the progress in respect of Contract Works stipulated to cost Rs.50 lacs or less, the value of Works actually done excluding cost of material supplied by the Procuring Entity, exceeds Rs. 100 lacs and completion period is more than 6 months then escalation would be payable only in respect of value of Works in excess over Rs.50 lacs from the date of satisfying both the conditions.

9. Where originally stipulated period is 6 months or less but actual period of execution exceeds beyond 6 months on account of reasons not attributable to the Contractor, escalation amount would be payable only in respect of extended period if amount of Works is more than Rs.50 lacs.

10. In case the Contractor does not make prorata progress in the first or another time span and the short fall in progress is covered up by him during subsequent time span within original stipulated period then the price escalation of such Works expected to be done in the previous time span shall be notionally given based upon the price index of that quarter in which such Works was required to be done.

11. No claims for price adjustment other than those provided herein, shall be entertained.

12. If the period of completion including extended period attributable to the Procuring Entity exceeds **twelve months** but cost does not exceeds more than Rs.50 lacs, no escalation is admissible.

13. Similarly, if cost of Works increases more than Rs.50 lacs but completion period including extended period attributable to the Procuring Entity is less than **6 months**, no escalation is admissible.

14. No provisional escalation is payable on the basis of indices of the previous quarter in absence of non publication of indices for concerned quarter by the RBI.

15. Escalation is always payable quarterly and no provisional escalation is payable monthly or fortnightly.

16. In case at the time of executing agreement, both the conditions (completion period **6 months** and amount of Works Rs.50 lacs for admissibility of price escalation are not fulfilled and subsequent due to additional Works and extension of time attributable to Procuring Entity, both the conditions become fulfilled, in that case the escalation shall be payable from the date of satisfying both the conditions and only for Works done beyond Rs.50 lacs and in period of Works beyond **6 months**.

17. The Contractor shall for the purpose of this conditions keep such books of account and other documents as are necessary to show the amount of any increase claimed or reduction available and shall allow inspection of the same by a duly authorised representative of Government/ Procuring Entity and further shall at the request of the Engineer Incharge furnish, verified in such a manner as the Engineer Incharge may require any documents so kept and such other information as the Engineer Incharge may require.

18. Price variation clause shall be applicable in case of lump sum contracts estimated to cost more than Rs. 100 crores with stipulated completion period of more than 18 months.

19. The component of operation and maintenance (O&M) cost included in the Contract Price shall not be subject to price variations. The price may be adjusted by the use of prescribed formula (or formulae) which breaks down the total price into components.

20. The amount of price variation in case of lump sum contracts will be made by adding or deducting, as the case may be, from the payments made at the stages of Works specified in the contract document.

#### **45. Performance Security**

**45.1** In case of front loaded bids, bearing the risk of intended stoppage of Works after execution/ payment of certain front loaded items, the Procuring Entity may demand an additional Performance Security from the Contractor up to 10% of the Contract value.

**45.2** Without limitation to the provisions of the rest of this Clause, whenever the Engineer Incharge determines an addition or a reduction to the Contract Price by more than 25 percent as a result of Variations in Contract Works, the Contractor shall at the Engineer Incharge's request promptly increase, or may decrease, as the case may be, the value of the Performance Security.

**45.3** The proceeds of the Performance Security shall be forfeited and shall be payable as compensation to the Procuring Entity on happening of any of the events mentioned below:

- i. when the Contractor does not execute the agreement within the specified time; after issue of letter of acceptance/ placement of Works order; or
- ii. when the Contractor fails to commence the Works within the time specified; or
- iii. when the Contractor fails to complete the Works satisfactorily within the time specified; or
- iv. When any terms and conditions of the Contract is breached; or
- v. to adjust any accepted dues against the Contractor from any other contract with the Procuring Entity; or
- vi. if the Contractor breaches any provision of the Code of Integrity prescribed for the Bidders in the Act and Chapter VI of the Rules and ITB Clause 1.2.

Notice of reasonable time will be given in case of forfeiture of Performance Security. The decision of the Procuring Entity in this regard shall be final.

