

## **TABLE OF CONTENTS**

<b>CONTENTS</b>	<b>Page No.</b>
<b>INVITATION FOR BIDS</b>	<b>4</b>
<b>Form</b>	<b>5</b>
<b>INSTRUCTIONS TO BIDDERS</b>	<b>6</b>
<b>A. General</b>	
IB.1 Scope of Bid	7
IB.2 Source of Funds	7
IB.3 Eligible Bidders	7
IB.4 One Bid Per Bidder	8
IB.5 Cost of Bidding	8
IB.6 Site Visit	8
<b>B. Bidding Documents</b>	
IB.7 Contents of Bidding Documents	9
IB.8 Clarification of Bidding Documents	9
IB.9 Amendment of Bidding Documents	9
<b>C. Preparation of Bids</b>	
IB.10. Language of Bid	10
IB.11 Documents Accompanying the Bid	10
IB.12 Bid Prices	11
IB.13 Currencies of Bid and Payment	12
IB.14 Bid Validity	12
IB.15 Bid Security	13
IB.16 Alternate Proposal by Bidder	13
IB.17 Pre-Bid Meeting	14
IB.18 Format and Signing of Bid	14
<b>D. Submission of Bids</b>	
IB.19 Sealing and Marking of Bids	15
IB.20 Deadline for Submission of Bids	15
IB.21 Late Bids	16
IB.22 Modification, Substitution and Withdrawal of Bids	16

## **E. Bid Opening and Evaluation**

IB.23	Bid Opening	16
IB.24	Process to be Confidential	17
IB.25	Clarification of Bids	17
IB.26	Examination of Bids and Determination of Responsiveness	17
IB.27	Correction of Errors	18
IB.28	Evaluation and Comparison of Bids	18

## **F. Award of Contract**

IB.29	Award	19
IB.30	Procuring Agency's Right to Accept any Bid and to Reject any or all Bids	19
IB.31	Notification of Award	20
IB.32	Performance Security	20
IB.33	Signing of Contract Agreement	20
IB.34	General Performance of the Bidders	21
IB.35	Integrity Pact	21
IB.36	Instructions Not Part of Contract	21
IB.37	Arbitration	21

## **BIDDING DATA**

## **FORM OF BID AND APPENDICES TO BID**

<b>FORM OF BID</b>		<b>28</b>
Appendix-A to Bid	: Special Stipulations	30
Appendix-B to Bid	: Foreign Currency Requirements	31
Appendix-C to Bid	: Price Adjustment (Under Clause 70)	32
Appendix-D to Bid	: Bill of Quantities	33
Appendix-E to Bid	: Proposed Construction Schedule	51
Appendix-F to Bid	: Method of Performing the Work	52
Appendix-G to Bid	: List of Major Equipment – Related Items	53
Appendix-H to Bid	: Construction Camp and Housing Facilities	55
Appendix-I to Bid	: List of Subcontractors	56
Appendix-J to Bid	: Estimated Progress Payments	57
Appendix-K to Bid	: Organization Chart of the Supervisory Staff and Labour	58
Appendix-L to Bid	: Integrity Pact	59

<b>FORMS</b>	
BID SECURITY	61
PERFORMANCE SECURITY	63
CONTRACT AGREEMENT	65
MOBILIZATION ADVANCE GURANTEE	67
INDENTURE BOND FOR SECURED ADVANCE	69
<b>PART-I: GENERAL CONDITIONS OF CONTRACT</b>	74
<b>PART-II: SPECIAL CONDITIONS OF CONTRACT</b>	147
<b>SPECIFICATIONS</b>	168
<b>DRAWINGS</b>	169

# INVITATION FOR BIDS

## INVITATION FOR BIDS

Date: \_\_\_\_\_

Federal/Provincial/Local Government Funds/Loans/Grant No. \_\_\_\_\_

Bid Reference No.: \_\_\_\_\_

1. The **Project Director, Rehabilitation of DHQ / THQ Hospitals in Sindh**  
(Name of Procuring Agency)  
(the “Procuring Agency”) has received/ applied for loan/grant/funds from the \_\_\_\_\_  
**Government of Sindh** towards the cost of \_\_\_\_\_  
(Name of Funding Agency/GOP/Provincial Govt/Any Other)  
**Expansion & Improvement of DHQ Hospitals in Sindh. (03 Nos.)** and it is  
(Name of Project)  
intended that part of the proceeds of the loan/grant/funds will applied to eligible payments  
under the contract for the **Construction of Allied Buildings, Residential Building &  
Boundary Wall, at DHQ Hospital Badin, Sindh**.  
(Brief description of the Works)  
Bidding is open to all interested bidders.
2. Procuring agency invites sealed bids from interested firms or persons licensed by the Pakistan Engineering Council (PEC) in the appropriate category or above for the works. A foreign bidder is entitled to bid only in a joint venture with a Pakistani Firm in accordance with the relevant provisions of PEC bye-laws.
3. Bidders may obtain information by acquiring the bidding documents (BD) from the Office of the procuring agency, at **D-62/1, Block-9, Near Kausar Medicos, Opp. Beacon House School KG-II Branch, Clifton Karachi.**  
(Mailing Address)
4. A complete set of BD may be purchased by an interested bidder on submission of a written application to the above office and upon payment of a non-refundable fee of Rs. **5000 (Non Refundable)**.  
(Insert Amount)
5. All bids must be accompanied by a bid security in the amount of Rs. **2% of Bid Amount**  
(Rupees \_\_\_\_\_)  
\_\_\_\_\_ ) or an equivalent amount in a  
freely convertible currency, and must be delivered to **D-62/1, Block-9, Near Kausar  
Medicos, Opp. Beacon House School KG-II Branch, Clifton Karachi.** at or before \_\_\_\_\_  
hours, on  
(Indicate Address and Exact Location)  
\_\_\_\_\_ (Date). Bids will be opened at \_\_\_\_\_ hours on the same day, in the presence of  
bidder’s representatives who choose to attend at the same address. (Indicate address and exact  
location if it differs).

[Note: the bids shall be opened not later than one hour after the deadline for submission of bids]

# **INSTRUCTIONS TO BIDDERS**

## **INSTRUCTIONS TO BIDDERS**

(Note: These Instructions to Bidders along with bidding data will not be part of the Contract and will cease to have effect once the contract is signed.)

### **A. GENERAL**

#### **IB.1 Scope of Bid**

- 1.1 Procuring agency as defined in the bidding data hereinafter called “the procuring agency” wishes to receive bids for the construction and completion of works as described in these bidding documents, and summarized in the bidding data hereinafter referred to as the “Works”.
- 1.2 The successful bidder will be expected to complete the works within the time specified in Appendix-A to Bid.

#### **IB.2 Source of Funds**

- 2.1 Procuring agency has received/ applied for loan/grant/ Federal/ Provincial/Local Government funds from the source(s) indicated in the bidding data in various currencies towards the cost of the project/scheme specified in the bidding data, and it is intended that part of the proceeds of this loan/grant/funds will be applied to eligible payments under the contract for which these bidding documents are issued.

#### **IB.3 Eligible Bidders**

- 3.1 This Invitation for Bids is open to all interested bidders who are eligible under provisions of Sindh Public Procurement Rules as mentioned below and the criteria given in the Notice Inviting Tender (NIIT)/ Bidding Document.

Firms and individuals, national or international, may be allowed to bid for any project where international competitive bidding is feasible. Any conditions for participation shall be limited to those that are essential to ensure the bidder’s capability to fulfill the contract in question.

- (a) Bidders may be excluded if;
  - (i) as a matter of law or official regulations, commercial relations are prohibited with the bidder’s country by the federal government, or
  - (ii) a firm is blacklisted/ debarred by the procuring agency and the matter has been reported to the Authority, subject to Rule 39 of Sindh Public Procurement Rules 2009.
- (b) Government-owned enterprises or institutions may participate only if they can establish that they are;

- (i) legally and financially autonomous, and
- (ii) operate under commercial law.

Provided that where government-owned universities or research centers in the country are of a unique and exceptional nature, and their participation is critical to project implementation, they may be allowed to participate; and

Bidders shall include all those contractors who are registered or incorporated in Pakistan, irrespective of the nationality of their owners and professional staff, or

(c) Bidders are:-

- (i) pre-qualified with procuring agency for particular project/scheme;
- (ii) registered with Pakistan Engineering Council in particular category (if applicable)

#### **IB.4 One Bid per Bidder**

- 4.1 Each bidder shall submit only one bid either by himself, or as a partner in a joint venture. A bidder who submits or participates in more than one bid (other than alternatives pursuant to Clause IB.16) will be disqualified.

#### **IB.5 Cost of Bidding**

- 5.1 The bidders shall bear all costs associated with the preparation and submission of their respective bids, and the procuring agency will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

#### **IB.6 Site Visit**

- 6.1 The bidders are advised to visit and examine the site of works and its surroundings and obtain all information that may be necessary for preparing the bid and entering into a contract for construction of the works. All cost in this respect shall be at the bidder's own expenses.
- 6.2 The bidders and any of their personnel or agents will be granted permission by the procuring agency to enter upon his premises and lands for the purpose of such inspection, but only upon the express condition that the bidders, their personnel and agents, will release and indemnify the procuring agency, his personnel and agents from and against all liability in respect thereof and will be responsible for death or personal injury, loss of or damage to property and any other loss, damage, costs and expenses incurred as a result of such inspection.



## **B. BIDDING DOCUMENTS**

### **IB.7 Contents of Bidding Documents**

7.1 The bidding documents, in addition to invitation for bids, are those stated below and should be read in conjunction with any addenda issued in accordance with Clause IB.9.

- a. Instructions to Bidders.
- b. Bidding Data.
- c. General Conditions of Contract, Part-I (GCC)
- d. Special Conditions of Contract, Part-II (SCC)
- e. Specifications.
- f. Form of Bid and Appendices to Bid.
- g. Bill of Quantities (Appendix-D to Bid).
- h. Form of Bid Security.
- i. Form of Contract Agreement.
- j. Forms of Performance Security, Mobilization Advance Guarantee and Indenture bond for secured advance.
- k. Drawings.

7.2 The bidders are expected to examine carefully the contents of all the above documents. Failure to comply with the requirements of bid submission will be at the bidder's own risk. Pursuant to Clause IB.26, bids which are not substantially responsive to the requirements of the BD will be rejects.

### **IB.8 Clarification of Bidding Documents**

8.1 Any interested bidder requiring any clarification(s) in respect of the bidding documents may notify the procuring agency in writing at the procuring agency's address indicated in the Invitation for Bids/NIT/EOI. Procuring agency will respond to any request for clarification provided they are received at least five calendar days prior to the date of opening of bid. The procuring agency shall respond to such queries in writing within 24 hours.

Copies of the procuring agency's response will be forward to all the bidders including a description of the enquiry, but without disclosing the identity of its/their initiator(s).

### **IB.9 Amendment of Bidding Documents**

9.1 At any time prior to the deadline for submission of bids, the procuring agency may, for any reason, whether at his own initiative or in response to a clarification requested by a interested bidder, modify the bidding documents by issuing addendum.

9.2 Any addendum thus issued shall be part of the bidding documents pursuant to sub-clause IB 7.1 hereof and shall be communicated in writing to all bidders. Interested bidders shall acknowledge receipt of each addendum in writing to the procuring agency.

- 9.3 To afford bidders reasonable time in which to take an addendum into account in preparing their bids, the procuring agency may extend the deadline for submission of bids in accordance with IB.20

## **C. PREPARATION OF BIDS**

### **IB.10 Language of Bid**

- 10.1 The bid and all correspondence and documents related to the bid exchanged by a bidder and the procuring agency shall be in the language stipulated in the bidding data and I Conditions of the contract. Supporting documents and printed literature furnished by the bidders may be in any other language provided the same are accompanied by an accurate translation of the relevant parts in the bid language, in which case, for purposes of evaluation of the bid, the translation in bid language shall prevail.

### **IB.11 Documents Accompanying the Bid**

- 11.1 Each bidder shall:

- (a) submit a written authorization on the letterhead of the bidding firm, authorizing the signatory of the bid to act for and on behalf of the bidder;
- (b) update the information indicated and listed in the bidding data and previously submitted with the application for prequalification, and continue to meet the minimum criteria set out in the prequalification documents, which as a minimum, would include the following :
  - (i) Evidence of access to financial resources along with average annual construction turnover;
  - (ii) Financial predictions for the current year and the following two years, including the effect of known commitments;
  - (iii) Work commitments since prequalification;
  - (iv) Current litigation information; and

And

- (c) furnish a technical proposal taking into account the various Appendices to Bid specially the following:

Appendix-E to Bid	Proposed Construction Schedule
Appendix-F to Bid	Method of Performing the Work
Appendix-G to Bid	List of Major Equipment
Appendix-K to Bid	Organization Chart for Supervisory Staff
And other pertinent information such as mobilization programme etc.	

- 11.2 Bids submitted by a joint venture of two (w) or more firms shall comply with the following requirements:

- (a) One of the joint venture partners shall be nominated as being in charge and this authorization shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all the joint venture partner;
  - (b) the bid, and in case of a successful bid, the Form of Contract Agreement shall be signed by the authorized partner so as to be legally binding on all partner;
  - (c) the partner-in-charge shall always be duly authorized to deal with the procuring agency regarding all matters related with and/or incidental to the execution of works as per the terms and Conditions of Contract and in this regard to incur any and all liabilities, receive instructions, give binding undertakings and receive payments on behalf of the joint venture.
  - (d) all partners of the joint venture shall at all times and under all circumstances be liable jointly and severally for the execution of the contract in accordance with the contract terms and a statement to this effect shall be included in the authorization mentioned under Sub-Para(a) above as well as in the Form of Bid and in the Form of Contract Agreement (in case of a successful bid).
  - (e) a copy of the agreement entered into by the joint venture partners shall be submitted with the bid stating the conditions under which it will function, its period of duration, the persons authorized to represent and obligate it and which persons will be directly responsible for due performance of the contract and can give valid receipts on behalf of the joint venture, the proportionate participation of the several firms forming the joint venture, and any other information necessary to permit a full appraisal of this functioning. No amendments / modifications whatsoever in the joint venture agreement shall be agreed to between the joint venture partners without prior written consent of the procuring agency;.
  - (f) Submission of an alternative Letter of Intent to execute a Joint Venture Agreement shall be mandatory.
- 11.3 Bidders shall also submit proposals of work methods and schedule, in sufficient detail to demonstrate the adequacy of the bidders' proposals to meet the technical specifications and the completion time referred to sub-clause IB 1.2 hereof.

#### **IB.12 Bid Prices**

- 12.1 Unless stated otherwise in the bidding documents, the contract shall be for the whole of the works as described in IB 1.1 hereof, based on the unit rates or prices submitted by the bidder or percentage quoted above or below on the rates of Composite Schedule of Rates (CSR), as the case may be.
- 12.2 The bidders 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 a bidder will not be paid for by the procuring agency when executed and shall be deemed to be covered by rates and prices for other items in the Bill of Quantities. In case of Composite Schedule of Rates, if the bidder fails to mention the percentage above or below, it shall be deemed to be at par with the rates of Composite Schedule of Rates.

- 12.3 The bid price submitted by the contractor shall include all rates and prices including the taxes. All duties, taxes and other levies payable by the contractor under the contract, or for any other cause during the currency of the execution of the work or otherwise specified in the contract as on the date seven days prior to the deadline for submission of bids.
- 12.4 The rates and prices quoted by the bidders are subject to adjustment during the performance of the contract in accordance with the provisions of Clause 70 of GCC. The bidders shall furnish the prescribed information for the price adjustment formula in Appendix-C to Bid, and shall submit with their bids such other supporting information as required under the said Clause. Adjustment in prices quoted by bidders in case of NCB will not be allowed except on those items notified by Finance Department after the date of opening and will be paid accordingly. In case of ICB, Clause 4(ii) of Section C of Instructions to bidders and bidding data shall apply.

### **IB.13 Currencies of Bid and Payment**

- 13.1 The unit rates and the prices shall be quoted by the bidder entirely in Pak rupees. A bidder expecting to incur expenditures in other currencies for inputs to the works supplied from outside the procuring agency's country (referred to as the "Foreign Currency Requirements") shall indicate the same in Appendix-B to Bid. The proportion of the bid price (excluding Provisional Sums) needed by him for the payment of such Foreign Currency Requirements either (i) entirely in the currency of the bidder's home country or, (ii) at the bidder's option, entirely in Pak rupees provided always that a bidder expecting to incur expenditures in a currency or currencies other than those stated in (i) and (ii) above for a portion of the foreign currency requirements, and wishing to be paid accordingly, shall indicate the respective portions in the bid.
- 13.2 The rates of exchange to be used by the bidder for currency conversion shall be the selling rates published and authorized by the State Bank of Pakistan prevailing on the date, 07 (seven) days prior to the deadline for submission of bids. For the purpose of payments, the exchange rates used in bid preparation shall apply for the duration of the contract.

### **IB.14 Bid Validity**

- 14.1 Bids shall remain valid for the period stipulated in the bidding data from the date of opening of bid specified in clause IB.23.
- 14.2 In exceptional circumstances, prior to expiry of the original, the procuring agency may request the bidders to extend the period of validity for a specified additional period, which shall not be for more than one third of the original period of bid validity. The request and the responses thereto, shall be made in writing. A bidder may refuse the request without the forfeiture of the bid security. In case, a bidder agreed to the request, shall not be required or permitted to modify the bid, but will be required to extend the validity of the bid security for the period of the extension, and in compliance with Clause IB.15 in all respects.

### **IB.15 Bid Security**

- 15.1 Each bidder shall furnish, as part of the bid, a bid security in the amount stipulated in the bidding data in Pak Rupees or an equivalent amount in a freely convertible currency.
- 15.2 The bid security shall be at the option of the bidder, in the form of deposit at call, Pay order or a bank guarantee issued by a Scheduled Bank in Pakistan or from a foreign bank duly counter guaranteed by a Scheduled Bank in Pakistan in favor of the procuring agency, which should commensurate with the bid validity period. The bank guarantee for bid security shall be acceptable in the manner as provided at Annexure BS-1
- 15.3 Any bid not accompanied by an acceptable bid security shall be rejected by the procuring agency as non-responsive.
- 15.4 Bid security shall be released to the unsuccessful bidders once the contract has been signed with the successful bidder or the validity period has expires.
- 15.5 The bid security of the successful bidder shall be returned when the bidder has furnished the required Performance Security and signed the Contract Agreement. On return of bid security, security deposit at the rate of 5% shall be deducted from the interim or running bills.
- 15.6 The bid security may be forfeited:
  - (a) if the bidder withdraws his bid except as provided in sub-clause IB 22.1;
  - (b) if the bidder does not accept the correction of his bid price pursuant to sub-clause IB 27.2 hereof; or
  - (c) In the case of successful bidder, if he fails within the specified time limit to:
    - (i) furnish the required Performance Security; or
    - (ii) sign the Contract Agreement.

### **IB.16 Alternate Proposals/Bids**

- 16.1 Each bidder shall submit only one bid either by himself, or as a member of a joint venture, until and unless they have been requested or permitted for alternative bid, then he has to purchase separate bidding documents and alternate bid shall be treated as separate bid.
- 16.2 Alternate proposals are allowed only for procurement of works where technical complexity is involved and more than one designs or technical solutions are being offered. Two stage two envelope bidding procedure will be appropriate when alternate proposal is required.

- 16.3 Alternate bid(s) shall contain (a) relevant design calculations; (b) technical specifications; (c) proposed construction methodology; and (d) any other relevant details / conditions, provided that the total sum entered on the Form of Bid shall be that which represents complete compliance with the bidding documents.

#### **IB.17 Pre-Bid Meeting**

- 17.1 Procuring agency may, on his own motion or at the request of any bidder, hold a pre-bid meeting to clarify issues and to answer any questions on matters related to the bidding documents. The date, time and venue of pre-bid meeting, if convened, shall be communicated to all bidders. All bidders or their authorized representatives shall be invited to attend such a pre-bid meeting at their own expense.
- 17.2 The bidders are requested to submit questions, if any, in writing so as to reach the Procuring agency not later than seven (7) days before the proposed pre-bid meeting.
- 17.3 Minutes of the pre-bid meeting, including the text of the questions raised and the replies given, will be transmitted without delay to all bidders. Any modification of the bidding documents listed in sub-clause IB 7.1 hereof, which may become necessary as a result of the pre-bid meeting shall be made by the procuring agency exclusively through the issue of an Addendum pursuant to Clause IB.9 and not through the minutes of the pre-bid meeting.
- 17.4 Absence at the pre-bid meeting will not be a cause for disqualification of a bidder.

#### **IB.18 Format and Signing of Bid**

- 18.1 Bidders are particularly directed that the amount entered on the Form of Bid shall be for performing the contract strictly in accordance with the bidding documents.
- 18.2 All appendices to bid are to be properly completed and signed.
- 18.3 No alteration is to be made in the form of bid nor in the Appendices thereto except in filling up the blanks as directed. If any such alterations be made or if these instructions be not fully complied with, the bid may be rejected.
- 18.4 Each bidder shall prepare by filling out the forms without alterations and shall provide an original copy along with photocopies as per the requirement of the procuring agency specified in the bidding data. The original as well as copy(ies) of the document shall be clearly marked as "ORIGINAL" and "COPY", as the case may be. If there is any discrepancy between original and copy (ies) then the original shall prevail.
- 18.5 The original and all copies of the bid shall be typed or written in indelible ink (in the case of copies, Photostats are also acceptable) and shall be signed by a person(s) duly authorized to sign on behalf of the bidder pursuant to sub-clause IB 11.1 (a) hereof. All pages of the bid shall be initialed and stamped by the person(s) signing the bid.

- 18.6 The bid shall contain no alterations, omissions or additions, except to comply with instructions issued by the procuring agency, or as are necessary to correct errors made by the bidder. Such corrections shall be initialed by the person(s) signing the bid.
- 18.7 Bidders shall indicate in the space provided in the Form of Bid their full and proper postal addresses at which notices may be legally served on them and to which all correspondence in connection with their bids and the contract is to be sent.
- 18.8 Bidders should retain a copy of the bidding documents as their file copy.

#### **D. SUBMISSION OF BIDS**

##### **IB.19 Sealing and marking of Bids**

- 19.1 Each bidder shall submit his bid as under:
- (a) ORIGINAL and copies of the bid shall be separately sealed and put in separate envelopes and marked as such.
  - (b) The envelopes containing the ORIGINAL and copies shall be put in one sealed envelope and addressed as given in sub – clause IB 19.2 hereof.
- 19.2 The inner and outer envelopes shall:
- (a) be address to the procuring agency at the address provided in the bidding data.
  - (b) bear the name and identification number of the contract as defined in the bidding data and
  - (c) provide a warning not to open before the time and date for bid opening, as specified in the bidding data.
- 19.3 In addition to the identification required in sub- Clause IB 19.2 hereof, the inner envelope shall indicate the name and postal address of the bidder to enable the bid to be returned unopened in case it is declared “late” pursuant to Clause IB.21
- 19.4 If the outer envelope is not sealed and marked as above, the procuring agency will assume no responsibility for the misplacement or premature opening of the Bid.

##### **IB.20 Deadline for Submission of Bids**

- 20.1 (a) Bids must be received by the procuring agency at the address specified no later than the time and date stipulated in the bidding data,
- (b) Bids with charges payable will not be accepted, nor will arrangements be undertaken to collect the bids from any delivery point other than that specified above. Bidders shall bear all expenses incurred in the preparation and delivery of bids. No claims shall be entertained for refund of such expenses.

- (c) Where delivery of a bid is by mail and the bidder wishes to receive an acknowledgment of receipt of such bid, he shall make a request for such acknowledgment in a separate letter attached to but not included in the sealed bid package,
  - (d) Upon request, acknowledgment of receipt of bids will be provided to those making delivery in person or by messenger.
- 20.2 The Procuring Agency may, at its discretion, extend the deadline for submission of bids by issuing an amendment in accordance with IB 09. In such case, all rights and obligations of the procuring agency and the bidders shall remain the same as mentioned in the original deadline.

#### **IB.21 Late Bids**

- 21.1 (a) Any bid received by the procuring agency after the deadline for submission of bids prescribed in to clause IB 20 shall be returned unopened to such bidder.
- (b) Delays in the mail, person transit, or delivery of a bid to the wrong office shall not be accepted as an excuse for failure to deliver a bid at the proper place and time. It shall be the bidder's responsibility to submit the bid in time.

#### **IB.22 Modification, Substitution and Withdrawal of Bids**

- 22.1 Any bidder may modify, substitute or withdraw his bid after bid submission provided that the modification, substitution or written notice of withdrawal is received by the procuring agency prior to the deadline for submission of bids.
- 22.2 The modification, substitution, or notice for withdrawal of any bid shall be prepared, sealed, marked and delivered in accordance with the provisions of Clause IB.19 with the other and inner envelopes additionally marked "MODIFICATION", "SUBSTITUTION" OR "WITHDRAWAL" as appropriate.
- 22.3 No bid may be modified by a bidder after the deadline for submission of bids except in accordance with to sub – clauses IB 22.1 and IB 27.2.
- 22.4 Withdrawal of a bid during the interval between the deadlines for submission of bids and the expiration of the period of bid validity specified in the Form of Bid may result in forfeiture of the bid security in pursuance to clause IB 15.

### **E. BID OPENING AND EVALUATION**

#### **IB.23 Bid Opening**

- 23.1 Procuring agency will open the bids, including withdrawals, substitution and modifications made pursuant to Clause IB.22, in the presence of bidders' representatives who choose to attend, at the time, date and location stipulated in the bidding data. The bidders or their representatives who are attendance shall sign an attendance sheet.



- 23.2 Envelopes marked “MODIFICATION”, “SUBSTITUTION” OR “WITHDRAWAL” shall be opened and read out first. Bids for which an acceptable notice of withdrawal has been submitted pursuant to clause IB.22 shall not be opened.
- 23.3 Procuring agency shall read aloud the name of the bidder, total bid price and price of any Alternate Proposal(s), if any, discounts, bit modifications, substitution and withdrawals, the presence or absence of bid security, and such other details as the procuring agency may consider appropriate, and total amount of each bid, and of any alternative bids if they have been requested or permitted, shall be read aloud and recorded when opened.
- 23.4 Procuring Agency shall prepare minutes of the bid opening, including the information disclosed to those present in accordance with the sub-clause 23.3.

#### **IB.24 Process to be Confidential**

- 24.1 Information relating to the examination, clarification, evaluation and comparison of bid and recommendations for the award of the contract shall not be disclosed to bidders or any other person not officially concerned with such process before the announcement of bid evaluation report which shall be done at least ten (10) days prior to issue of Letter of Acceptance. The announcement to all bidders will include table(s) comprising read out prices, discounted prices, price adjustments made, final evaluated prices and recommendations against all the bids evaluated. Any effort by a bidder to influence the procuring agency’s processing of bids or award decisions may result in the rejection of such bidder’s bid. Whereas any bidder feeling aggrieved may lodge a written complaint not later than ten (10) days after the announcement of the bid evaluation report; however mere fact of lodging of a complaint shall not warrant suspension of the procurement process.

#### **IB.25 Clarification of Bid**

- 25.1 To assist in the examination, evaluation and comparisons of bids, the procuring agency may, at its discretion, ask any bidder for clarification of the bid, including breakdowns of unit rates. The request for clarification and the response shall be in writing but no change in the price or substance of the bid shall be sought, offered or permitted except as required to confirm the correction arithmetic errors discovered by the procuring agency in the evaluation of the bids in accordance with clause IB 28.

#### **IB.26 Examination of Bids and Determination of Responsiveness**

- 26.1 Prior to the detailed evaluation of bids, the procuring agency will determine whether the bidder fulfills all codal requirements of eligibility criteria given in the tender notice such as registration with tax authorities, registration with PEC (where applicable), turnover statement, experience statement, and any other condition mentioned in the NIT and bidding document. If the bidder does not fulfill any of these conditions, it shall not be evaluated further.
- 26.2 Once found to be fulfilling the eligibility criteria, as mentioned in sub- clause 26.1, these bids of eligible bidders will be evaluated for technical responsiveness as per specification and criteria given in the bidding documents. Technical and financial evaluations may be carried out in accordance with single stage-single one envelope, single stage-two envelopes, two stage or two state-two envelopes bidding procedures, depending on the selection procedure adopted by the procuring agency.

- 26.3 A bid will be considered technically responsive if it (i) has been properly signed; (ii) is accompanied by the required bid security; and (iii) conforms to all the terms, conditions and specifications of the bidding documents, without material deviation or reservation. A material deviation or reservation is one (i) which affect in any substantial way the scope, quality or performance of the works; (ii) which limits in any substantial way, inconsistent with the bidding documents, the procuring agency's rights or the bidder's obligations under the contract; or (iii) adoption/rectification whereof would affect unfairly the competitive position of other bidders presenting substantially responsive bids.
- 26.4 If a bid is not substantially responsive, it will be rejected by the procuring agency, and may not subsequently be made responsive by correction or withdrawal of the non-conforming deviation or reservation.

#### **IB.27 Correction of Errors before Financial Evaluation**

- 27.1 Bids determined to be substantially responsive will be checked by the procuring agency for any arithmetic errors. Errors will be corrected by the procuring agency as follows:
- (a) Where there is a discrepancy between the amounts in figures and in words, the amount in words will govern; and
  - (b) where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern, unless in the opinion of the procuring agency there is an obviously gross misplacement of the decimal point in the unit rate, in which case the line item total as quoted will govern and the unit rate will be corrected.
- 27.2 The amount stated in the Form of Bid will be adjusted by the procuring agency in accordance with the above procedure for the correction of errors and with the concurrence of the bidders. The amount thus corrected shall be considered as binding upon the bidder. If the bidder does not accept the corrected bid price, his bid will be rejected, and the bid security shall be forfeited in accordance with sub- clause IB 15.6(b) hereof.

#### **IB.28 Financial Evaluation and Comparison of Bids**

- 28.1 The procuring agency will evaluate and compare only the Bids determined to be substantially responsive in accordance with clause IB 26.
- 28.2 In evaluating the Bids, the procuring agency will determine for each bid the evaluated bid price by adjusting the bid price as follows:
- (a) making any correction for error pursuant to clause IB27;
  - (b) excluding provisional sums (if any), for contingencies in the Summary Bill of Quantities, but including competitively priced Day work; and
  - (c) making an appropriate adjustment for any other acceptable variation or deviation.

- 28.3 The estimated effect of the price adjustment provisions of the conditions of contract, applied over the period of execution of the contract, shall not be taken in to account in bid evaluation.
- 28.4 If the bid of the successful bidder is seriously unbalanced in relation to the procuring agency's estimate of the cost of work to be performed under the contract, the procuring agency may require the bidder to produce detailed price analyses for any or all items of Bill of Quantities to demonstrate the internal consistency of those prices with the construction methods and schedule proposed. After evaluation of the price analyses, the procuring agency may require that the amount of the Performance Security set forth in clause IB.32 be increased at the expense of the successful bidder to a level sufficient to protect the procuring agency against financial loss in the event of default of the successful bidder under the contract.
- 28.5 Evaluation Report
- After the completion of evaluation process, as describe in clauses IB 27 and IB 28, the procuring agency shall prepare an evaluation report. The evaluation report shall contain names of all the bidders, technical and financial score or comparison, name of lowest evaluated bidder and any other information that procuring agency may like to include in the report.

## **F. AWART OF CONTRACT**

### **IB.29 Award**

- 29.1 Subject to clause IB 30 and IB 34, the procuring agency shall award the contract to the bidder whose bid has been determined to be substantially responsive to the bidding documents, and who has offered the lowest evaluated bid, provided that such bidder has been determined to be eligible in accordance with the provisions of clause IB 03 and quality pursuant to sub-clause IB 29.2.
- 29.2 Procuring agency, at any stage of the bid evaluation, having credible reasons for or having *prima facie* evidence of any deficiency(ies) in contractor's capacities, may require the contractor to provide information concerning their professional, technical, financial, legal or managerial competence whether already pre-qualified or not for the said project.

Provided that such qualification shall only be laid down after recording reasons, thereof, in writing. They shall form part of the records of that bid evaluation report.

### **IB.30 Procuring agency's Right to Reject all Bids or Annul the Bidding Process**

- 30.1 Not with standing clause IB 29, the procuring agency reserves the right to annul the bidding process and reject all bids or proposals, at any time prior to award of contract, without thereby incurring any liability to the affected bidders or any obligation except that the grounds for rejection of all bids shall be communicated promptly to all bidder who submitted a bid, without giving justification of grounds.

### **IB.31 Notification of Award**

- 31.1 Prior to expiry of the period of bid validity, including extension, prescribed by the procuring agency, the procuring agency shall notify the successful bidder in writing (“Letter of Acceptance”) that his bid has been accepted. This letter shall mention the sum which the procuring agency will pay to the contractor in consideration of the execution and completion of the works by the contractor as prescribed by the contract (hereinafter and in the conditions of contract called the “Contract Price”).
- 31.2 No negotiation with the bidder having evaluated as lowest responsive or any other bidder shall be permitted, however, procuring agency may hold meeting to clarify any item in the bid evaluation report.
- 31.3 The notification of award and its acceptance by the bidder will constitute the formation of the contract, binding the procuring agency and the bidder till signing of the formal Contract Agreement.
- 31.4 Upon furnishing by the successful bidder of a Performance Security and signing of the contract, the procuring agency will promptly notify the name of the successful bidder to all bidders and return their bid securities accordingly.
- 31.5 The notification of the award shall be hoisted on the Authority’s website ([www.pprasindh.gov.pk](http://www.pprasindh.gov.pk)) as well as the procuring agency’s website, if available.
- 31.6 **Debriefing.**
- (a) A bidder may ask the procuring agency for reasons for non acceptance of his bid any may request for a debriefing meeting and procuring agency shall give him the reasons for such non acceptance, either in writing or by holding a debriefing meeting with such a bidder.
  - (b) The requesting bidder shall bear all the costs of attending such a debriefing.

### **IB.32 Performance Security**

- 32.1 The successful bidder shall furnish to the procuring agency at Performance Security in the form and the amount stipulated in the bidding data and the Conditions of Contract within a period of 28 days after the receipt of Letter of Acceptance.
- 32.2 Failure of the successful bidder to comply with the requirements of Sub-clause IB.32.1 or clauses IB 33 or IB 35 shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security.

### **IB.33 Signing of Contract Agreement**

- 33.1 Within 14 days from the date of furnishing of acceptable Performance Security under the Conditions of Contract, the procuring agency will send the successful bidder the Contract Agreement in the form provided in the bidding documents, incorporating all agreements between the parties.

- 33.2 The formal Agreement between the procuring agency and the successful bidder shall be executed within 14 days of the receipt of the Contract Agreement by the successful bidder from the procuring agency.

Provided that the procuring agency may reduce the maximum time limit for signing of contract, as and when required, and shall be mentioned in the bidding documents.

**IB.34 General Performance of the Bidders**

Procuring agency may in case of consistent poor performance of the contractor and his failure to remedy the underperforming contract may take such actions as may be deemed appropriate under the circumstances of the case including the rescinding the contract and/or black listing of such contractor and debarring him from participation in future bidding process.

**IB.35 Integrity Pact**

The bidder shall sign and stamp the Integrity Pact provided at Appendix-L to bidding the bidding documents for all Provincial/Local Government procurement contracts exceeding Rupees ten million. Failure to provide such Integrity Pact shall make bidder non-responsive.

**IB.36 Instructions non Part of Contract**

Bids shall be prepared and submitted in accordance with these Instructions which are provided to assist bidders in preparing their bids, and do not constitute part of the bid or the Contract Documents.

**IB.37 Arbitration**

Any dispute that is not amicably resolved shall be finally settled, unless otherwise specified in the Contract, under the Arbitration Act 1940 updated from time to time and would be held anywhere in the Province of Sindh at the discretion of procuring agency.

# **BIDDING DATA**

## **NOTES ON BIDDING DATA**

This Section is intended to assist the procuring agency in providing the specific information in relation to corresponding clauses in Instruction to Bidders and should be prepared to suit each individual contract.

The procuring agency should provide in the bidding data information and requirements Specific to the circumstances of the procuring agency, the processing of the bid, the Applicable rules regarding bid price and currency, and the bid evaluation criteria that will Apply to the bids. In preparing this section, the following aspects should be checked:

- (1) Information that specifies and complements the provisions of section; Instruction to Bidders must be incorporated.
- (2) Amendments and/or supplements, if any, to the provisions of Instructions to Bidders, necessitated by the circumstances of each individual contract, can be introduced only in this section since Instruction to Bidders will remain unchanged.

## Bidding Data

(This section should be filled in by the procuring agency before issuance of the bidding documents.) The following specific data for the works to be tendered shall complement, amend, or supplement the provisions in the Instruction to Bidders. Wherever there is a conflict, the provisions herein shall prevail over those in the Instructions to Bidders.