**45.4** The Contractor shall ensure that the Performance Security is valid and enforceable until the Contractor has executed and completed the Works and remedied any Defects during Defect Liability Period and the period of maintenance of the Works, if any. If the terms of the Performance Security specify its expiry date, and the Contractor has not become entitled to receive the Performance Security by the date 28 Days prior to the expiry date as provided in the Contract, the Contractor shall get extended the validity of the Performance Security until the Works have been completed and any Defects have been remedied.

**45.5** The Performance Security shall be discharged by the Procuring Entity and returned to the Contractor not later than sixty(60) days following the date of satisfactory completion of the Contractor's performance obligations under the Contract, including any defect liability or maintenance obligations, unless specified otherwise in the SCC.

**45.6** The Engineer Incharge shall not make a claim under the Performance Security except for amounts to which the Procuring Entity is entitled under the Contract (notwithstanding and/ or without prejudice to any other provisions in the Contract Agreement) in the event of:

- i. Failure by the Contractor to extend the validity of the Performance Security as described herein above, in which event the Engineer Incharge may claim the full amount of the Performance Security.
- ii. Failure by the Contractor to pay the Procuring Entity any amount due, either as agreed by the Contractor or determined under any of the Clauses/ conditions of the agreement, within 30 Days of the service of notice to this effect by the Engineer Incharge.
- iii. Failure by the Contractor to rectify any Defects as defined in the Defect liability Clause in the Contract Data to the satisfaction of the Engineer Incharge.

#### **45.7 Refund of Performance Security**

The Procuring Entity shall return/ refund the Performance Security to the Contractor as below after completion of all obligations under the Contract:

- i. In case of contracts relating to hiring of trucks and other T&P transportation including loading, unloading of materials, the amount of Performance Security shall be refundable along with the final bill.

- ii. Ordinary repairs: 3 months after the completion of the Works provided the final bill has been paid.
- iii. Original Works/ special repair Works: Performance Security will be refunded six months after completion, or expiry of one full rainy season, or after expiry of defect liability period as specified in the contract Data, whichever is later provided the final bill has been paid.
- iv. Supply of materials: after 3 months of completion of the supply provided the final bill has been paid.
- v. In case of PWD original Works/ special repair Works costing more than Rs. 100 lacs, partial amount of Performance Security will be refunded during the defect liability @ 10% of the Performance Security amount after the lapse of one year of completion and thereafter 10% of original amount of Performance Security at the end of each subsequent year. The remaining amount of Performance Security shall be refunded after the satisfactory expiry of the defect liability period.

#### **46. Secured Advance**

If demanded, secured advance may be sanctioned to the Contractor by the Engineer Incharge on security of the imperishable materials actually brought by him at the Site for consumption in the Works within three months as per Bill of Quantities, at the rates upto seventy-five percent of the cost of materials. Indenture of transferring ownership of these materials to the Government/ Procuring Entity and account of the secured advance in prescribed forms shall be enclosed in the relevant Running Account Bills.

#### **47. Day Works**

**47.1** If applicable, the Day Works rates in the Contractor's Bid shall be used for small additional amounts of Works only when the Engineer Incharge has given written instructions in advance for additional Works to be paid for in that way.

**47.2** All Works to be paid for as Day Works shall be recorded by the Contractor on forms approved by the Engineer Incharge. Each completed form shall be verified and signed by the Engineer Incharge within three days of the Works being done.

**47.3** The Contractor shall be paid for Day Works subject to obtaining signed Day Works forms.

#### **48. Cost of Repairs**

**48.1** Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Correction period and maintenance period, if any, shall be remedied by the Contractor at the Contractor's cost if the loss or damage arises from the Contractor's acts or omissions.