*[Instructions are provided, as needed, in italics.]*

### Instructions to Bidders

#### Clause Reference

#### 1.1 Name and address of the procuring agency:

##### 1.1 Name of the Project and Summary of the works:

**Expansion & Improvement of DHQ Hospitals in Sindh. (03 Nos.)**

(Project Title)

**Construction of Allied Buildings, Residential Building & Boundary Wall, at DHQ Hospital Badin, Sindh** (Name of Work)

*[Insert brief summary, including relationship to other contracts under the Project. If the works are to be tendered in separate contracts, describe the entire contract.]*

##### 2.1 Name of the Borrower/Source of Financing/Funding Agency/Funding Source:

**ADP No. 427-A (2015-16)**

*[Insert the ADP No.:(in case of PSDP) / name of Borrower and statement of relationship with the procuring agency, if different from the borrower. This insertion should correspond to the information provided in the Invitation for Bids.]*

##### 2.1 Amount and Type of Financing/Scheme Cost and Allocated Funds.

##### 8.1 Time limit for clarification:

*[Minimum number of days to seek clarification by the interested bidder may be inserted as no later than 3 working days prior to last date of submission.]*

##### 10.1 Bid language:

**English**

*[The same language in which the bidding documents are written. English, should be used in National / International Competitive Bidding.]*

##### 11.1 (a) Prequalification Information to be updated (where applicable):

*[Indicate what items of information submitted with application for prequalification is to be updated. It may include but not limited to (i) Evidence of access to financial resources, (ii) latest status of financial resources commitment for two years (including the current year), (iii) works awarded during the interim period, (iv) availability of essential critical equipment, and (v) information about litigation presently in process.]*



- (b) Furnish Technical Proposal (in case of two envelope method) or Company profile in single stage single envelope:

The bidder to submit a technical proposal in sufficient detail to demonstrate the adequacy of the bid in meeting requirements for timely completion of the works.

- 13.1 *Bidders to quote entirely in Pak. Rupees but specify the percentages of foreign currency they require, if applicable.*

- 14.1 Period of Bid Validity:

**90 Days**

*[Insert number of days after the deadline for bid submission. This period should be realistic, allowing sufficient time to evaluate the Bids, bearing in mind the complexity of works, and the time required for obtaining references, clarifications, clearances, and approvals (including the Finance Agency's "No Objection" if it is a bilateral or multilateral funding agency financed project) and for notification of the award. Normally validity period should not exceed 90 days for NCB and 120 days for ICB.]*

- 15.1 Amount of Bid Security:

**2% of Bid Amount / Tender Amount.**

*[This amount should be the same as also quoted in the Invitation for Bids. To avoid disclosure of bid price, a fixed sum should be specified, in preference to a percentage of the bid price. The sum has to be within the limits of 5% of estimated cost. The percentage should be lower in case of larger works and higher in case of smaller works, but no exceed the limit of 5%.]*

- 17.1 Venue, time, and date of the pre-Bid meeting:

**As per Tender Notice.**

*[Insert address of venue, or indicate the meeting will not take place. The meeting should take place not later than 7days in case of NCB and no later than 15 days in case of ICB before the deadline for bid submission. It should take place concurrently with the site visit, if any (see Sub-Clause IB-6).]*

- 18.4 Number of Copies of the bid to be completed and returned:

*[Usually one original and **One.** copies (number to be specified by the procuring agency)]*

- 19.2 (a) Procuring Agency's address for the purpose of bid submission:

*[Should match the receiving address provided in the Invitation for Bids.]*

- (b) Name and Identification Number of the Contract:

- 20.1 (a) Deadline for submission of bids:

**As per Tender Notice.**

*[The time and date should be the same as that given in the Invitation for Bids unless subsequently amended pursuant to IB.20.2.]*

- (b) Venue, time, and date of bid opening:

**As per Tender Notice.**

*[Date should be the same as that given for the deadline for submission of Bids [IB.20] but time for opening of bids shall be at least thirty minutes after the time for the deadline for submission of bids].*

- 32.1 Standard form and amount of Performance Security acceptable to the procuring agency:

*[Select the kind of Performance Security (bank guarantee, call deposit, pay order), and indicate the amount/percentage.*

*A bank guarantee has to be unconditional as given in the sample form given with the bidding document. An amount not more than 10 percent of the contract price is commonly specified for bank guarantees. This percentage should match with that stipulated in Appendix-A to Bid.]*

**FORM OF BID  
AND  
APPENDICES TO BID**

**FORM OF BID**

Bid Reference No. \_\_\_\_\_  
(Name of Contract/Works)

To:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Gentleman,

1. Having examined the bidding documents including Instructions to Bidders, Bidding Data, and Conditions of Contract, Specifications, Drawings and Bill of Quantities and Addenda Nos. \_\_\_\_\_ for the execution of the above-named works, we, the undersigned, offer to execute and complete such works and remedy any defects therein in conformity with the Conditions of Contract. Specifications, Drawings, Bill of Quantities and Addenda for the sum of Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_) or such other sum as may be ascertained in accordance with the said conditions.
2. We understand that all the Appendices attached hereto form part of this Bid.
3. As security for due performance of the undertakings and obligations of this Bid, we submit herewith a bid security in the amount of Rupees \_\_\_\_\_ (Rs. \_\_\_\_\_) drawn in your favor or made payable to you and valid for a period of \_\_\_\_\_ days beginning from the date Bids are opened.
4. We undertake, if our bid is accepted, to commence the works and to complete the whole of the works comprised in the contract within the time stated in Appendix-A to Bid.
5. We agree to abide by this bid for the period of \_\_\_\_\_ days from the date fixed for opening the same and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
6. Unless and until a formal Agreement is prepared and executed, this Bid, together with y our written acceptance thereof, shall constitute a binding contract between us.
7. We do hereby declare that the bid is made without any collusion, comparison of figures or arrangement with any other bidder for the works.

8. We understand that you are not bound to accept the lowest or any bid you may receive.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

Signature: \_\_\_\_\_

In the capacity of \_\_\_\_\_ duly authorized to sign Bids for and on behalf of

\_\_\_\_\_  
(Name of Bidder in Block Capitals)

(Seal)

Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Witness:

Signature: \_\_\_\_\_

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

Address: \_\_\_\_\_

\_\_\_\_\_

Occupation: \_\_\_\_\_

**SPECIAL STIPULATION**  
**Clause**  
**Conditions of Contract**

1.	Amount of Bid Security.	IB.15	<b>2% of Bid Amount / Tender Amount</b> of the contract price stated in the Letter of Acceptance in the shape of Call Deposit/Pay order, Bank Guarantee from scheduled bank
2.	Amount of Performance Security	10.1	<b>5% of the Contract price</b> stated in the Letter of Acceptance in the shape of Call Deposit/Pay order, Bank Guarantee from scheduled bank
3.	Time for Furnishing Programme	14.1	Within 30 days from the date of receipt of Letter of Acceptance.
4.	Minimum amount of Third Party Insurance	23.2	<b>Rs.500,000/=</b> per occurrence with number of occurrences unlimited.
5.	Time for commencement	41.1	Within 14 days from the date of receipt of Engineer's Notice to Commence, this shall be issued within fourteen (14) days after signing of Contract Agreement.
6.	Time for Completion	43.1, 48.2	<b>03Months (Three Months) for Allied Buildings and Boundary Wall &amp; 05Months (Five Months) for Two Bed Dr. Acdd.</b> from the date of receipt of Engineer's Notice to Commence.
7.	a) Amount of Liquidated damages	47.1	<b>(Rs. _____ / 0.10 % of the Contract Price per day)</b> for each day of delay in completion of the works subject to a maximum of 10% of contract price stated in the Letter of Acceptance.
8.	Defect Liability Period	49.1	<b>06Months</b> from the effective date of Taking Over Certificate.
9.	Percentage of Retention Money	60.2	10% of the amount of Interim/Running Payment Certificate.
10.	Limit of Retention Money	60.2	5% of Contract Price stated in the Letter of Acceptance.
11.	Minimum amount of Interim/Running Payment Certificates	60.2	<b>Rs. 10 Million.</b>
12.	Time of Payment from delivery of Engineer's Interim/Running Payment Certificate to the procuring agency.	60.10	30 days in case of local currency or 42 days in case of foreign funded projects.
13.	Mobilization Advance (Interest Free in case of foreign funded projects only)	60.12	10% of Contract Price stated in the Letter of Acceptance.

<sup>1</sup> As explained in the Special Conditions Part-II of Contract.

### FOREIGN CURRENCY REQUIREMENTS

1. The bidder may indicate herein below his requirements of foreign currency (if any), with reference to various inputs to the works.
2. Foreign Currency Requirement as percentage of the bid price excluding Provisional Sums \_\_\_\_\_%.
3. Table of Exchange Rates

Unit of Currency	Equivalent in Pak. Rupees
Australian Dollar	.....
Euro	.....
Japanese Yen	.....
U.K. Pound	.....
U.S. Dollars	.....
.....	.....
.....	.....

**PRICE ADJUSTMENT UNDER CLAUSE 70  
OF CONDITIONS OF CONTRACT  
(FOR FOREIGN FUNDED PROJECTS ONLY)**

The source of indices and the weightages or coefficients for use in the adjustment formula under Clause 70 shall be as follows:

(To be filled by the procuring agency)

Cost Element	Description	Weightages	Applicable index
1	2	3	4
(i)	Fixed Portion	0.350	
(ii)	Local Labour		Market Rate at the date of opening of tender will be considered as basic cost.
(iii)	Cement — in bags		“ “ “
(iv)	Reinforcing Steel		“ “ “
(v)	High Speed Diesel (HSD)		“ “ “
(vi)	Bricks		“ “ “
(vii)	Bitumen		“ “ “
(viii)			
	Total	1.000	

**Notes:**

- 1) Indices for “(ii)” to “(vii)” are taken from the Government of Pakistan Federal Bureau of Statistics, Monthly Statistical Bulletin. The base cost indices or prices shall be those applying 28 days prior to the latest day for submission of bids. Current indices or prices shall be those applying 28 days prior to the last day of the billing period.
- 2) Any fluctuation in the indices or prices of materials other than those given above shall not be subject to adjustment of the Contract Price or the basic cost will be inclusive of cartage i.e. difference would only be paid on ex factory basic price.
- 3) Fixed portion shown here is for typical road project, procuring agency to determine the weightage of Fixed Portion considering only those cost elements having cost impact of seven (7) percent or more on his specific project.
- 4) Escalations on local funded projects/schemes shall be paid to the contractor only on those items, which are notified by Finance Department, Government of Sindh, from time to time, after the date of opening the tender (new escalation).

---

(Procuring Agency using this price adjustment provisions may add or delete any elements as deemed appropriate to the project.)



**BILL OF QUANTITIES**

**A. Preamble**

1. The Bill of Quantities shall be read in conjunction with the Conditions of Contract, Specifications 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 executed and measured by the Contractor and verified by the Engineer and valued the rated and prices entered in the priced Bill of Quantities, where applicable, and otherwise at such rates and prices as the Engineer may fix as per the Contract.
3. The rates and prices entered in the priced Bill of Quantities shall, except insofar as it is otherwise provided under the contract include all costs of contractor's plant, labour, supervision, materials, execution, insurance, profit, taxes and duties, together with all general risks, liabilities and obligations set out or implied in the contract. Furthermore all duties, taxes and other levies payable by the contractor under the contract, or for any other cause, as on the date 28 days prior to deadline for submission of Bids, shall be included in the rates and prices and the total bid price submitted by the bidder.
4. A rate or price shall be entered against each item in the priced Bill of Quantities, whether quantities are stated or not. The cost of items against which the contractor will have failed to enter a rate or price shall be deemed to be covered by other rates and prices entered in the Bill of Quantities.
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, and where no items are provided, the cost shall be deemed to be distributed among the rates and prices entered for the related items of the works.
6. General directions and description of work and materials are not necessarily repeated nor summarized in the Bill of Quantities. References to the relevant section of the bidding documents shall be made before entering prices against each item in the priced Bill of Quantities.
7. Provisional sums included and so designated in the bill of Quantities shall be expended in whole or in part at the direction and discretion of the Engineer in accordance with sub-clause 58.2 of Part I, General Conditions of Contract.

**BILL OF QUANTITIES (SAMPLE)**

**B. Work Items. (Road /PHE Work)**

1. The Bill of Quantities contains the following Bills and Schedule:

Bill No. 1	-	Earthworks
Bill No. 2	-	Hard Crust and Surface Treatment
Bill No. 3	-	Culverts and Bridges
Bill No. 4	-	Subsurface Drains , Pipe Laying and Man holes
Bill No. 5	-	Tube wells, Pump houses and Compoundwall
Bill No. 6	-	Miscellaneous Items

Day work Schedule

Summary Bill of Quantities

2. Bidders shall price the Bill of Quantities in Pakistani Rupees only.

**BILL OF QUANTITIES (SAMPLE)****B. Work Items (Buildings)**

1. The Bill of Quantities contains the following Bills and Schedule:

Bill No. 1	-	Plinth and Foundation.
Bill No. 2	-	Ground floor.
Bill No. 3	-	First and Subsequent Floors.
Bill No. 4	-	Internal Water Supply and Sanitary Fittings.
Bill No. 5	-	Internal Electrification.
Bill No. 6	-	Miscellaneous Items.
Bill No. 7	-	External Development.

Day work Schedule

Summary Bill of Quantities

2. Bidder shall price the Bill of Quantities in Pakistani Rupees only.

**BILL OF QUANTITIES (SAMPLE)****Bill NO. 1 Earthworks/Plinth and Foundation**

<b>Item</b>	<b>Description</b>	<b>Unit</b>	<b>Quantity</b>	<b>Rate</b>		<b>Amount Rupees</b>
				<b>Rupees in figures</b>	<b>Rupees in words</b>	
1	2	3	4	5		6
<b>101</b>						
<b>102</b>						
<b>103</b>						
<b>104</b>						
<b>105</b>						
<b>106</b>						
Total for Bill No.1 (Carried forward to Summary page)						

**BILL OF QUANTITIES (SAMPLE)****Bill No.2 Hard Crust and Surface Treatment /Ground Floor.**

Item	Description	Unit	Quantity	Rate		Amount Rupees
				Rupees in figures	Rupees in words	
1	2	3	4	5		6
<b>201</b>						
<b>202</b>						
<b>203</b>						
<b>204</b>						
<b>205</b>						
<b>206</b>						
Total for Bill No.2 (Carried forward to Summary page)						

**BILL OF QUANTITIES (SAMPLE)****Bill No.3 Culverts and Bridges/First and Subsequent Floors.**

Item	Description	Unit	Quantity	Rate		Amount Rupees
				Rupees in figures	Rupees in words	
1	2	3	4	5		6
<b>301</b>						
<b>302</b>						
<b>303</b>						
<b>304</b>						
<b>305</b>						
<b>306</b>						
Total for Bill No.3 (Carried forward to Summary page)						

**BILL OF QUANTITIES (SAMPLE)**

**Bill No.4 Surface Drains/ Pipe Laying and Man holes/Internal water  
Supply and Sanitary Fittings.**

Item	Description	Unit	Quantity	Rate		Amount Rupees
				Rupees in figures	Rupees in words	
1	2	3	4	5		6
<b>401</b>						
<b>402</b>						
<b>403</b>						
<b>404</b>						
<b>405</b>						
<b>406</b>						
Total for Bill No.4 (Carried forward to Summary page)						

**BILL OF QUANTITIES (SAMPLE)****Bill No.5 Tube wells and Pump-houses/Internal Electrification.**

Item	Description	Unit	Quantity	Rate		Amount Rupees
				Rupees in figures	Rupees in words	
1	2	3	4	5		6
<b>501</b>						
<b>502</b>						
<b>503</b>						
<b>504</b>						
<b>505</b>						
<b>506</b>						
Total for Bill No.5 (Carried forward to Summary page)						



**BILL OF QUANTITIES (SAMPLE)****Bill No.6 - Miscellaneous Items.**

Item	Description	Unit	Quantity	Rate		Amount Rupees
				Rupees in figures	Rupees in words	
1	2	3	4	5		6
<b>601</b>	Mobilization Cost					
<b>602</b>						
<b>603</b>						
<b>604</b>						
<b>605</b>						
<b>606</b>						
Total for Bill No.6 _____						
(Carried forward to Summary page)						

**BILL OF QUANTITIES (SAMPLE)****Bill No.7      External Development.**

Item	Description	Unit	Quantity	Rate		Amount Rupees
				Rupees in figures	Rupees in words	
1	2	3	4	5		6
<b>701</b>	Mobilization Cost					
<b>702</b>						
<b>703</b>						
<b>704</b>						
<b>705</b>						
<b>706</b>						
Total for Bill No.2 (Carried forward to Summary page)						

**BILL OF QUANTITIES****C. Day work Schedule****General**

1. Reference is made to Sub-Clause 52.4 of the General Conditions of Contract Part-I. Work shall not be executed on a day work basis except by written order of the Engineer. Bidders shall enter basic rates for day work items in the Schedules, which rates shall apply to any quantity of day work ordered by the Engineer. Nominal quantities have been indicated against each item of day work, and the extended total for day work shall be carried forward to the bid price.

**Day work Labour**

2. In calculating payments due to the contractor for the execution of day work, the actual time of classes of labour directly doing the day work ordered by the Engineer and for which they are competent to perform will be measured excluding meal breaks and rest periods. The time of gangers (charge hands) actually doing work with the gang will also be measured but not the time of foreman or other supervisory personnel.
3. The contractor shall be entitled to payment in respect of the total time that labour is employed on day work, calculated at the basic rates entered by him in the Schedule of day work Rates for labour together with an additional percentage, payment on basic rates representing the contractor's profit, overheads, etc., as described below:
  - a) the basic rates for labour shall cover all direct costs to the contractor, including (but not limited to) the amount of wages paid to such labour, transportation time, overtime, subsistence allowances and any sums paid to or on behalf of such labour for social benefits in accordance with Pakistan law. The basic rates will be payable in local currency only; and
  - b) the additional percentage payment to be quoted by the bidder and applied to costs incurred under (a) above shall be deemed to cover the contractor's profit, overheads, superintendence, liabilities and insurance and allowances to labour timekeeping and clerical and office work; the use of consumable stores, water, lighting and power; the use and repair of staging's, scaffolding, workshops and stores, portable power tools, manual plant and tools; supervision by the contractor's staff, foremen and other supervisory personnel; and charges incidental to the foregoing.

## SCHEDULE OF DAY WORK RATES

## I. Labour

Item No.	Description	Unit	Nominal Quantity	Rate (Rs) in Figure	Rate(Rs) In Words	Extended Amount (Rs.)
1	2	3	4	5	6	7
D101	Ganger	Hr	500			
D102	Labourer	Hr	5,000			
D103	Brick layer	Hr	500			
D104	Mason	Hr	500			
D105	Carpenter	Hr	500			
D106	Steel work Erector	Hr	500			
	-----etc-----	Hr	500			
D13	Driver for vehicle up to 10 tons	Hr	1,000			
D14	Operator for excavator, dragline, shovel or crane	Hr	500			
D15	Operator for tractor, (tracked) with dozer blade or ripper	Hr	500			
D122	<p style="text-align: center;"><b>Sub Total</b></p> <p>Allow _____ percent of subtotal for Contractor's overhead, profit, etc, in accordance with Paragraph 3(b) of Day work Schedule _____ Total for Day work: Labour: _____</p> <p>(Carried forward to Day work Summary)</p>					

**Day work Material**

4. The contractor shall be entitled to payment in respect of materials used for day work (except for materials for which the cost is included in the percentage addition to labour costs as detailed heretofore), at the basic rates entered by him in the Schedule of Day work Rates for materials together with an additional percentage payment on the basic rates to cover overhead charges and profit, as follows:
  - a) The basic rates for materials shall be calculated on the basis of the invoiced price, freight, insurance, handling expenses, damage, losses, etc., and shall provide for delivery to store for stockpiling at the site. The basic rates shall be stated in local currency but payment will be made in the currency or currencies expended upon presentation of supporting documentation;
  - b) The additional percentage payment shall be quoted by the bidder and applied to the equivalent local currency payments made under Sub-Para(a) above; and
  - c) The cost of hauling materials used on work ordered to be carried out as Day work from the store or stockpile on the site to the place where it is to be used will be paid in accordance with the terms for labour and Constructional Plant in this Schedule.

**SCHEDULE OF DAY WORK RATES****II. Materials**

Item No.	Description	Unit	Nominal Quantity	Rate (Rs) in Figure	Rate(Rs) In Words	Extended Amount (Rs.)
1	2	3	4	5	6	7
D201	Cement, ordinary Portland or equivalent in bags	M.Ton	200			
D202	Mild Steel reinforcing bar up to 16mm diameter to BS 4449 or equivalent	M.Ton	100			
D203	Fine aggregate for concrete as specified in Clause _____	Cu.M	1,000			
D204	-----etc-----					
D222	Gelignite (Noble Special Gelatine 60% or equivalent) including caps, fuse, wire and requisite accessories.	M.Ton	10			
D223	<p style="text-align: center;"><b>Sub Total</b></p> <p>Allow _____ percent of subtotal for Contractor's overhead, profit, etc, in accordance with Paragraph 4(b) of Day work Schedule _____ Total for Day work: Materials: _____</p> <p>(Carried forward to Day work Summary)</p>					

**Day Work Constructional Plant**

5. The contractor shall be entitled to payments in respect of constructional plant already on site and employed on Day work at the basic rental rates entered by him in the Schedule of Day work Rates for constructional plant. The said rates shall be deemed to include complete allowance for depreciation, interest, indemnity and insurance, repairs, maintenance, supplies, fuel, lubricants, and other consumables, and all overhead, profit and administrative costs related to the use of such equipment. The cost of drivers, operators and assistants will be paid for separately as described under the section on Day work Labour.
6. In calculating the payment due to the Contractor for constructional plant employed on Day work, only the actual number of working hours will be eligible for payment, except that where applicable and agreed with the Engineer, the traveling time from the part of the site where the constructional plant was located when ordered by the Engineer to be employed on Day work and the time for return journey thereto shall be included for payment.
7. The basic rental rates for constructional plant employed on Day work shall be Stated in Pakistani Rupees.

**SCHEDULE OF DAY WORK RATES****2. Constructional Plant**

Item No.	Description	Unit	Nominal Quantity	Rate (Rs) in Figure	Rate(Rs) In Words	Extended Amount (Rs.)
1	2	3	4	5	6	7
D301	Excavator ,face shovel or dragline: 1. Up-to and including 1 Cu.M. 2. Over 1 Cu.M to 2 Cu. M. 3. Over 2 Cu.M	Hr Hr Hr.	500 400 100			
D302	Tractor (tracked) including bull or angle dozer: 1. Up-to and including 150 HP 2. Over 150 to 200 HP 3. Over 200 to 250 HP	Hr Hr Hr	500 400 200			
D303	Tractor with ripper: 1. Up-to and including 200 HP 2. Over 200 to 250 HP	Hr Hr	400 200			
D304	-----etc-----					
	Total for day work: Constructional Plant _____ (Carried forward to day work summary)					



**DAYWORK****Summary (Day work)**

		<b>Amount(Rs.)</b>
<b>(I)</b>	Total for day work: Labour	_____
<b>(II)</b>	Total for day work: Materials	_____
<b>(III)</b>	Total for day work: Constructional Plant	_____
Total for day work		_____
(Carried forward to summary page of Bill of Quantities)		

**BILL OF QUANTITIES (SAMPLE)****SUMMARY**

		<b>Amount (Rs.)</b>
Bill No. 1:	Earthworks/Plinth and Foundation	
Bill No. 2:	Culverts and Bridges/Ground Floor	
Bill No. 3:	Subsurface Drains/Internal Water Supply & Sanitary Fittings	
Bill No. 4:	Subsurface Drains/ Pipe Laying and Man holes/Internal water Supply and Sanitary Fittings	
Bill No. 5:	Tube wells and Pump-houses/Internal Electrification	
Bill No. 6:	Miscellaneous Items	
Bill No. 7:	External Development	
Sub- Total of Bills		_____
Day work		_____
Bid Price		_____

Note: All Provisional Sums are to be expended in whole or, in part at the direction and discretion of the Engineer in accordance with Sub-Clauses 52.4 and 58.2 of the General Conditions of Contract Part- I.

### PROPOSED CONSTRUCTION SCHEDULE

Pursuant to Sub-Clause 43.1 of the General Conditions of Contract, the works shall be completed on or before the date stated in Appendix-A to Bid. The bidder shall provide as Appendix0E to Bid, the Construction Schedule in the bar chart (CPM, PERT or any other to be specified herein) showing the sequence of work items and the period of time during which he proposes to complete each work item in such a manner that his proposed programme for completion of the whole of the works and parts of the works may meet procuring agency's completion targets in days noted below and counted from date of receipt of Engineer's Notice to Commence (Attach sheets as required for the specified form of Construction Schedule):

<u>Description</u>	<u>Time for Completion</u>
1) Whole works	_____ days
2) Part-A (Allied Buildings)	_____ days
3) Part-B (Residential Building)	_____ days

**METHOD OF PERFORMING THE WORK**

[The bidder is required to submit a narrative outlining the method of performing the work. The narrative should indicate in detail and include but not be limited to:

1. Organization Chart indicating head office and field office personnel involved in management and supervision, engineering, equipment maintenance and purchasing.
2. Mobilization in Pakistan, the type of facilities including personnel accommodation, office accommodation, provision for maintenance and for storage, communications, security and other services to be used.
3. The method of executing the works, the procedures for installation of equipment and machinery and transportation of equipment and materials to the site.]

**LIST OF MAJOR EQUIPMENT – RELATED ITEMS**

[The bidder will provide on Sheet 2 of this Appendix a list of all major equipment and related items, under separate heading for items owned, to be purchased or to be arranged on lease by him to carry out the works. The information shall include make, type, capacity, and anticipated period of utilization for all equipment which shall be in sufficient detail to demonstrate fully that the equipment will meet all requirements of the Specification.]

**LIST OF MAJOR EQUIPMENT (SAMPLE)**

<b>Owned Purchased or Leased</b>	<b>Description of Unit (Make, Model, Year)</b>	<b>Capacity HP Rating</b>	<b>Condition</b>	<b>Present Location or Source</b>	<b>Date of Delivery at Site</b>	<b>Period of Work on Project</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>
a. Owned						
b. To be Purchased						
c. To be arranged on Lease						

**Appendix-H to Bid**

**CONSTRUCTION CAMP AND HOUSING FACILITIES**

The Contractor in accordance with Clause 34 of the Conditions of Contract shall provide description of his construction camp's facilities and staff housing requirements.

The contractor shall be responsible for pumps, electrical power, water and electrical distribution systems, and sewerage system including all fitting, pipes and other items necessary for servicing the contractor's construction camp.

The bidder shall list or explain his plans for providing these facilities for the service of the contract as follows:

1. Site Preparation (clearing, land preparation, etc.).
2. Provision of Services.
  - a) Power (expected power load, etc.).
  - b) Water (required amount and system proposed).
  - c) Sanitation (sewage disposal system, etc.).
3. Construction of Facilities
  - a) Contractor's Office, Workshop and Work Areas (areas required and proposed layout, type of construction of buildings, etc.).
  - b) Warehouses and Storage Areas (are required, type of construction and layout).
  - c) Housing and Staff Facilities (Plans for housing for proposed staff, layout, type of construction, etc.).
4. Construction Equipment Assembly and Preparation (detailed plans for carrying out this activity).
5. Other Items Proposed (security services, etc.).

## Appendix-I to Bid

**LIST OF SUBCONTRACTORS**

I/We intend to subcontract the following parts of the work to subcontractors. In my/our opinion, the subcontractors named hereunder are reliable and competent to perform that part of the work for which each is listed.

Enclosed are documentation outlining experience of subcontractors, the curriculum vitae and experience of their key personnel who will be assigned to contract, equipment to be supplied by them, size, location and type of contracts carried out in the past.

<b>Part of Works (Give Details)</b>	<b>Subcontractor (With Complete Address)</b>
<b>1</b>	<b>2</b>



## Appendix-J to Bid

**ESTIMATED PROGRESS PAYMENTS (SAMPLE)**

Bidder's estimate of the value of work which would be executed by him during each of the periods stated below, based on his Programme of the works and the Rates in the Bill of Quantities, expressed in Pakistani Rupees:

<b>Quarter/Year/Period</b>	<b>Amounts (in thousands)</b>
<b>1</b>	<b>2</b>
1 <sup>st</sup> Quarter	
2 <sup>nd</sup> Quarter	
3 <sup>rd</sup> Quarter	
4 <sup>th</sup> Quarter	
5 <sup>th</sup> Quarter	
6 <sup>th</sup> Quarter	
7 <sup>th</sup> Quarter	
8 <sup>th</sup> Quarter	
9 <sup>th</sup> Quarter	
<b>Bid Price</b>	

**BK-1**

**Appendix-K to Bid**

**ORGANIZATION CHART  
FOR THE  
SUPERVISORY STAFF AND LABOUR**

(To be filled in by the bidder)

**(INTEGRITY PACT)****DECLARATION OF FEES, COMMISSION AND BROKERAGE ETC.  
PAYABLE BY CONTRACTORS.****(FOR CONTRACTS WORTH RS. 10.00 MILLION OR MORE)**

Contract No. \_\_\_\_\_ Date \_\_\_\_\_

Contract Value: \_\_\_\_\_

Contract Title: \_\_\_\_\_

..... [name of Contractor] hereby declares that it has not Obtained or induced the procurement of any contract, right, interest privilege or other obligation or benefit from Government of Sindh (GoS) or any administrative subdivision or agency thereof or any other entity owned or controlled by it (GoS) through any corrupt business practice.

Without limiting the generality of the foregoing, [name of Contractor] represent and warrants that it has fully declared the brokerage, commission, fees etc. paid or payable to anyone and not given or agreed to give and shall not give or agree to give to anyone within or outside Pakistan either directly or indirectly through any natural or juridical person, including its affiliate, agent, associate, broker, consultant, director, promoter, shareholder, sponsor or subsidiary, any commission, gratification, bribe, finder's fee or kickback, whether described as consultation fee or otherwise, with the object of obtaining or inducing the procurement of a contract, right, interest, privilege or other obligation or benefit in whatsoever form from, from procuring agency (PA) except that which has been expressly declared pursuant hereto.

[name of Contractor] accepts full responsibility and strict liability that it has made and will make full disclosure of all agreements and arrangements with all persons in respect of or related to the transaction with PA and has not taken any action or will not take any action to circumvent the above declaration, representation or warranty.

[name of Contractor] accepts full responsibility and strict liability for making any false declaration, not making full disclosure, misrepresenting facts or taking any action likely to defeat the purpose of this declaration, representation and warranty. It agrees that any contract, right, interest, privilege or other obligation or benefit obtained or procured as aforesaid shall, without prejudice to any other rights and remedies available to PA under any law, contract or other instrument, be avoidable at the option of PA.

Notwithstanding any rights and remedies exercised by PA in this regard, [name of Supplier/Contractor/Consultant] agrees to indemnify PA for any loss or damage incurred by it on account of its corrupt business practices and further pay compensation to PA in an amount equivalent to ten times the sum of any commission, gratification, bribe, finder's fee or kickback given by [name of Contractor] as aforesaid for the purpose of obtaining or inducing the procurement of any contract, right, interest, privilege or other obligation or benefit in whatsoever form from PA.

.....  
[Procuring Agency]

[Contractor]

**FORMS**

**BID SECURITY  
PERFORMANCE SECURITY  
CONTRACT AGREEMENT  
MOBILIZATION ADVANCE GUARANTEE  
INDENTURE BOND FOR SECURED ADVANCE**

**BID SECURITY**  
**(Bank Guarantee)**

Security Executed on \_\_\_\_\_  
(Date)

Name of Surety (Bank) with Address: \_\_\_\_\_  
(Scheduled Bank in Pakistan)

Name of Principal (Bidder with Address: \_\_\_\_\_

Penal Sum of Security Rupees: \_\_\_\_\_ (Rs. \_\_\_\_\_)

Bid Reference No. \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, that in pursuance of the terms of the bid and at the request of the said Principal (Bidder) we, the Surety above named, are held and firmly bound unto

\_\_\_\_\_ (hereinafter called the 'Procuring Agency') in the sum stated above for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Bidder has submitted the accompanying bid dated \_\_\_\_\_ for Bid No. \_\_\_\_\_ for \_\_\_\_\_ (Particulars of Bid) to the said Procuring Agency; and

WHEREAS, the Procuring Agency has required as a condition for considering said bid that the **bidder** furnishes a bid security in the above said sum from a Scheduled Bank in Pakistan or from a foreign duly counter-guaranteed by a Scheduled Bank in Pakistan, to the procuring agency, conditioned as under:

- (1) that the bid security shall remain in force up to and including the date 28 days after the deadline for validity of bids as stated in the Instruction to bidders or as it may be extended by the procuring agency, notice of which extension(s) to the Surety is hereby waived;
- (2) that the bid security of unsuccessful bidders will be returned by the procuring agency after expiry of its validity or upon signing of the Contract Agreement; and
- (3) that in the event of failure of the successful bidder to execute the proposed Contract Agreement for such work and furnish the required Performance Security, the entire said sum be paid immediately to the said procuring agency pursuant to Clause 15.6 of the Instruction to bidders for the successful bidder's failure to perform.

NOW THEREFORE, if the successful bidder shall, within the period specified therefore, on the prescribed form presented to him for signature enter into a formal Contract with the said procuring agency in accordance with his bid as accepted and furnish within twenty eight(28) days of his being requested to do so, a Performance Security with good and sufficient surety, as may be required, upon the form prescribed by the said procuring agency for the faithful performance and proper fulfillment of the said Contract or in the event of non-withdrawal of the said bid within the time specified for its validity then this obligation shall be void and of no effect, but otherwise to remain in full force and effect.

PROVIDED THAT the Surety shall forthwith pay the procuring agency, the said sum upon first written demand of the procuring agency (without cavil or argument) and without requiring the procuring agency to prove or to show grounds or reasons for such demands, notice of which shall be sent by the procuring agency by registered post duly addressed to the Surety at its address given above.

PROVIDED ALSO THAT the procuring agency shall be the sole and final judge for deciding whether the Principal (Bidder) has duly performed his obligations to sign the Contract Agreement and to furnish the requisite Performance Security within the time stated above, or has defaulted in fulfilling said requirements and the Surety shall pay without objection the said sum upon demand from the procuring agency forthwith and without any reference to the Principal (Bidder) or any other person.

IN WITNESS WHEREOF, the above bounden Surety has executed the instrument under its seal on the date indicated above, the name and seal of the Surety being hereto affixed and these presents duly signed by its undersigned representative pursuant to authority of its governing body.

SURETY (Bank)

WITNESS:

Signature \_\_\_\_\_

1. \_\_\_\_\_

Name \_\_\_\_\_

\_\_\_\_\_

Title \_\_\_\_\_

Corporate Secretary (Seal)

Corporate Guarantor (Seal)

2. \_\_\_\_\_

\_\_\_\_\_  
Name, Title & Address

**FORM OF PERFORMANCE SECURITY  
(Band Guarantee)**

Guarantee No. \_\_\_\_\_  
 Executed on \_\_\_\_\_  
 Expiry date \_\_\_\_\_

[Letter by the Guarantor to the Procuring Agency]

Name of Guarantor (Bank) with address: \_\_\_\_\_  
 (Scheduled Bank in Pakistan)

Name of Principal (Contractor) with address: \_\_\_\_\_

Penal Sum of Security (express in words and figures) \_\_\_\_\_

Letter of Acceptance No. \_\_\_\_\_ Dated \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, that in pursuance of the terms of the bidding documents and above said Letter of Acceptance (hereinafter called the Documents) and at the request of the said Principal we, the Guarantor above name, are held and firmly bound unto the \_\_\_\_\_ (hereinafter called the procuring agency) in the penal sum of the amount stated above for the payment of which sum well and truly to be made to the said procuring agency, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has accepted the procuring agency's above said Letter of Acceptance for \_\_\_\_\_ (Name of Contract) for the \_\_\_\_\_ (Name of Project).

NOW THEREFORE, if the Principal (Contractor) shall well and truly perform and fulfill all the undertakings, covenants, terms and conditions of the said Documents during the original terms of the said Documents and any extensions thereof that may be granted by the procuring agency, with or without notice to the Guarantor, which notice is, hereby, waived and shall also well and truly perform and fulfill all the undertakings, covenants terms and conditions of the Contract and of any and all modifications of said Documents that may hereafter be made, notice of which modifications to the Guarantor being hereby waived, then, this obligation to be void; otherwise to remain in full force and virtue till all requirements of Clause 49, Defects Liability, of Conditions of Contract are fulfilled.

Our total liability under this Guarantee is limited to the sum stated above and it is a condition of any liability attaching to us under this Guarantee that the claim for payment in writing shall be received by us within the validity period of this Guarantee, failing which we shall be discharged of our liability, if any, under this Guarantee.

We, \_\_\_\_\_ (the Guarantor), waiving all objections and defenses under the Contract, do hereby irrevocably and independently guarantee to pay to the procuring agency without delay upon the procuring agency's first written demand without cavil or arguments and without requiring the procuring agency to prove or to show grounds or reasons for such demand any sum or sums up to the amount stated above, against the procuring agency's written declaration that the Principal has refused or failed to perform the obligations under the Contract which payment will be effected by the Guarantor to Procuring Agency's designated Bank & Account Number.

PROVIDED ALSO THAT the procuring agency shall be the sole and final judge for deciding whether the Principal (Contractor) has duly performed his obligations under the Contract or has defaulted in fulfilling said obligations and the Guarantor shall pay without objection any sum or sums up to the amount stated above upon first written demand from the procuring agency forthwith and without any reference to the Principal or any other person.