### **E. Finishing the Contract**

#### **49. Completion**

##### **49.1 Final Certificate on Completion**

On completion of the Works, the Contractor shall send a registered notice to the Engineer Incharge, giving the date of completion and sending a copy of it to the officer accepting the Contract, on behalf of the Governor/ Procuring Entity and shall request the Engineer Incharge to give him a certificate of completion, but no such certificate shall be given nor shall the Works be considered to be complete until the Contractor shall have removed from the site on which the Works shall be executed, all scaffolding, surplus materials and rubbish and cleared off the dirt from all wood works, doors, walls, floors, or other parts of any building in, upon or about which the Works is to be executed or of which he may have possession for the execution thereof, he had filled up the pits. If the Contractor shall fail to comply with the requirements of this Clause as to removal of scaffolding, surplus materials and rubbish and cleaning off dirt and filling of pits on or before the date fixed for completion of the Works, the Engineer Incharge may, at the expense of the Contractor, remove such scaffolding, surplus materials, and the rubbish and dispose of the same, as he thinks fit, and clean off such dirt and fill the pits, as aforesaid, and the Contractor shall forthwith pay the amount of all expenses, so incurred, and shall have no claim in respect of any such scaffolding or surplus materials, as aforesaid except for any such actually realised by the sale thereof. On completion, the Works shall be measured by the Engineer Incharge himself or through his subordinates, whose measurements shall be binding and conclusive against the Contractor. Provided that, if subsequent to the taking of measurements by the subordinate, as aforesaid, the Engineer Incharge had reason to believe that the measurements taken by his subordinates are not correct the Engineer Incharge shall have the power to cancel the measurements already taken by his subordinates and acknowledged by the Contractor and to take measurements again, after giving reasonable notice to the Contractor, and such re-measurements shall be binding on the Contractor.



Within ten/ thirty days (Ten days will apply to Works at the headquarters of the Engineer Incharge and thirty days for Works at other place.) of the receipt of the notice, Engineer Incharge shall inspect the Works and if there is no visible defects on the face of the Works, shall give the Contractor, a certificate of completion. If the Engineer Incharge finds that the Works has been fully completed as per designs, drawings and specifications, it shall be mentioned in the certificate so granted. If, on the other hand, it is found that there are certain visible defects to be removed, the certificate to be granted by the Engineer Incharge shall specifically mention the details of the visible defects alongwith the estimate of the cost for removing these defects. The final certificate of Works shall be given after the visible defects pointed out as above have been removed.

## **50. Taking Over**

**50.1** The Procuring Entity shall take over the Site and the Works within seven days of the Engineer Incharge issuing a certificate of Completion.

## **51. Operating and Maintenance Manuals**

**51.1** If “as built” Drawings and/ or operating and maintenance manuals are required, the Contractor shall supply them in number of hard and soft copies and by the dates stated in the Contract Data.

**51.2** If the Contractor does not supply the Drawings and/ or manuals by the dates stated in the Contract Data, or they do not receive the Engineer Incharge’s approval, the Engineer Incharge shall withhold the amount stated in the Contract Data from payments due to the Contractor.

## **52. Termination**

**52.1** The Procuring Entity or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.

**52.2** Fundamental breaches of Contract include, but shall not be limited to the following:

(a) the Contractor stops Works for 28 days when no stoppage of Works is shown on the current program and the stoppage has not been authorised by the Engineer Incharge;

(b) the Engineer Incharge instructs the Contractor to delay the progress of the Works and the instruction is not withdrawn within 28 days;

(c) the Procuring Entity or the Contractor is made bankrupt or goes into liquidation other than for a reconstruction or amalgamation;

(d) a payment certified by the Engineer Incharge is not paid by the Procuring Entity to the Contractor within 56 days of the date of the Engineer Incharge's certificate;

(e) the Engineer Incharge gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Engineer Incharge;

(f) the Contractor does not maintain Performance Security which is required;

(g) 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 the Contract data;

(h) the Contractor, in the judgment of the Procuring Entity, has breached the Code of Integrity as contained in the Act, the Rules and as described in GCC Clause 56, in competing for or in executing the Contract;

(i) the Contractor obstructs or does not permit the Procuring Entity or any person or agency authorised by him or the Government to inspect the Works or to conduct audit of his accounts related to his Bid or execution of the Works.

**52.3** When either party to the Contract gives notice of a breach of Contract to the Engineer Incharge for a cause other than those listed under Sub Clause 54.2 above, the Engineer Incharge shall decide whether the breach is fundamental or not.

**52.4** Notwithstanding the above, the Procuring Entity may terminate the Contract for convenience.

**52.5** If the Contract is terminated the Contractor shall stop Works immediately, make the Site safe and secure and leave the Site as soon as reasonably possible.