IN WITNESS WHEREOF, the above-bounden Guarantor has executed this Instrument under its seal on the data indicated above, the name and corporate seal of the Guarantor being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

\_\_\_\_\_  
Guarantor (Bank)

Witness:

1. \_\_\_\_\_

Signature: \_\_\_\_\_

\_\_\_\_\_  
Corporate Secretary (Seal)

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

2. \_\_\_\_\_

\_\_\_\_\_  
Name, Title & Address

\_\_\_\_\_  
Corporate Guarantor (Seal)



### FORM OF CONTRACT AGREEMENT

THIS CONTRACT AGREEMENT (hereinafter called the "Agreement") made on the \_\_\_\_\_ day of \_\_\_\_\_ (month) 20\_\_\_\_ between \_\_\_\_\_ (hereafter called the "Procuring Agency") of the one part and \_\_\_\_\_ (hereafter called the "Contractor") of the other part.

WHEREAS the Procuring Agency is desirous that certain works, viz \_\_\_\_\_ Should be executed by the Contractor and has accepted a bid by the Contractor for the execution and completion of such works and the remedying of any defects therein.

NOW this Agreement witnesses as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to.
2. The following documents after incorporating addenda, if any, except those parts relating to Instructions to bidder shall be deemed to form and be read and construed as part of this Agreement, viz:
  - (a) The Contract Agreement;
  - (b) The Letter of Acceptance;
  - (c) The completed Form of Bid;
  - (d) Special Stipulations (Appendix-A to Bid);
  - (e) The Special Conditions of Contract – Part II;
  - (f) The General Conditions – Part I;
  - (g) The priced Bill of Quantities (Appendix-D to Bid);
  - (h) The completed Appendices to Bid (B, C, E to L);
  - (i) The Drawings;
  - (j) The Specifications.
  - (k) \_\_\_\_\_ (any other)
3. In consideration of the payments to be made by the procuring agency to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the procuring agency to execute and complete the works and remedy defects therein in conformity and in all respects with the provisions of the contract.
4. Procuring agency hereby covenants to pay the contractor, in consideration of the execution and completion of the works as per provisions of the contract, 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 on the day, month and year first before written in accordance with their respective laws.

Signature of the Contractor

\_\_\_\_\_  
(Seal)

Signature of Procuring Agency

\_\_\_\_\_  
(Seal)

Signed, Sealed and Delivered in the presence of;

Witness:

\_\_\_\_\_

(Name, Title and Address)

Witness:

\_\_\_\_\_

(Name, Title and Address)

### MOBILIZATION ADVANCE GUARANTEE

Bank Guarantee No . \_\_\_\_\_ Date \_\_\_\_\_

WHEREAS \_\_\_\_\_ (hereinafter called the 'Procuring Agency') has entered into a Contract for \_\_\_\_\_

(Particulars of Contract)

With \_\_\_\_\_ (hereinafter called the "Contractor").

AND WHEREAS, the Procuring Agency has agreed to advance to the Contractor, at the Contractor's request, an amount of Rupees \_\_\_\_\_ (Rs \_\_\_\_\_ ) which amount shall be advanced to the Contractor as per provisions of the Contract.

AND WHEREAS, the Procuring Agency has asked the Contractor to furnish Guarantee to secure the mobilization advance for the performance of his obligations under the said Contract.

AND WHEREAS, \_\_\_\_\_  
(Scheduled Bank in Pakistan)

(hereinafter called the "Guarantor") at the request of the Contractor and in consideration of the **Procuring agency** agreeing to make the above advance to the Contractor, has agreed to furnish the said Guarantee.

NOW, THEREFORE, the Guarantor hereby guarantees that the Contractor shall use the advance for the purpose of above mentioned Contract and if he fails and commits default in fulfillment of any of his obligations for which the advance payment is made, the Guarantor shall be liable to the procuring agency for payment not exceeding the aforementioned amount.

Notice in writing of any default, of which the procuring agency shall be the sole and final judge, on the part of the Contractor, shall be given by the procuring agency to the Guarantor, and on such first written demand, payment shall be made by the Guarantor of all sums then due under this Guarantee without any reference to the Contractor and without any objection.

This Guarantee shall remain in force until the advance fully adjusted against payments from the Interim Payment Certificates of the Contractor or until \_\_\_\_\_ whichever is earlier.

(Date)

The Guarantor's liability under this Guarantee shall not in my case exceed the sum of Rupees \_\_\_\_\_ (Rs \_\_\_\_\_).

This Guarantee shall remain valid up to the aforesaid date and shall be null and void after the aforesaid date or earlier if the advance made to the Contractor is fully adjusted against payments from Interim Payment Certificates of the Contractor provided that the Guarantor

agrees that the aforesaid period of validity shall be deemed to be extended if on the above mentioned date the advance payment is not fully adjusted.

GUARANTOR

- |    |           |       |
|----|-----------|-------|
| 1. | Signature | _____ |
| 2. | Name      | _____ |
| 3. | Title     | _____ |

WITNESS

- |    |                            |
|----|----------------------------|
| 1. | _____                      |
|    | _____                      |
|    | Corporate Secretary (Seal) |

- |    |                        |                            |
|----|------------------------|----------------------------|
| 2. | _____                  | _____                      |
|    | (Name Title & Address) | Corporate Guarantor (Seal) |

## INDENTURE FOR SECURED ADVANCES.

(For use in cases in which is contract is for finished work and the contractor has entered into an agreement for the execution of a certain specified quantity of work in a given time).

This INDENTURE made the ..... day of.....  
..... 20 .....BETWEEN (hereinafter called “the Contractor” which expression shall where the context so admits or implied be deemed to include his heirs, executors, administrators an assigns) of the one part an THE GOVERNOR OF SINDH (hereinafter called “the Government” of the other part).

WHEREAS by an agreement, dated (hereinafter called the said agreement, the contractor has agreed to perform the under-mentioned works (hereinafter referred to as the said work):-

(Here enter the description of the works).<sup>1</sup>

AND WHEREAS the contractor has applied to the .....  
.....for an advance to him of Rupees .....  
(Rs. ....) on the security of materials the quantities and other particulars of which are detailed in Part II of Running Account Bill (B). the said works signed by the contractor

Fin R.Form17.A

On .....and on such covenants and conditions as are hereinafter contained an the Government has reserved to itself the option of making any further advance or advances on the security of other materials brought by the Contractor to the site of the said works.

NOW THIS INDENTURE WTTNESSETH that in pursuance of the said agreement and in consideration of the sum Rupees.....  
(Rs. ....) on or before the execution of these presents paid to the Contractor by the Government (the receipt whereof the Contractor doth hereby acknowledge) and of such further advances (if any) as may be made to him as aforesaid (all acknowledge) and of such further advances (if any as may be made to him as aforesaid (all of which advances are hereinafter collectively referred to as the said amount) the Contractor doth hereby assign unto the Government the said materials by way of security for the said amount

And doth hereby covenant and agree with the Government and declare ay follow:-

(1) That the said sum of Rupees. .... Rs.  
..... ) so advanced by the Government to the Contractor as aforesaid and all or any further sum or sums which may be advanced as aforesaid shall be employed by the contractor in or towards expending the execution of the said works and for no other purpose whatsoever.

- (2) That the materials detailed in the said Running Account Bill (B) which have been  
Fin R Form No. 17-A

Offered to and accepted by (the Government as security for the said amount are absolutely by the Contractors own property free from encumbrances of any kind and the Contractor will not make any application for or receive a further advance on the security of materials which are not absolutely his own property and free from encumbrances of any kind and the contractor hereby agrees at all times, to indemnify and save harmless the Government against all claims whatsoever to any materials in respect of which an advance has been made to him as aforesaid.

- (3) That the said materials detailed in the said Running Account Bill (B) and all other  
Fin. R. Form No. 17-A

Materials on the security of which any further advance or advances may hereafter be made as aforesaid (hereinafter called the said materials) shall be used by the Contractor solely in the execution of the said works in accordance with the directions of the Divisional Officer ----- (hereinafter called the Divisional Officer) and in the terms of the said agreement.

(4) That the Contractor shall make at his own cost all necessary and adequate arrangement for the proper watch, safe custody and protection against all risks of the said material and that until used in construction as aforesaid the said materials shall remain at the site of the said works in the Contractor's custody and at his own risk and on his own responsibility and shall at all times be open to inspection by (the Divisional Officer or any officer authorized by him). In the event of the said materials of any part (hereof being stolen, destroyed or damaged or becoming deteriorated in a greater degree than is due to reasonable use and wear) thereof Contractor will forthwith replace the same with other materials of like quality or repair and make good the same as required by the Divisional Officer and the materials so brought to replace the said materials so repaired and made good shall also be considered as security for the said amount.

(5) That the said materials shall not on any account be removed from the site of the said works except with the written permission of the divisional Officer or an officer authorized by him in that behalf.

(6) That the said amount shall be payable in full when or before the Contractor receives payment, from the Government of the price payable to him for the said works under the terms and provisions of the said agreement PROVIDED THAT if any intermediate payments are made to the contractor on account of work done then on the occasion of each such payment the Government will be at liberty to make a recovery from the Contractors Bill for such payment by deducting there from in the value of the said materials (then actually used in the construction and in respect of which recovery has not been made previously the value for this purpose being determined in respect of each description of material at the rates at which the amount of the advances made under these presents were calculated).

(7) That if the Contractor shall at any time make any default in the performance or observation in any respect of any of the terms and provisions of the said agreement or of these presents the total amount of the advance or advances that may still be owing to the Government shall immediately on the happening of such default be repayable by the Contractor to the Government together with interest thereon at twelve percent per annum from the date or respective dates of such advance or advances to the date or repayment and with all costs, charges, damages and expenses incurred by the Government in or for the recovery thereof or the enforcement of this security or otherwise by reason of (he default of the Contractor and any moneys so becoming due and payable shall constitute a debt due from the Contractor to the Government and the Contractor hereby covenants and agrees with the Government to repay and the same respectively to it accordingly.

(8) That the Contractor hereby charges all the said materials with the repayment to the Government of the said sum of Rupees .....  
(Rs. ....) and any further sum or sums which may be advanced as aforesaid and all cost charges damages and expenses payable under these present PROVIDED ALWAYS and it is hereby agreed and declared that notwithstanding anything in the said agreement and without prejudice to the powers contained therein if and whether the covenant for payment and repayment hereinbefore contained shall become enforceable and the money owing shall not be paid to accordingly.

Once there with the Government may at any time thereafter adopt all or any of following courses as it may deem best :-

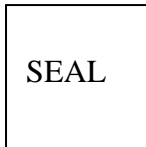
- (a) Seize and utilize the said materials or any part thereof in the completion of the said works on behalf of the Contractor in accordance with the provisions in that behalf contained in the said agreement debiting the Contractor with the actual cost of effecting such completion the amount due in respect of advances under these presents and crediting the Contractor with the value of work done as he had carried it out in accordance with the said agreement and at the rates thereby provided. If the balance is against the Contractor he is to pay the same to the Government on demand.
- (b) Remove and sell by public auction the seized materials or any part thereof and out of the money arising from the sale retain all the sums aforesaid repayable to the Government under these presents and pay over the surplus (if any) to the Contractor.
- (C) Deduct all or any part of the moneys owing out of the security deposit or any sum due to the Contractor under the said agreement.

(9) That except as is expressly provided by the presents interest on the said advance shall not be payable.

(10) That in the event of any conflict between the provisions of these presents and the said agreement the provisions of these presents shall prevail and in the event of any dispute or difference arising over the construction or effect of these presents the settlement of which has not been hereinbefore expressly provided for the same shall be referred to the Superintending Engineer ..... Circle whose .....  
decision shall be final and the Indian Arbitration Act for the time being in force so far they are applicable shall apply to any such reference.

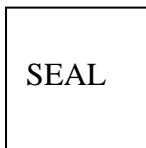
In witnesses whereof the \* ..... on behalf of the Governor of Sindh and the said ----- have hereunto set their respective hands and seals the day and first above written.

Signed, sealed and delivered by\*  
In the presence of



1<sup>st</sup> witness  
2<sup>nd</sup> witness

Signed, sealed and delivered by\*  
In the presence of



1<sup>st</sup> witness  
2<sup>nd</sup> witness



## Notes on the Conditions of Contract

The Conditions of Contract comprise two parts:

- (a) **Part I** - **General Conditions of Contract**
- (b) **Part II** - **Special Conditions of Contract**

Over the years, a number of “model” General Conditions of Contract have evolved. The one used in these Standard Bidding Documents was prepared by the International Federation of Consulting Engineers (Federation Internationale des Ingenieurs-Conseils, or FIDIC), and is commonly known as the FIDIC Conditions of Contract. (The used version is the fourth edition, 1987, reprinted in 1992 with further amendments).

The FIDIC Conditions of Contract have been prepared for an ad measurement (unit price or unit rate) type of contract, and cannot be used without major modifications for other types of contract, such as lump sum, turnkey, or target cost contracts.

The standard text of the General Conditions of Contract chosen must be retained intact to facilitate its reading and interpretation by bidders and its review by the procuring agency. Any amendments and addition to the General Conditions, specific to the contract in hand, should be introduced in the Particular Conditions of Contract.

The use of standard conditions of contract for all civil works will ensure comprehensiveness of coverage, better balance of rights or obligations between procuring agency and Contractor, general acceptability of its provisions, and savings in time and cost for bid preparation and review, leading to more economic prices.

The FIDIC Conditions of Contract are copyrighted and may not be copied, faxed, or reproduced. Without taking any responsibility of its being accurate, Pakistan Engineering Council with prior consent of FIDIC Secretariat, has reproduced herein the FIDIC General Conditions of Contract for reference purpose only which cannot be used by the users for preparing their bidding documents. The bidding documents may include a purchased copy, the cost of which can be retrieved as part of the selling price of the bidding document. Alternatively, the FIDIC Conditions of Contract can be referred to in the bidding documents, and the bidders are advised to obtain copies directly from FIDIC.\*

---

\* Add the following text if the bidding documents, as issued, do not include a copy:

“Copies of the FIDIC Conditions of Contract can be obtained from:

FIDIC Secretariat

P.O.Box 86

1000 Lausanne 12

Switzerland

e-mail: [fidic.pub@fidic.org](mailto:fidic.pub@fidic.org) – [FIDIC.org/bookshop](http://FIDIC.org/bookshop)



FEDERATION INTERNATIONALE DES INGENIEURS-CONSEILS

# **CONDITIONS OF CONTRACT**

## **FOR WORKS OF CIVIL**

### **ENGINEERING CONSTRUCTION**

#### **PART I GENERAL CONDITIONS WITH FORMS OF TENDER AND AGREEMENT**

FOURTH EDITION 1987  
Reprinted 1988 with editorial amendments  
Reprinted in 1992 with further amendments

## **CONTENTS**

### **PART I: GENERAL CONDITIONS**

#### **Definitions and Interpretation**

- 1.1 Definitions
- 1.2 Headings and Marginal Notes
- 1.3 Interpretation
- 1.4 Singular and Plural
- 1.5 Notices, Consents, Approvals, Certificates and Determinations

#### **Engineer and Engineer's Representative**

- 2.1 Engineer's Duties and Authority
- 2.2 Engineer's Representative
- 2.3 Engineer's Authority to Delegate
- 2.4 Appointment of Assistants
- 2.5 Instructions in Writing
- 2.6 Engineer to Act Impartially

#### **Assignment and Subcontracting**

- 3.1 Assignment of Contract
- 4.1 Subcontracting
- 4.2 Assignment of Subcontractors' Obligations

#### **Contract Documents**

- 5.1 Language/s and Law
- 5.2 Priority of Contract Documents
- 6.1 Custody and Supply of Drawing
- 6.2 One Copy of Drawing to be Kept on Site
- 6.3 Disruption of Progress
- 6.4 Delays and Cost of Delay of Drawing
- 6.5 Failure by Contractor to Submit Drawings
- 7.1 Supplementary Drawings and Instructions
- 7.2 Permanent Works Designed by Contractor
- 7.3 Responsibility Unaffected by Approval

#### **General Obligations**

- 8.1 Contractor's General Responsibilities
- 8.2 Site Operations and Method of Construction
- 9.1 Contract Agreement
- 10.1 Performance Security
- 10.2 Period of Validity of Performance Security
- 10.3 Claims under Performance Security
- 11.1 Inspection of Site
- 12.1 Sufficiency of Tender
- 12.2 Not Foreseeable Physical Obstructions or Conditions
- 13.1 Work to be in Accordance with Contract
- 14.1 Programme to be Submitted
- 14.2 Revised Programme
- 14.3 Cash Flow Estimate to be Submitted

- 14.4 Contractor not Relieved of Duties or Responsibilities
- 15.1 Contractor's Superintendence
- 16.1 Contractor's Employees
- 16.2 Engineer at Liberty to Object
- 17.1 Setting-out
- 18.1 Boreholes and Exploratory Excavation
- 19.1 Safety, Security and Protection of the Environment
- 19.2 Procuring Agency's Responsibilities
- 20.1 Care of Works
- 20.2 Responsibility to Rectify Loss or Damage
- 20.3 Loss or Damage Due to Procuring Agency's Risks
- 20.4 Procuring Agency's Risks
- 21.1 Insurance of Works and Contractor's Equipment
- 21.2 Scope of Cover
- 21.3 Responsibility for Amounts not Recovered
- 21.4 Exclusions
- 22.1 Damage to Persons and Property
- 22.2 Exceptions
- 22.3 Indemnity by Procuring Agency
- 23.1 Third Party Insurance (including Procuring Agency's Property)
- 23.2 Minimum Amount of Insurance
- 23.3 Cross Liabilities
- 24.1 Accident or Injury to Workmen
- 24.2 Insurance Against Accident to Workmen
- 25.1 Evidence and Terms of Insurances
- 25.2 Adequacy of Insurances
- 25.3 Remedy on contractor's Failure to Insure
- 25.4 Compliance with Policy Conditions
- 26.1 Compliance with Statutes, Regulations
- 27.1 Fossils
- 28.1 Patent Rights
- 28.2 Royal sties
- 29.1 Interference With Traffic and Adjoining Properties
- 30.1 Avoidance of Damage to Roads
- 30.2 Transport of Contractor's Equipment or Temporary Works
- 30.3 Transport of Materials or Plant
- 30.4 Waterborne Traffic
- 31.1 Opportunities for Other Contractors
- 31.2 Facilities for Other Contractors
- 32.1 Contractor to Keep Site Clear
- 33.1 Clearance of Site on Completion

## **Labour**

- 34.1 Engagement of Staff and Labour
- 35.1 Returns of Labour and Contractor's Equipments

## **Materials, Plant and Workmanship**

- 36.1 Quality of Materials, Plant and Workmanship
- 36.2 Cost of Samples
- 36.3 Cost of Tests
- 36.4 Cost of Tests not Provided for
- 36.5 Engineer's Determination where Tests not Provided for
- 37.1 Inspection of Operations
- 37.2 Inspection and Testing
- 37.3 Dates for Inspection and Testing
- 37.4 Rejection
- 37.5 Independent Inspection
- 38.1 Examination of Work before Covering up
- 38.2 Uncovering and Making Openings
- 39.1 Removal of Improper Work, Materials or Plant
- 39.2 Default of Contractor in Compliance