### **53. Payment upon Termination**

**53.1** If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Engineer Incharge shall issue a certificate for the value of the Works done less secured advance received up to the date of the issue of the certificate, less other recoveries due in terms of the Contract,

less taxes due to be deducted at source as per applicable law and the remaining Works shall be got executed by the Procuring Entity by itself or any other agency at the risk and cost of the Contractor in accordance with the Clause 25.3. If the total amount due to the Procuring Entity exceeds any payment due to the Contractor, the difference shall be recovered from any other dues of the Contractor or his Performance Security and Enlistment Security and if need be, under Section 53 of the Act as arrears of land revenue.

In case of breach of Code of Integrity by the Contractor, action shall be taken against him in accordance with Sub-section (3) of Section 11 and Chapter IV of the Act.

**53.2** If the Contract is terminated at the Procuring Entity's convenience or because of a fundamental breach of Contract by the Procuring Entity, the Engineer Incharge shall issue a certificate for the value of the Works done, the reasonable cost of removal of Equipment, repatriation of the Contractor's personnel employed solely on the Works, and the Contractor's costs of protecting and securing the Works and less Secured Advance received up to the date of the certificate, less other recoveries due in terms of the Contract and less taxes due to be deducted at source as per applicable law.

#### **54. Property**

**54.1** All materials on the Site, Plant, Equipment, Temporary Works and Works are deemed to be the property of the Procuring Entity, if the Contract is terminated because of a Contractor's default.

#### **55. Force Majeure**

##### **55.1 Force Majeure**

Neither party shall be liable to each other, for any loss or damage, occasioned by or arising out of acts of God such as unprecedented floods, volcanic eruptions, earthquake or other invasion of nature and other such acts.

##### **55.2. Release from Performance**

If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Procuring Entity or the Contractor, the Engineer Incharge shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop Works as quickly as possible after receiving this certificate and shall be paid for all Works

carried out before receiving it and for any Works carried out afterwards to which commitment was made.

## **56. Code of Integrity- Fraud and Corruption**

### **56.1 Code of Integrity**

Any person participating in the procurement process shall -

- (a) not offer any bribe, reward or gift or any material benefit either directly or indirectly in exchange for an unfair advantage in procurement process or to otherwise influence the procurement process;
- (b) not misrepresent or omit that misleads or attempts to mislead so as to obtain a financial or other benefit or avoid an obligation;
- (c) not indulge in any collusion, bid rigging or anti-competitive behavior to impair the transparency, fairness and progress of the procurement process;
- (d) not misuse any information shared between the procuring Entity and the Bidders with an intent to gain unfair advantage in the procurement process;
- (e) not indulge in any coercion including impairing or harming or threatening to do the same, directly or indirectly, to any party or to its property to influence the procurement process;
- (f) disclose Conflict of Interest, if any;
- (g) disclose any previous transgressions with any entity in India or any other country during the last three years or any debarment by any other procuring entity.

**56.2** If the Procuring Entity determines that the Contractor and/or any of its personnel, or its agents, or its Sub Contractors, Sub Consultants, Services Providers, Suppliers and/ or their employees has breached the Code of Integrity or engaged in corrupt, fraudulent, collusive, coercive or obstructive practices, in competing for or in executing the Contract, then the Procuring Entity may, after giving 14 days notice to the Contractor, terminate the Contractor's employment under the Contract and expel him from the Site, as if such expulsion had been made under Sub-Clause 52.5 [Termination by Procuring Entity] and remaining Works shall be got executed at the risk and cost of the Contractor and action shall be taken against him in accordance with Section 11(3) and Chapter IV of the Act.

**56.3** Should any employee of the Contractor be determined to have engaged in corrupt, fraudulent, collusive, coercive, or obstructive practice

during the execution of the Works, then that employee shall be removed in accordance with Clause 9.

**56.4** For the purposes of this Clause:

(i) “corrupt practice” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;

(ii) “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;

(iii) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;

(iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;

(v) “obstructive practice” is

(a) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or

(b) acts intended to materially impede the exercise of the Procuring Entity’s inspection and audit rights provided for under Sub-Clause 23.2 and 52.2.

**Section VI B : Special Conditions of the Contract/ Contract Data**

Reference to GCC Clause	Subject	Clarification Data.
1.1	Definitions	The Defect liability period is ____ days after the issue of completion certificate. The Engineer Incharge is : _____ The intended completion Date is: _____ The Site is located at _____ The start date is: _____ The Works is _____
2.2	Sectional completion	The work is split into following sections: Section                      Date of Stipulated Completion I II III
2.3	Other Documents forming part of the Contract	Other Documents forming part of the Contract are:
8.1	Schedule of Other Contractors	The Schedule of Other Contractors is as follows:
9.1	Key personnel	The list of required key personnel is as given in Section V of the Bidding Document.
13.1	Insurance	The amounts and deductibles in Insurance shall _____ be .....

14.1	Site Investigation Reports	The Site Investigation Reports are: .....
21.1	Handing over possession of Site	Possession of 80% of the Site shall be handed over by dated ..... or within ..... Days after signing of the agreement.
25.1.	Construction Programme	The Construction Programme shall be provided by the Contractor within ..... days of issue of Letter of Acceptance.
30.3 (i).	Tests to be conducted by the Contractor	The tests to be conducted by the Contractor shall be as specified in the Standard BIS, IRC or other departmental specifications and as follows: .....
32.1	Correction of Defects	The Defect Liability Period is of ..... Months/ Years.  The Maintenance Period is of ..... Months/ Years.
41.1 (j).	Other Compensation events	Other Compensation events are:  1.  2.  3.
51.1.	Operating and Maintenance Manuals	Hard and Soft copies of 'As built' drawings and Operating and Maintenance Manuals shall be given by the Contractor in ..... copies by ..... (Date) or ..... Days after actual completion of the Works.
51.2.	Amount to be withheld if copies of as built drawings and copies of as built drawings and Operating and Maintenance Manuals are not provided by the Contractor by the specified date.	The amount to be withheld in such a situation from payments due to the Contractor shall be .....

52.2 (g)	Fundamental breaches -Maximum Number of days of delay in completion of the Works for levying full 10% liquidated damages.	Double of the Intended Completion period.
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## **Section VI C : Contract Forms**

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**1. Letter of Acceptance**

**Letter of Acceptance**

*[on letterhead paper of the Procuring Entity]*

No. ....

Dated .....

To: ..... name and address of the Contractor .....

Subject: ..... Notification of Award Contract No. ....

This is to notify you that your Bid dated . . . . date. . . . for execution of the . . . . . name of the contract and identification number, as given in the Contract Data . . . . . for the Accepted Contract Amount of the equivalent of . . . . . amount in numbers and words and name of currency . . . . ., as corrected and modified in negotiations and in accordance with the Instructions to Bidders has been accepted by .... designation of the Procuring Entity ..... The date of commencement and completion shall be: .....

You are requested to furnish the Performance Security as per the form detailed in Contract Forms for the same for an amount equivalent to Rupees ..... within ..... days of notification of award valid up to 60 days after the date of expiry of Defects Liability Period and sign the Contract, failing which action as stated in the Instructions to Bidders shall be taken.

Authorized Signature:

Name and Title of Signatory:

Designation:

## 2. Contract Agreement

### Contract Agreement

THIS AGREEMENT made the . . . . .day of . . . . ., . . . . ., between . . . . . name of the Procuring Entity. . . . . (hereinafter “the Procuring Entity”), of the one part, and . . . . . name of the Contractor. . . . .(hereinafter “the Contractor”), of the other part:

WHEREAS the Procuring Entity desires that the Works known as . . . . . name of the Contract. . . . .should be executed by the Contractor, and has accepted a Bid by the Contractor for the execution and completion of these Works and the remedying of any defects therein, and for which the Contractor has submitted Performance Security for Rupees----- in the form of-----

The Procuring Entity and the Contractor agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.
  - i. the Letter of Acceptance;
  - ii. the Letter of Bid and the accepted Bid of the Contractor in the Contract Forms;
  - iii. the Special Conditions of Contract/ Contract Data;
  - iv. the General Conditions of Contract;
  - v. the Procuring Entity’s Requirements including Specifications, Drawings;
  - vi. the Instructions to Bidders;
  - vii. the Notice Inviting Bids;
  - viii . . . . .
3. In consideration of the payments to be made by the Procuring Entity to the Contractor as indicated in this Agreement, the Contractor hereby covenants with the Procuring Entity to execute the Works and to

remedy defects therein (and maintain the Works for a period of -----) in conformity in all respects with the provisions of the Contract.