## **Suspension**

- 40.1 Suspension of Work
- 40.2 Engineer's Determination following Suspension
- 40.3 Suspension lasting more than 84 Days

## **Commencement and Delays**

- 41.1 Commencement of Works
- 42.1 Possession of Site and Access Thereto
- 42.2 Failure to Give Possession
- 42.3 Rights of Way and Facilities
- 43.1 Time for Completion
- 44.1 Extension of Time for Completion
- 44.2 Contractor to Provide Notification and Detailed Particulars
- 44.3 Interim Determination of Extension
- 45.1 Restriction on Working Hours
- 46.1 Rate of Progress
- 47.1 Liquidated Damages for Delay
- 47.2 Reduction of Liquidated Damages
- 48.1 Taking-Over Certificate
- 48.2 Taking-Over of Sections or Parts
- 48.3 Substantial Completion of Parts
- 48.4 Surfaces requiring Reinstatement

### **Defects Liability**

- 49.1 Defects Liability Period
- 49.2 Completion of Outstanding Work and Remedying Defects
- 49.3 Cost of Remedying Defects
- 49.4 Contractor's Failure to Carry Out Instruction
- 50.1 Contractor to Search

### **Alterations, Additions and Omissions**

- 51.1 Variations
- 51.2 Instructions for Variations
- 52.1 Valuation of Variations
- 52.2 Power of Engineer to Fix Rates
- 52.3 Variations Exceeding 15 percent
- 52.4 Day work

### **Procedure for Claims**

- 53.1 Notice of Claims
- 53.2 Contemporary Records
- 53.3 Substantiation of Claims
- 53.4 Failure to Comply
- 53.5 Payment of Claims

### **Contractor's Equipment, Temporary Works and Materials**

- 54.1 Contractor's Equipment, temporary Works and Materials; Exclusive User for the Works.
- 54.2 Procuring Agency not Liable for Damage
- 54.3 Customs Clearance
- 54.4 Re-export of Contractor's Equipment
- 54.5 Conditions of Hire of Contractor's Equipment
- 54.6 Costs for the Purpose of Clause 63
- 54.7 Incorporation of Clause in Subcontracts
- 54.8 Approval of Materials not Implied

### **Measurement**

- 55.1 Quantities
- 56.1 Works to be measured
- 57.1 Method of Measurement
- 57.2 Breakdown of Lump Sum Items

### **Provisional Sums**

- 58.1 Definition of "Provisional Sum"

- 58.2 Use of Provisional Sums
- 58.3 Production of Vouchers

### **Nominated Subcontractors**

- 59.1 Definition of “Nominated Subcontractors”
- 59.2 Nominated Subcontractors; Objection to Nomination
- 59.3 Design Requirements to be Expressly Stated
- 59.4 Payments to Nominated Subcontractors
- 59.5 Certification of Payments to Nominated Subcontractors

### **Certificates and Payment**

- 60.1 Monthly Statements
- 60.2 Monthly Payments
- 60.3 Payment of Retention Money
- 60.4 Correction of Certificates
- 60.5 Statement at Completion
- 60.6 Final Statement
- 60.7 Discharge
- 60.8 Final Payment Certificate
- 60.9 Cessation of Procuring Agency’s Liability
- 60.10 Time for Payment
- 61.1 Approval only by Defects Liability Certificate
- 62.1 Defects Liability Certificate
- 62.2 Unfulfilled Obligations

### **Remedies**

- 63.1 Default of Contractor
- 63.2 Valuation at Date of Termination
- 63.3 Payment after Termination
- 63.4 Assignment of Benefit of Agreement
- 64.1 Urgent Remedial Work

### **Special Risks**

- 65.1 No Liability for Special Risks
- 65.2 Special Risks
- 65.3 Damage to Works by Special Risks
- 65.4 Projectile, Missile
- 65.5 Increased Costs arising from Special Risks
- 65.6 Outbreak of War
- 65.7 Removal of Contractor’s Equipment on Termination
- 65.8 Payment if Contract Terminated

### **Release from Performance**

- 66.1 Payment in Event of Release from Performance

## **Settlement of Disputes**

- 67.1 Engineer's Decision
- 67.2 Amicable settlement
- 67.3 Arbitration
- 67.4 Failure to Comply with Engineer's Decision

## **Notices**

- 68.1 Notice to Contractor
- 68.2 Notice to procuring agency and Engineer
- 68.3 Change of Address

## **Default of Procuring Agency**

- 69.1 Default of Procuring Agency
- 69.2 Removal of Contractor's Equipment
- 69.3 Payment on Termination
- 69.4 Contractor's Entitlement to Suspend Work
- 69.5 Resumption of Work

## **Changes in Cost and Legislation**

- 70.1 Increase or Decrease of Cost
- 70.2 Subsequent Legislation

## **Currency and Rates of Exchange**

- 71.1 Currency Restrictions
- 72.1 Rates of Exchange
- 72.2 Currency Proportions
- 72.3 Currencies of Payment for Provisional Sums

## **REFERENCE TO PART II**

## **INDEX**

## **TENDER (NOT USED)**

## **AGREEMENT (NOT USED)**



## **PART I – GENERAL CONDITIONS**

### **Definitions and Interpretation**

#### **1.1 Definitions**

In the Contract (as hereinafter defined) the following works and expressions shall have the meanings hereby assigned to them, except where the context otherwise requires:

- (a) (i) “Procuring Agency” means the person/agency named as such in Part II of these Conditions and the legal successors in title to such person, but not (except with the consent of the Contractor) any assignee of such person.
- (ii) “Contractor” means the person whose tender has been accepted by the procuring agency and the legal successors in title to such person, but not (except with the consent of the procuring agency) any assignee of such person.
- (iii) “Subcontractor” means any person named in the Contract as a Subcontractor for a part of the works or any person to whom a part of the works has been subcontracted with the consent of the Engineer and the legal successors in title to such person, but not any assignee of any such person.
- (iv) “Engineer” means the person appointed by the procuring agency to act as Engineer for the purposes of the Contract and named as such in Part II of these Conditions.
- (v) “Engineer’s Representative” means a person appointed from time to time by the Engineer under Sub-Clause 2.2.
- (b) (i) “Contract” means these Conditions (Parts I and II), the Specifications, the Drawings, the Bill of Quantities, the Tender, the Letter of Acceptance, the Contract agreement (if completed) and such further documents as may be expressly incorporated in the Letter of Acceptance or Contract Agreement (if completed).
- (ii) “Specification” means the specification of the works included in the Contract and any modification thereof or addition thereto made under Clause 51 or submitted by the Contractor and approved by the Engineer.
- (iii) “Drawings” means all drawings, calculations and technical information of a like nature provided by the Engineer to the Contractor under the Contract and all drawings, calculations, samples, patterns, models, operation and maintenance manuals and other technical information of a like nature submitted by the Contractor and approved by the Engineer.

- (iv) “Bill of Quantities” means the priced and completed bill of quantities forming part of the Tender.
- (v) “Tender” means the Contractor’s priced offer to the procuring agency for the execution and completion of the works and the remedying of any defects therein in accordance with the provisions of the Contract, as accepted by the Letter of Acceptance.
- (vi) “Letter of Acceptance” means the formal acceptance by the procuring agency of the Tender.
- (vii) “Contract Agreement” means the contract agreement (if any) referred to in Sub-Clause 9.1.
- (viii) “Appendix to Tender” means the appendix comprised in the form of Tender annexed to these Conditions.
- (c) (i) “Commencement Date” means the date upon which the Contractor receives the notice to commence issued by the Engineer pursuant to Clause 41.
- (ii) “Time for Completion” means the time for completing the execution of and passing the Tests on Completion of the works or any Section or part thereof as stated in the Contract (or as extended under Clause 44) calculated from the Commencement Date.
- (d) (i) “Tests on Completion” means the tests specified in the Contract or otherwise agreed by the Engineer and the Contractor which are to be made by the Contractor before the works of any Section or part thereof are taken over by the procuring agency.
- (ii) “Taking-Over Certificate” means a certificate issued pursuant to Clause 48.
- (e) (i) “Contract Price” means the sum stated in the Letter of Acceptance as payable to the Contractor for the execution and completion of the works and the remedying of any defects therein in accordance with the provisions of the Contract.
- (ii) “Retention Money” means the aggregate of all monies retained by the procuring agency pursuant to Sub-Clause 60.2(a).
- (iii) “Interim Payment Certificate” means any certificate of payment issued by the Engineer other than the Final Payment Certificate.
- (iv) “Final Payment Certificate” means the certificate of payment issued by the Engineer pursuant to Sub-Clause 60.8.
- (f) (i) “Works” means the Permanent Works and the Temporary Works or either of them as appropriate.

- (ii) “Permanent Works” the permanent works to be executed (including Plant) in accordance with the Contract.
- (iii) “Temporary Works” means all temporary works of every kind (other than Contractor’s Equipment) required in or about the execution and completion of the works and the remedying of any defects therein.
- (iv) “Plant” means machinery, apparatus and the like intended to form or forming part of the Permanent Works.
- (v) “Contractor’s Equipment” means all appliances and things of whatsoever nature (other than Temporary Works) required for the execution and completion of the works and the remedying of any defect therein, but does not include Plant, materials or other things intended to form or forming part of the Permanent Works.
- (vi) “Section” means a part of the works specifically identified in the Contract as a Section.
- (vii) “Site” means the places provided by the procuring agency where the works are to be executed and any other places as may be specifically designated in the Contract as forming part of the site.
- (g) (i) “cost” means all expenditure properly incurred or to be incurred, whether, on or off the site, including overhead and other charges properly allocable thereto but does not include any allowance for profit.
- (ii) “day” means calendar day.
- (iii) “foreign currency” means a currency of a country other than that in which the works are to be located.
- (iv) “writing” means any hand-written, type-written, or printed communication, including telex, cable and facsimile transmission.

## 1.2 **Heading and Marginal Notes**

The headings and marginal notes in these Conditions shall not be deemed part thereof or be taken into consideration in the interpretation or construction thereof or of the Contract.

## 1.3 **Interpretation**

Words importing persons or parties shall include firms and corporations and any organization having legal capacity.

## 1.4 **Singular and Plural**

Words importing the singular only also include the plural and vice versa where the context requires.

## **1.5 Notices, Consents, Approvals, Certificates and Determinations**

Wherever in the Contract provision is made for the giving or issue of any notice, consent, approval, certificate or determination by any person, unless otherwise specified such notice, consent, approval, certificate or determination shall be in writing and the words “notify”, “certify” or “determine” shall be construed accordingly. Any such consent, approval, certificate or determination shall not unreasonably be withheld or delayed.

## **Engineer and Engineer’s Representative**

### **2.1 Engineer’s Duties and Authority**

- (a) The Engineer shall carry out the duties specified in the Contract.
- (b) The Engineer may exercise the authority specified in or necessarily to be implied from the Contract, provide, however, that if the Engineer is required, under the terms of his appointment by the procuring agency, to obtain the specific approval of the procuring agency before exercising any such authority, particulars of such requirements shall be set out in Part II of these Conditions. Provided further that any requisite approval shall be deemed to have been given by the procuring agency for any such authority exercised by the Engineer.
- (c) Except as expressly stated in the Contract, the Engineer shall have no authority to relieve the Contractor of any of his obligations under the Contract.

### **2.2 Engineer’s Representative**

The Engineer’s Representative shall be appointed by and be responsible to the Engineer and shall carry out such duties and exercise such authority as may be delegated to him by the Engineer under Sub-Clause 2.3.

### **2.3 Engineer’s Authority to Delegate**

The Engineer may from time to time delegate to the Engineer’s Representative any of the duties and authorities vested in the Engineer and he may at any time revoke such delegation. Any such delegation or revocation shall be in writing and shall not take effect until a copy thereof has been delivered to the procuring agency and the Contractor.

Any communication given by the Engineer’s Representative to the Contractor in accordance with such delegation shall have the same effect as though it had been given by the Engineer. Provided that:

- (a) any failure of the Engineer’s Representative to disapprove any work, materials or Plant shall not prejudice the authority of the engineer to disapprove such work, materials or Plant and to give instructions for the rectification thereof; and
- (b) if the Contractor questions any communication of the Engineer’s Representative he may refer the matter to the Engineer who shall confirm, reverse or vary contents of such communication.

#### **2.4 Appointment of Assistants**

The Engineer or the Engineer's Representative may appoint any number of persons to assist the Engineer's Representative in the carrying out of his duties under Sub-Clause 2.2. He shall notify to the Contractor the names, duties and scope of authority of such persons. Such assistants shall have no authority to issue any instructions to the Contractor save in so far as such instructions may be necessary to enable them to carry out their duties and to secure their acceptance of materials, Plant or workmanship as being in accordance with the Contract, and any instructions given by any of them for those purposes shall be deemed to have been given by the Engineer's Representative.

#### **2.5 Instructions in Writing**

Instructions given by the Engineer shall be in writing, provided that if for any reason the Engineer considers it necessary to give any such instruction orally, the Contractor shall comply with such instruction. Confirmation in writing of such oral instruction given by the Engineer, whether before or after the carrying out of the instruction, shall be deemed to be an instruction within the meaning of this Sub-Clause. Provided further that if the Contractor, within 7 day, confirms in writing to the Engineer any oral instruction of the Engineer and such confirmation is not contradicted in writing within 7 days by the Engineer, it shall be deemed to be an instructions of the Engineer.

The provisions of this Sub-Clause shall equally apply to instructions given by the Engineer's Representative and any assistants of the Engineer or the Engineer's Representative appointed pursuant to Sub-Clause 2.4.

#### **2.6 Engineer to Act Impartially**

Wherever, under the Contract, the Engineer is required to exercise his discretion by:

- (a) giving his decision, opinion or consent,
- (b) expressing his satisfaction or approval,
- (c) determining value, or
- (d) otherwise taking action which may affect the rights and obligations of the procuring agency or the Contractor.

He shall exercise such discretion impartially within the terms of the Contract and having regard to all the circumstances. Any such decision, opinion, consent expression of satisfaction, or approval, determination of value or action may be opened up, reviewed or revised as provided in Clause 67.

## **Assignment and Subcontracting**

### **3.1 Assignment of Contract**

The Contractor shall not, without the prior consent of the procuring agency (which consent, notwithstanding the provisions of Sub-Clause 1.5, shall be at the sole discretion of the procuring agency), assign the Contract or any part thereof, or any benefit or interest therein or there under, otherwise than by:

- (a) a charge in favor of the Contractor's bankers of any monies due or to become due under the Contract, or
- (b) assignment to the Contractor's insurers (in cases where the insurers have discharged the Contractor's loss or liability) of the Contractor's right to obtain relief against any other party liable.

### **4.1 Subcontracting**

The Contractor shall not subcontract the whole of the works. Except where otherwise provided by the Contract, the Contractor shall not subcontract any part of the works without the prior consent of the Engineer. Any such consent shall not relieve the Contractor from any liability or obligation under the Contract and he shall be responsible for the acts, defaults and neglects of any Subcontractor, his agents, servants or workmen as fully as if they were the acts, defaults or neglects of the Contractor, his agents, servants or workmen.

Provided that the Contractor shall not be required to obtain such consent for:

- (a) the provision of labour,
- (b) the purchase of materials which are in accordance with the standards specified in the Contract.
- (c) the subcontracting of any part of the works for which the Subcontractor is named in the Contract.

### **4.2 Assignment of Subcontractors' Obligation**

In the event of a Subcontractor having undertaken towards the Contractor in respect of the work executed, or the goods, materials, Plant or services supplied by such Subcontractor, any continuing obligation extending for a period exceeding that of the Defects Liability Period under the Contract, the Contractor shall at any time, after the expiration of such Period, assign to the procuring agency, at the procuring agency's request and cost, the benefit of such obligation for the unexpired duration thereof.

## **Contract Documents**

### **5.1 Language/s and Law**

There is stated in Part II of these Conditions:

- (a) the language or languages in which the contract documents shall be drawn up, and
- (b) the country or state the law of which shall apply to the Contract and according to which the Contract shall be construed.

If the said documents are written in more than one language, the language according to which the Contract shall be construed and interpreted is also stated in Part II of these Conditions, being therein designated the “Ruling Language”.

## **5.2 Priority of Contract Documents**

The several documents forming the Contract are to be taken as mutually explanatory of one another, but in case of ambiguities or discrepancies the same shall be explained and adjusted by the Engineer who shall thereupon issue to the Contractor instructions thereon and in such event, unless otherwise provided in the Contract, the priority of the documents forming the Contract shall be as follows:

- (a) The Contract Agreement;
- (b) The Letter of Acceptance;
- (c) The Tender;
- (d) Part II of these Conditions;
- (e) Part I of these Conditions; and
- (f) Any other document forming part of the Contract.

## **6.1 Custody and Supply of Drawings and Documents**

The Drawings shall remain in the sole custody of the Engineer, but two copies thereof shall be provided to the Contractor free of charge. The Contractor shall make at his own cost any further copies required by him. Unless it is strictly necessary for the purposes of the Contract, the Drawings, Specification and other documents provided by the procuring agency or the Engineer shall not, without the consent of the Engineer shall not, without the consent of the Engineer, be used or communicated to a third party by the contractor. Upon issue of the Defects Liability Certificate, the Contractor shall return to the Engineer all Drawings, Specification and other documents provided under the Contract.

The Contractor shall supply to the Engineer four copies of all Drawings, specification and other documents submitted by the Contractor and approved by the Engineer in accordance with Clause 7, together with a reproducible copy of any material which cannot be reproduced to an equal standard by photocopying. In addition the Contractor shall supply such further copies of such Drawings, Specification and other documents as the Engineer may request in writing for the use of the procuring agency, who shall pay the cost thereof.

## **6.2 One Copy of Drawings to be kept on Site**

One copy of the Drawings, provided to or supplied by the Contractor as aforesaid, shall be kept by the Contractor on the site and the same shall at all reasonable times be available for inspection and use by the Engineer and by any other person authorized by the Engineer in writing.

### **6.3 Disruption of Progress**

If, by reason of any failure or inability of the Engineer to issue, within a time reasonable in all the circumstances, any drawing or instruction for which notice has been given by the Contractor in accordance with Sub-Clause 6.3, the Contractor suffers delay and/or incurs costs then the Engineer shall, after due consultation with the procuring agency and the contractor, determine:

- (a) any extension of time to which the Contractor is entitled under Clause 44, and
- (b) the amount of such costs, which shall be added to the Contract Price, and shall notify the Contractor accordingly, with a copy to the procuring agency.

### **6.5 Failure by Contractor to Submit Drawings**

If the failure or inability of the Engineer to issue any drawings or instructions is caused in whole or in part by the failure of the Contractor to submit Drawings, Specification or other documents which he is required to submit under the Contract, the Engineer shall take such failure by the Contractor into account when making his determination pursuant to Sub-Clause 6.4.