4. The Procuring Entity hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein (and maintain the Works for a period of -----), the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of India and Rajasthan on the day, month and year indicated above.

Signed by .....

Signed by .....

for and on behalf of the Governor/ Procuring Entity for and on behalf the Contractor

in the presence of

in the presence of

Witness, Name, Signature, Address, Date

Witness, Name, Signature,  
Address, Date

### 3. Performance Security

#### Performance Security

..... **Bank's Name, and Address of Issuing Branch or Office**

.....

Beneficiary: ..... **Name and Address of Procuring Entity**

.....

Date: .....

Performance Guarantee No.: .....

We have been informed that . . . . . **name of the Contractor**. . . . .  
(hereinafter called "the Contractor") has entered into Contract No. . . . .  
**reference number of the Contract**. . . . . dated . . . . . with you, for  
the execution of . . . . . **name of contract and brief description of  
Works** . . . . . (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the  
Contract, a performance security is required.

At the request of the Contractor, we . . . . . **name of the Bank**. . . . .  
hereby irrevocably undertake to pay you any sum or sums not exceeding  
in total an amount of Rupees\* ..... **amount in figures** . . . . .  
(.Rupees..... **amount in words**. . . . . ) such sum being  
payable upon receipt by us of your first demand in writing accompanied  
by a written statement stating that the Contractor is in breach of its  
obligation(s) under the Contract, without your needing to prove or to show  
grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the . . . . . Day of . . . . . , . . . . .  
\*\*, and any demand for payment under it must be received by us at this  
office on or before that date.

.....  
**Seal of Bank and Signature(s)**

**Note: All italicized text is for guidance on how to prepare this demand  
guarantee and shall be deleted from the final document.**

**\* The Guarantor shall insert an amount representing the percentage of  
the Contract Price specified in the Contract**

**\*\* Insert the date sixty days after the expected completion date.**

***The Procuring Entity should note that in the event of an extension of the time for completion of the Contract, the Procuring Entity would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Procuring Entity might consider adding the following text to the form, at the end of the penultimate paragraph: “The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Procuring Entity’s written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.”***

#### 4. Performance Security Declaration

##### Form of Performance Security Declaration

Date: \_\_\_\_\_ [insert date (as day, month and year)]

Contract Name and No.: \_\_\_\_\_ [insert name and number of Contract]

To: [insert Designation and complete address of Procuring Entity]

We, the undersigned, declare that:

We understand that, according to your conditions, the Contract must be supported by a Performance Security Declaration as a guarantee to ensure fulfillment of our all performance obligations under the Contract [insert name of subject matter of procurement] .

We accept that we will automatically be suspended from being eligible for bidding in any contract with you for the period of time of [Procuring Entity to indicate here the period of time for which the Procuring Entity will declare a Bidder ineligible to be awarded a Contract if the performance Security Declaration is to be executed.] starting on the date that we receive a notification from you, the [Procuring Entity] that our Performance Security Declaration is executed, if we are in breach of any of our performance obligation under the conditions of the Contract,

We understand this Performance Security Declaration shall expire after 60 days of completion of our all obligations under the Contract including Defect Liability, warranty/ Guarantee, operation, maintenance, etc. in accordance with the conditions of the Contract.

Signed: \_\_\_\_\_

[insert signature of person whose name and capacity are shown]

In the capacity of: \_\_\_\_\_

[insert legal capacity of person signing the Performance Security Declaration]

Name: \_\_\_\_\_

[insert complete name of person signing the Performance Security Declaration]

Duly authorized to sign the Contract for and on behalf of: \_\_\_\_\_

[insert complete name of Bidder]

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ [insert date of signing]

Corporate Seal \_\_\_\_\_