### **7.1 Supplementary Drawings and Instructions**

The Engineer shall have authority to issue to the Contractor, from time to time, such supplementary Drawings and instructions as shall be necessary for the purpose of the proper and adequate execution and completion of the works and the remedying of any defects therein. The Contractor shall carry out and be bound by the same.

### **7.2 Permanent Works Designed by Contractor**

Where the Contract expressly provides that part of the Permanent Works shall be designed by the Contractor, he shall submit to the Engineer, for approval:

- (a) such drawings, specifications, calculations and other information as shall be necessary to satisfy the Engineer so as to the suitability and adequacy of that design, and
- (b) operations and maintenance manuals together with drawings of the Permanent Works as completed, in sufficient detail to enable the procuring agency to operate, maintain, dismantle, reassemble and adjust the Permanent Works incorporating that design. The works shall not be considered to be completed for the purposes of taking over in accordance with Clause 48 until such operation and maintenance manuals together with drawings on completion have been submitted to and approved by the Engineer.



### **7.3 Responsibility Unaffected by Approval**

Approval by the Engineer, in accordance with Sub-Clause 7.2, shall not relieve the Contractor of any of his responsibilities under the Contract.

## **General Obligations**

### **8.1 Contractor's General Responsibilities**

The Contractor shall, with due care and diligence, design (to the extent provided for by the Contract), execute and complete the works and remedy any defects therein in accordance with the provisions of the Contract. The Contractor shall provide all superintendence, labour, material, Plant, Contractor's Equipment and all other things, whether of a temporary or permanent nature, required in and for such design, execution, completion and remedying of any defects, so far as the necessity for providing the same is specified in or is reasonably to be inferred from the Contract.

### **8.2 Site Operations and Methods of Construction**

The Contractor shall take full responsibility for the adequacy, stability and safety of all site operations and methods of construction. Provided that the Contractor shall not be responsible (except as stated hereunder or as may be otherwise agreed) for the design or specification of Permanent Works, or for the design or specification of any Temporary Works not prepared by the Contractor. Where the Contract expressly provides that part of the Permanent Works shall be designed by the Contractor, he shall be fully responsible for that part of such works, notwithstanding any approval by the Engineer.

### **9.1 Contract Agreement**

The Contractor shall, if called upon so to do, enter into and execute the Contract Agreement, to be prepared and completed at the cost of the procuring agency, in the form annexed to these Conditions with such modification as may be necessary.

### **10.1 Performance Security**

If the Contract requires the Contractor to obtain security for his proper performance of the Contract, he shall obtain and provide to the procuring agency, such security within 28 days after the receipt of the Letter of Acceptance in the sum stated in the Appendix to Tender. When providing such security to the procuring agency, the Contractor shall notify the Engineer of so doing. Such security shall be in the form annexed to these Conditions or in such other form as may be agreed between the procuring agency and the Contractor. The institution providing such security shall be subject to the approval of the procuring agency. The cost of complying with the requirements of this Clause shall be borne by the Contractor, unless the Contract otherwise provides.

## **10.2 Period of Validity of Performance Security**

The performance security shall be valid until the Contractor has executed and completed the works and remedied any defects therein in accordance with the Contract. No claim shall be made against such security after the issue of the Defects Liability Certificate in accordance with Sub-Clause 62.1 and such security shall be returned to the Contractor within 14 days of the issue of the said Defects Liability Certificate.

## **10.3 Claims under Performance Security**

Prior to making a claim under the performance security the procuring agency shall, in every case, notify the Contractor stating the nature of the default in respect of which the claim is to be made.

## **11.1 Inspection of Site**

Procuring agency shall have made available to the Contractor, before the submission by the Contractor of the Tender, such data on hydrological and sub-surface conditions as have been obtained by or on behalf of the procuring agency from investigations undertaken relevant to the works but the Contractor shall be responsible for his own interpretation thereof.

The Contractor shall be deemed to have inspected and examined at the site and its surroundings and information available in connection therewith and to have satisfied himself (so far as is practicable, having regard to considerations of cost and time) before submitting his Tender, as to:

- (a) the form and nature thereof, including the sub-surface conditions,
- (b) the hydrological and climatic conditions,
- (c) the extent and nature of work and materials necessary for the execution and completion of the works and the remedying of any defects therein, and
- (d) the means of access to the site and the accommodation he may require, and, in general, shall be deemed to have obtained all necessary information, subject as above mentioned, as risks, contingencies and all other circumstances which may influence or affect his Tender.

The Contractor shall be deemed to have based his Tender on the data made available by the procuring agency and on his own inspection and examination, all as aforementioned.

## **12.1 Sufficiency of Tender**

The Contractor shall be deemed to have satisfied himself as to the correctness and sufficiency of the Tender and of the rates and prices stated in the Bill of Materials, all of which shall, except insofar as it is otherwise provided in the Contract, cover all his obligations under the Contract (including those in respect of the supply of goods, materials, Plant or services or of contingencies for which there is a Provisional Sum) and all matters and things necessary for the proper execution and completion of the works and the remedying of any defect therein.

## **12.2 Not Foreseeable Physical Obstructions or Conditions**

If, however, during the execution of the works the Contractor encounters physical obstructions or physical conditions, other than climatic conditions on the site, which obstructions or conditions were, in his opinion, not foreseeable by an experienced contractor, the Contractor shall forthwith give notice thereof to the Engineer, with a copy to the procuring agency. On receipt of such notice, the Engineer shall if in his opinion such obstructions or conditions could not have been reasonably foreseen by an experienced contractor, after due consultation with the procuring agency and the Contractor, determine:

- (a) any extension of time to which Contractor is entitled under Clause 44, and
- (b) the amount of any costs which may have been encountered, which shall be added to the Contract Price, and shall notify the Contractor accordingly, with a copy to the procuring agency. Such determination shall take account of any instruction which the Engineer may issue to the Contractor in connection therewith, and any proper and reasonable measures acceptable to the Engineer which the Contractor may take in the absence of specific instructions from the Engineer.

## **13.1 Work to be in Accordance with Contract**

Unless it is legally or physically impossible, the Contractor shall execute and complete the works and remedy any defects therein in strict accordance with the Contract to the satisfaction of the Engineer. The Contractor shall comply with and adhere strictly to the Engineer's instructions on any matter, whether mentioned in the Contract or not, touching or concerning the works. The Contractor shall take instructions only from the Engineer (or his delegate).

## **14.1 Programme to be submitted**

The Contractor shall, within the time sated in Part II of these Conditions after the date of the Letter of Acceptance, submit to the Engineer shall reasonably prescribe, for the execution of the works. The Contractor shall, whenever required by the Engineer, also provide in writing for his information a general description of the arrangements and methods which the Contractor proposes to adopt for the execution of the works.

## **14.2 Revised Programme**

If at any time it should appear to the Engineer that the actual progress of the works does not conform to the programme to which consent has been given under Sub-Clause 14.1, the Contractor shall produce, at the request of the Engineer, a revised programme showing the modification to such programme necessary to ensure completion of the works within the Time for Completion.

#### **14.3 Clash Flow Estimate to be submitted**

The Contractor shall, within the time stated in Part II of these Conditions after the date of the Letter of Acceptance, provide to the Engineer for his information a detailed cash flow estimate, in quarterly periods, of all payments to which the Contractor will be entitled under the Contract and the Contractor shall subsequently supply revised cash flow estimates at quarterly intervals, if required to do so by the Engineer.

#### **14.4 Contractor not Relieved of Duties or Responsibilities**

The submission to and consent by the Engineer of such programmes or the provision of such general descriptions or cash flow estimates shall not relieve the Contractor of any of his duties or responsibilities under the Contract.

#### **15.1 Contractor's Superintendence**

The Contractor shall provide all necessary superintendence during the execution of the works and as long thereafter as the Engineer may consider necessary of or the proper fulfilling of the Contractor's obligations under the Contract. The Contractor, or a competent and authorized representative approved of by the Engineer, which approval may at any time be withdrawn, shall give his whole time to the superintendence of the works. Such authorized representative shall receive, on behalf of the Contractor, instructions from the Engineer.

If approval of the representative is withdrawn by the Engineer, the Contractor shall, as soon as is practicable, having regard to the requirement of replacing him as hereinafter mentioned, after receiving notice of such withdrawal, remove the representative from the works and shall not thereafter employ him again on the works in any capacity and shall replace him by another representative approved by the Engineer.

#### **16.1 Contractor's Employees.**

The Contractor shall provide on the site in connection with the execution and completion of the works and the remedying of any defects therein:

- (a) only such technical assistants as are skilled and experienced in their respective callings and such foremen and leading hands as are competent to give proper superintendence of the works, and
- (b) such skilled, semi skilled and unskilled labour as is necessary for the proper and timely fulfilling of the Contractor's obligation under the contract.

## **16.2 Engineer at Liberty to Object**

The Engineer shall be at liberty to object to and require the Contractor to remove forthwith from the works any person provided by the Contractor who, in the opinion of the Engineer, misconducts himself, or is incompetent or negligent in the proper performance of his duties, or whose presence on site is otherwise considered by the Engineer to be undesirable, and such person shall not be again allowed upon the works without the consent of the Engineer. Any person so removed from the works shall be replaced as soon as possible.

## **17.1 Setting-out**

The Contractor shall be responsible for:

- (a) the accurate setting-out of the works in relation to original points, lines and levels of reference given by the Engineer in writing,
- (b) the correctness, subject as above mentioned of the position, levels dimensions and alignment of all parts of the works, and
- (c) the provision of all necessary instruments, appliance and labour in connection with the foregoing responsibilities.

If, at any time during the execution of the works, any error appears in the position, levels, dimensions or alignment of any part of the works, the contractor, on being required so to do by the Engineer, shall, at his own cost, rectify such error to the satisfaction of the Engineer, unless such error is based on incorrect data supplied in writing by the Engineer, in which case the Engineer shall determine an addition to the Contract Price in accordance with Clause 52 and shall notify the Contractor accordingly, with a copy to the procuring agency.

The checking of any setting-out or of any line or level by the Engineer shall not in any way relieve the Contractor of his responsibility for the accuracy thereof and the Contractor shall carefully protect and preserve all bench-marks, sight-rails, pegs and other things used in setting-out the works.

## **18.1 Boreholes and Exploratory Excavation**

If, at any time during the execution of the works, the Engineer requires the Contractor to make boreholes or to carry out exploratory excavation, such requirement shall be the subject of an instruction in accordance with Clause 51, unless an item or a Provisional Sum in respect of such work is included in the Bill of Quantities.

## **19.1 Safety, Security and Protection of the Environment**

The Contractor shall, throughout the execution and completion of the works and the remedying of any defects therein:

- (a) have full regard for the safety of all persons entitled to be upon the site and keep the site (so far as the same is under his control) and the works (so far as the same are not completed or occupied by the procuring agency) in an orderly state appropriate to the avoidance of danger to such persons,
- (b) provide and maintain at his own cost all lights, guards, fencing, warning signs and watching, when and where necessary or required by the Engineer or by and duly

constituted authority, for the protection of the works or for the safety and convenience of the public or others, and

- (c) take all reasonable steps to protect the environment on and off the site and to avoid damage or nuisance to persons or to property of the public or others resulting from pollution, noise or other causes arising as a consequence of his methods of operation.

## **19.2 Procuring Agency's Responsibilities**

If under Clause 31 the procuring agency shall carry out work on the site with his own workmen he shall, in respect of such work:

- (a) have full to the safety of all persons entitled to be upon the site, and
- (b) keep the site in an orderly state appropriate to the avoidance of danger to such persons.

If under Clause 31 the procuring agency shall employ other contractors on the site he shall require them to have the same regard for safety and avoidance of danger.

## **20.1 Care of Works**

The Contractor shall take full responsibility for the care of the works and materials and Plant for incorporation therein from the Commencement Date until the date of issue of the Taking-Over Certificate for the whole of the works, when the responsibility for the said care shall pass to the procuring agency. Provided that:

- (a) if the Engineer issues a Taking-Over Certificate for any Section or part of the Permanent Works the Contractor shall cease to be liable for the care of that Section or part from the date of issue of the Taking-Over Certificate, when the responsibility for the care of that Section or part shall pass to the procuring agency, and
- (b) the Contractor shall take full responsibility for the care of any outstanding works and materials and Plant for incorporation therein which he undertakes to finish during the Defects Liability Period until such outstanding works have been completed pursuant to Clause 49.

## **20.2 Responsibility to Rectify Loss or Damage**

If any loss or damage happens to the works, or any part thereof, or materials or Plant for incorporation therein, during the period for which the Contractor is responsible for the care thereof, from any cause whatsoever, other than the risks defined in Sub-Clause 20.4, the Contractor shall, at his own cost, rectify such loss or damage so that the Permanent Works conform in every respect with the provisions of the Contract to the satisfaction of the Engineer. The Contractor shall also be liable for any loss or damage to the works occasioned by him in the course of any operations carried out by him for the purpose of complying with his obligations under Clause 49 and 50

### **20.3 Loss or Damage Due to Procuring Agency's Risks**

In the event of any such loss or damage happening from any of the risks defined in Sub-Clause 20.4, or in combination with other risks, the Contractor shall, if and to the extent required by the Engineer, rectify the loss or damage and the Engineer shall determine an addition to the Contract Price in accordance with Clause 52 and shall notify the Contractor accordingly, with a copy to the procuring agency. In the case of a combination of risks causing loss or damage any such determination shall take into account the proportional responsibility of the Contractor and the procuring agency.

### **20.4 Procuring agency's Risks**

Procuring agency's risk are:

- (a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
- (b) rebellion, revolution, insurrection, or military or usurped power, or civil war,
- (c) ionizing radiations, or contamination by radio-activity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radio-active toxic explosive, or other hazardous properties of any explosive nuclear assembly or nuclear component thereof,
- (d) pressure waves caused by aircraft or other aerial devices traveling at sonic or supersonic speeds,
- (e) riot, commotion or disorder, unless solely restricted to employees of the Contractor or of his Subcontractor and arising from the conduct of the works,
- (f) loss or damage due to the use or occupation by the procuring agency of any Section or part of the Permanent works, except as may be provided for in the Contract,
- (g) loss or damage to the extent that it is due to the design of the works, other than any part of the design provided by the Contractor or for which the Contractor is responsible, and
- (h) any operation of the forces of nature against which an experienced contractor could not reasonably have been expected to take precautions.

### **21.1 Insurance of Works and Contractor's Equipment**

The Contractor shall, without limiting his or the procuring agency's obligation and responsibilities under Clause 20, insure:

- (a) the works, together with materials and Plant for incorporation therein, to the full replacement cost (the term “cost” in this context shall include profit),
- (b) an additional sum of 15 per cent of such replacement cost, or as may be specified in Part II of these Conditions, to cover any additional costs of and incidental to the rectification of loss or damage including professional fees and the cost of demolishing and removing any part of the works and of removing debris of whatsoever nature, and
- (c) the Contractor’s Equipment and other things brought onto the site by the Contractor, for a sum sufficient to provide for their replacement at the site.

## 21.2 **Scope of Cover**

The insurance in paragraphs (a) and (b) of sub-clause 21.1 shall be in the joint names of the Contractor and the Procuring Agency and shall cover:

- (a) the procuring agency and the Contractor against all loss or damage from whatsoever cause arising, other than as provided in sub-clause 21.4 from the start of work at the site until the date of issue of the relevant Taking-Over Certificate in respect of the works or any Section or part thereof as the case may be, and
- (b) the Contractor for his liability:
  - (i) during the Defects Liability Period for loss or damage arising from a cause occurring prior to the commencement of the Defects Liability Periods, and
  - (ii) for loss or damage occasioned by the Contractor in the course of any operations carried out by him for the purpose of complying with his obligations under Clause 49 and 50.

## 21.3 **Responsibility for Amounts not Recovered**

Any amounts not insured or not recovered from the insurers shall be borne by the procuring agency or the Contractor in accordance with their responsibilities under Clause 20.

## 21.4 **Exclusions**

There shall be no obligation for the insurances in Sub-Clause 21.1 to include loss or damage caused by:

- (a) war, hostilities (where war be declared or not), invasion, act of foreign enemies,
- (b) rebellion, revolution, insurrection, or military or usurped power, or civil war,



- (c) ionizing radiations, or contamination by radio-activity from any nuclear fuel, or from any nuclear was from the combustion of nuclear fuel, radio-active toxic explosive, or other hazardous properties of any explosive nuclear assembly or nuclear component thereof,
- (d) pressure waves caused by aircraft or other aerial devices traveling at sonic or supersonic speeds.

#### **22.1 Damage to Persons and Property**

The Contractor shall, except if and so far as the Contract provides otherwise, indemnify the procuring agency against all losses and claims in respect of:

- (a) death of or injury to any person, or
- (b) loss of or damage to any property (other than the works), which may arise out of or in consequence of the execution and completion of the works and the remedying of any defects therein, and against all claims, proceeding, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto, subject to the exceptions defined in Sub-Clause 22.2.

#### **22.2 Exceptions**

The “exceptions” referred to in sub-clause 22.1 are:

- (a) the permanent use or occupation of land by the works, or any part thereof,
- (b) the right of the procuring agency to execute the works, or any part thereof, on, over, under, is or through any land,
- (c) damage to property which is the unavoidable result of the execution and completion of the works, or the remedying of any defects therein, in accordance with the Contract, and
- (d) death of or injury to persons or loss of or damage to property resulting from any act or neglect of the procuring agency, his agents servants or other contractors, not being employed by the Contractor, or in respect of any claims, proceedings, damages, costs, charges and expenses in respect thereof or in relation thereto or, where the injury or damage was contributed to by the Contractor, his servants or agents, such part of the said injury or damage as may be just and equitable having regard to the extent of the responsibility of the procuring agency, his servants or agents or other contractors for the injury or damage.

#### **22.3 Indemnity by Procuring Agency**

Procuring agency shall indemnify the Contractor against all claims, proceedings, damages, costs, charges and expenses in respect of the matters referred to in the exceptions defined in sub-clause 22.2

**23.1 Third Party Insurance (including procuring agency's Property)**

The Contractor shall, without limiting his or the procuring agency's obligation and responsibilities under Clause 22, insure, in the joint names of the Contractor and the procuring agency, against liabilities for death of or injury to any person (other than as provided in Clause 24) or loss of or damage to any property (other than the works) arising out of the performance of the Contract, other than the exceptions defined in paragraphs (a), (b) and (c) of sub-clause 22.2.

**23.2 Minimum Amount of Insurance**

Such insurance shall be for at least the amount stated in the Appendix to Tender.

**23.4 Cross Liabilities**

The insurance policy shall include a cross liability clause such that the insurance shall apply to the Contractor and to the procuring agency as separate insured.

**24.1 Accident or Injury to Workmen**

Procuring agency shall not be liable for or in respect of any damages or compensation payable to any workman or other person in the employment of the Contractor or any Subcontractor, other than death or injury resulting from any act or default of the procuring agency, his agents or servants. The Contractor shall indemnify and keep indemnified the procuring agency against all such damages and compensation, other than those for which the procuring agency is liable as aforesaid, and against all claims, proceedings, damages, costs, charges, and expenses whatsoever in respect thereof or in relation thereto.

**24.2 Insurance against Accident to Workmen**

The Contractor shall insure against such liability and shall continue such insurance during the whole of the time that any persons are employed by him on the works. Provided that, in respect of any persons employed by any Subcontractor, the Contractor's obligations to insure as aforesaid under the sub-clause shall be satisfied if the Subcontractor shall have insured against the liability in respect of such persons in such manner that the procuring agency is indemnified under the policy, but the Contractor shall require such Subcontractor to produce to the procuring agency, when required, such policy of insurance and the receipt for the payment of the current premium.

**25.1 Evidence and Terms of Insurances**

The Contractor shall provide evidence to the procuring agency prior to the start of work at the site that the insurances required under the Contract have been effected and shall, within 84 days of the Commencement Date, provide the insurance policies to the procuring agency. When providing such evidence and such policies to the procuring agency, the Contractor shall notify the Engineer of so doing. Such insurance policies shall be consistent with the general terms agreed prior to the issue of the Letter of Acceptance. The Contractor shall effect all insurance for which he is responsible with insurers and in terms approved by the procuring agency.

## **25.2 Adequacy of Insurance**

The Contractor shall notify the insurers of changes in the nature, extent or programme for the execution of the works and ensure the adequacy of the insurances at all times in accordance with the terms of the Contract and shall, when required, produce to the procuring agency the insurance policies in force and the receipts for payment of the current premiums.

## **25.3 Remedy on Contractor's Failure to Insure**

If the Contractor fails to effect and keep in force any of the insurances required under the Contract, or fails to provide the policies to the procuring agency within the period required by Sub-Clause 25.1, then and in any such case the procuring agency may effect and keep in force any such insurances and pay any premium as may be necessary for that purpose and from time to time deduct the amount so paid from any monies due or to become due to the Contractor, or recover the same as a debt due from the Contractor.

## **25.4 Compliance with Policy Conditions**

In the event that the Contractor or the procuring agency fails to comply with conditions imposed by the insurance policies affected pursuant to the Contract, each shall indemnify the other against all losses and claims arising from such failure.

## **26.1 Compliance with Statutes, Regulations**

The Contractor shall conform in all respects, including by the giving of all notices and the paying of all fees, with the provisions of:

- (a) any National or State Statute, Ordinance, or other Law, or any regulation, or bye-law of any local or other duly constituted authority in relation to the execution and completion of the works and the remedying of any defects therein, and
- (b) the rules and regulations of all public bodies and companies whose property or rights are affected or may be affected in any way by the works, and the Contractor shall keep the procuring agency indemnified against all penalties and liability of every kind for breach of any such provisions. Provided always that the procuring agency shall be responsible for obtaining any planning zoning or other similar permission required for the works to proceed and shall indemnify the Contractor in accordance with Sub-Clause 22.3.

## **27.1 Fossil**

All fossils, coins, articles of value or antiquity and structures and other remains or things of geological or archaeological interest discovered on the site shall, as between the procuring agency and the Contractor, be deemed to be the absolute property of the procuring agency. The Contractor shall take reasonable precautions to prevent his workmen or any other persons from removing or damaging any such article or thing and shall, immediately upon discovery thereof and before removal, acquaint the Engineer of such discovery and carry out the Engineer's instructions for dealing with the same. If, by reason of such instructions, the Contractor suffers delay and/or incurs costs then the Engineer shall, after due consultation with the procuring agency and the Contractor, determine:

- (a) any extension of time to which the Contractor entitled under Clause 44, and
- (b) the amount of such costs, which shall be added to the Contract Price, and shall notify the Contractor accordingly, with a copy to the procuring agency.

#### **28.1 Patent Rights**

The Contractor shall save harmless and indemnify the procuring agency from and against all claims and proceedings for or on account of infringement of any patent rights, design trademark or name or other protected rights in respect of any Contractor's Equipment, materials or Plant used for or in connection with or for incorporation in the works and from and against all damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto, except where such infringement results from compliance with the design or Specification provided by the Engineer.

#### **28.2 Royalties**

Except where otherwise stated, the Contractor shall pay all tonnage and other royalties, rent and other payments or compensation, if any, for getting stone, sand, gravel, clay or other materials required for the works.

#### **29.1 Interference with Traffic and Adjoining Properties**

All operations necessary for the execution and completion of the works and the remedying of any defects therein shall, so far as compliance with the requirements of the Contract permits, be carried on so as not to interfere unnecessarily or improperly with:

- (a) the convenience of the public, or
- (b) the access to, use and occupation of public or private roads and footpaths to or of properties whether in the possession of the procuring agency or of any other person

The Contractor shall save harmless and indemnify the procuring agency in respect of all claims, proceedings, damages, costs, charges and expenses whatsoever arising out of, or in relation to, any such matters insofar as the Contractor is responsible therefore.

#### **30.1 Avoidance of Damage to Roads**

The Contractor shall use every reasonable means to prevent any of the roads or bridges communicating with or on the routes to the site from being damaged or injured by any traffic of the Contractor or any of his Subcontractors and, in particular, shall select routes, choose and use vehicles and restrict and distribute loads so that any such extraordinary traffic as will inevitably arise from the moving of materials, Plant,

Contractor's Equipment or Temporary Works from and to the site shall be limited, as far as reasonably possible, and so that no unnecessary damage or injury may be occasioned to such roads and bridges.

### **30.2 Transport of Contractor's Equipment or Temporary Works**

Save insofar as the Contract otherwise provides, the Contractor shall be responsible for and shall pay the cost of strengthening any bridges or altering or improving any road communicating with or on the routes to the site to facilitate the movement of Contractor's Equipment or Temporary Works and the contractor shall indemnify and keep indemnified the procuring agency against all claims for damage to any such road or bridge caused by such movement, including such claims as may be made directly against the procuring agency, and shall negotiate and pay all claims arising solely out of such damage.

### **30.3 Transport of Materials or Plant**

If, notwithstanding Sub-Clause 30.1, any damages occurs to any bridge or road communicating with or on the routes to the site arising from the transport of materials or Plant, the Contractor shall notify the Engineer with a copy to the procuring agency, as soon as he becomes aware of such damage or as soon as he receives any claim from the authority entitled to make such claim. Where under any law or regulation the hauler of such materials or Plant is required to indemnify the road authority against damage the procuring agency shall not be liable for any costs, charges or expenses in respect thereof or in relation thereto. In other cases the procuring agency shall negotiate the settlement of and pay all sums due in respect of such claim and shall indemnify the Contractor in respect thereof and in respect of all claims, proceedings damages, costs, charges and expenses in relation thereto. Provided that if and so far as any such claim or part thereof is, in the opinion of the Engineer, due to any failure on the part of the Contractor to observe and perform his obligations under sub-clause 30.1, then the amount determined by the Engineer, after due consultation with the procuring agency and the Contractor, to be due to such failure shall be recoverable from the Contractor by the procuring agency and may be deducted by the procuring agency from any monies due or to become due to the Contractor and the Engineer shall notify the Contractor accordingly, with a copy to the procuring agency. Provided also that the procuring agency shall notify the Contractor whenever a settlement is to be negotiated and, where any amount may be due from the Contractor, the procuring agency shall consult with the Contractor before such settlement is agreed.

### **30.4 Waterborne Traffic**

Where the nature of the works is such as to require the use by the Contractor of waterborne transport the foregoing provisions of this Clause shall be construed as though "road" included a lock, dock, sea wall or other structure related to a waterway and "vehicle" included craft, and shall have effect accordingly.

### **31.1 Opportunities for Other Contractors**

The Contractor shall, in accordance with the requirements of the Engineer, afford all reasonable opportunities for carrying out their work to:

- (a) any other contractor employed by the procuring agency and their workmen,
- (b) the workmen of the procuring agency, and
- (c) the workmen of any duly constituted authorities who may be employed in the execution on or near the site of any work not included in the Contract or of any contract which the procuring agency may enter into in connection with or ancillary to the works.

### **31.2 Facilities for Other Contractors**

If, however, pursuant to sub-clause 31.1 the Contractor shall, on the written request of the Engineer:

- (a) make available to any other contractor, or to the procuring agency or any such authority, any roads or ways for the maintenance of which the Contractor is responsible,
- (b) permit the use, by any such, of Temporary Works or Contractor's Equipment on the site, or
- (c) provide any other service of whatsoever nature for any such, the Engineer shall determine an addition to the Contract Price in accordance with Clause 52 and shall notify the Contractor accordingly, with a copy to the procuring agency.

### **32.1 Contractor to Keep Site Clear**

During the execution of the works the Contractor shall keep the site reasonably free from all unnecessary obstruction and shall store or dispose of any Contractor's Equipment and surplus materials and clear away and remove from the site any wreckage, rubbish or Temporary Works no longer required.

### **33.1 Clearance of Site on Completion**

Upon the issue of any Taking-Over Certificate the Contractor shall clear away and remove from the part of the site to which such Taking-Over Certificate relates all Contractor's Equipment, surplus materials, rubbish and Temporary Works of every kind, and leave such part of the site and works clean and in a workmanlike condition to the satisfaction of the Engineer. Provided that the Contractor shall be entitled to retain on site, until the end of the Defect Liability Period, such materials, Contractor's Equipment and Temporary Works as are required by him for the purpose of fulfilling his obligations during the Defects Liability Period.

## **Labour**

### **34.1 Engagement of Staffs and Labour**

The Contractor shall, unless otherwise provided in the Contract, make his own arrangements for the engagement of all staff and labour, local or other, and for their payment, housing, feeding and transport.

### **35.1 Returns of Labour and Contractor's Equipment**

The Contractor shall, if required by the Engineer, deliver to the Engineer a return in detail, in such form and at such intervals as the Engineer may prescribe, showing the staff and numbers of the several classes of labour from time to time employed by the Contractor on the site and such information respecting Contractor's Equipment as the Engineer may require.

## **Materials, Plant and Workmanship**

### **36.1 Quality of Materials, Plant and Workmanship**

All materials, Plant and workmanship shall be:

- (a) of the respective kinds described in the Contract and in accordance with the Engineer's instructions, and
- (b) Subjected from time to time to such tests as the Engineer may require at the place of manufacture, fabrication or preparation, or on the site or at such other place or places as may be specified in the Contract, or at all or any of such places.

The Contractor shall provide such assistance, labour, electricity, fuels, stores, apparatus and instruments as are normally required for examining, measuring and testing any materials or Plant and shall supply samples of materials, before incorporation in the works, for testing as may be selected and required by the Engineer.

### **36.2 Cost of Samples**

All samples shall be supplied by the Contractor at his own cost if the supply thereof is clearly intended by or provided for in the Contract.

### **36.3 Cost of Tests**

The cost of making any test shall be borne by the Contractor if such test is:

- (a) clearly intended by or provided for in the Contract, or
- (b) particularized in the Contract (in cases only for a test under load or a test to ascertain whether the design of any finished or partially finished work is appropriate for the purposes which it was intended to fulfill) in sufficient detail to enable the Contractor to price or allow for the same in his Tender.

#### **36.4 Cost of Tests not provided for**

If any test required by the Engineer which is:

- (a) not intended by or provided for,
- (b) (in the case above mentioned) not so particularized, or
- (c) (through so intended or provided for) required by the Engineer to be carried out at any place other than the site or the place of manufacture, fabrication or preparation of the materials or Plant tested, shows the materials, Plant or workmanship not to be in accordance with the provisions of the Contract to the satisfaction of the Engineer, then the cost of such test shall be borne by the Contractor, but in any other case Sub-Clause 36.5 shall apply.

#### **36.5 Engineer's Determination where Tests not provide for**

Where, pursuant to Sub-Clause 36.4, this Sub-Clause applies the Engineer shall, after due consultation with the procuring agency and the Contractor, determine:

- (a) any extension of time of which the Contractor is entitled under Clause 44, and
- (b) the amount of such costs, which shall be added to the Contract Price, and shall notify the Contractor accordingly, with a copy to the procuring agency.

#### **37.1 Inspection of Operations**

The Engineer, and any person authorized by him, shall at all reasonable times have access to the site and to all workshops and places where materials or Plant are being manufactured, fabricated or prepared for the works and the Contractor shall afford every facility for and every assistance in obtaining the right to such access.

#### **37.2 Inspection and Testing**

The Engineer shall be entitled, during manufacture, fabrication or preparation to inspect and test the materials and Plant to be supplied under the Contract. If materials or Plant are being manufactured, fabricated or prepared in workshops or places other than those of the Contractor, the Contractor shall obtain permission for the Engineer to carry out such inspection and testing in those workshops or places. Such inspection or testing shall not release the Contractor from any obligation under the Contract.

#### **37.3 Dates for Inspection and Testing**

The Contractor shall agree with the Engineer on the time and place for the inspection or testing of any materials or Plant as provided in the Contract. The Engineer shall give the Contractor not less than 24 hours notice of his intention to carry out the inspection or to attend the tests. If the Engineer, or his duly authorized representative, does not attend on the date agreed, the Contractor may, unless otherwise instructed by the Engineer, proceed with the tests, which shall be deemed to have been made in the presence of the Engineer. The Contractor shall forthwith forward to the Engineer duly certified copies of the tests readings. If the Engineer has not attended the tests, he shall accept the said readings as accurate.



#### **37.4 Rejection**

If, at the time and place agreed in accordance with Sub-Clause 37.3, the materials or Plant are not ready for inspection or testing or if, as a result of the inspection or testing referred to in this Clause, the Engineer determines that the materials or Plant are defective or otherwise not in accordance with the Contract, he may reject the materials or Plant and shall notify the Contractor thereof immediately. The notice shall state the Engineer's objections with reasons. The Contractor shall then promptly make good the defect or ensure that rejected materials or Plant comply with the Contract. If the Engineer so requests, the tests of rejected materials or Plant shall be made or repeated under the same terms and conditions. All costs incurred by the procuring agency by the repetition of the test shall after due consultation with the procuring agency and the Contractor, be determined by the Engineer shall notify the Contractor accordingly, with a copy to the procuring agency.

#### **37.5 Independent Inspection**

The Engineer may delegate inspection and testing of materials or Plant to an independent inspector. Any such delegation shall be effected in accordance with Sub-Clause 2.4 and for this purpose such independent inspector shall be considered as an assistant of the Engineer. Notice of such appointment (not being less than 14 days) shall be given by the Engineer to the Contractor.

#### **38.1 Examination of Work before Covering up**

No part of the works shall be covered up or put out of view without the approval of the Engineer and the Contractor shall afford full opportunity for the Engineer to examine and measure any such part of the works which is about to be covered up or put out of view and to examine foundations before any part of the works is placed thereon. The Contractor shall give notice to the Engineer whenever any such part of the works or foundations is or are ready or about to be ready for examination and the Engineer shall, without unreasonably delay, unless he considers it unnecessary and advises the Contractor accordingly, attend for the purpose of examining and measuring such part of the works or of examining such foundations.

#### **38.2 Uncovering and Making Openings**

The Contractor shall uncover any part of the works or make openings in or through the same as the Engineer may from time to time instruct and shall reinstate and make good such part. If any such part has been covered up or put out of view after compliance with the requirement of Sub-Clause 38.1 and is found to be executed in accordance with the Contract, the Engineer shall, after due consultation with the procuring agency and the Contractor, determine the amount the Contractor's costs in respect of such of uncovering, making openings in or through, reinstating and making good the same, which shall be added to the Contract Price, and shall notify the Contractor accordingly, with a copy to the procuring agency. In any other case all costs shall be borne by the Contractor.

### **39.1 Removal of Improper Work, Materials or Plant**

The Engineer shall have authority to issue instructions from time to time, for:

- (a) the removal from the site, within such time or times as may be specified in the instruction, of any materials or Plant which, in the opinion of the Engineer, are not in accordance with the Contract,
- (b) the substitution of proper and suitable materials or Plant, and
- (c) the removal and proper re-execution, notwithstanding any previous test thereof or interim payment there for, of any work which, in respect of
  - (i) materials Plant or workmen ship, or
  - (ii) design by the Contractor or for which he is responsible, is not, in the opinion of the Engineer, in accordance with the Contract.

### **39.2 Default of Contractor in Compliance**

In case of default on the part of Contractor in carrying out such instruction within the time specified therein or, if none, within a reasonable time, the procuring agency shall be entitled to employ and pay other persons to carry out the same and all costs consequent thereon or incidental thereto shall, after due consultation with the procuring agency and the Contractor, be determined by the Engineer and shall be recoverable from the Contractor by the procuring agency, and may be deducted by the procuring agency from any monies due or to become due to the Contractor and the Engineer shall notify the Contractor accordingly, with a copy to the procuring agency.

## **Suspension**

### **40.1 Suspension of Work**

The Contractor shall, on the instructions of the Engineer, suspend the progress of the works or any part thereof for such time and in such manner as the Engineer may consider necessary and shall, during such suspension, properly protect and secure the works or such part thereof so far as is necessary in the opinion of the Engineer. Unless such suspension is:

- (a) otherwise provided for in the Contract,
- (b) necessary by reason of some default of or breach of contract by the Contractor or for which he is responsible,
- (c) necessary by reason of climatic conditions of the site, or

- (d) necessary for the proper execution of the works or for the safety of the works or any part thereof (save to the extent that such necessity arises from any act or default by the Engineer or the procuring agency or from any of the risks defined in sub-clause 20.4), sub-clause 40.2 shall apply.

#### **40.2 Engineer's Determination following Suspension**

Where, pursuant to Sub-Clause 40.1, this Sub-Clause applies the Engineer shall, after due consultation with the procuring agency and the Contractor, determine:

- (a) any extension of time to which the Contractor is entitled under Clause 44, and
- (b) the amount, which shall be added to the Contract Price, in respect of the cost incurred by the Contractor by reason of such suspension, and shall notify the Contractor accordingly, with a copy to the procuring agency.

#### **40.3 Suspension lasting more than 84 Days**

If the progress of the works or any part thereof is suspended on the written instructions of the Engineer and if permission to resume work is not given by the Engineer within a period for 84 days from the date of suspension then, unless such suspension is within paragraph (a), (b), (c) or (d) of sub-clause 40.1, the Contractor may give notice to the Engineer requiring permission, within 28 days from the receipt thereof, to proceed with the works or that part thereof in regard to which progress is suspended. If, within the said time, such permission is not granted, the Contractor may, but is not bound to, elect to treat the suspension, where it affects part only of the works, as an omission of such part under Clause 51 by giving a further notice to the Engineer to that effect, or, where it affects the whole of the works, treat suspension as an event of default by the procuring agency and terminates his employment under the Contract in accordance with the provisions of Sub-Clause 69.1, whereupon the provisions of sub-clause 69.2 and 69.3 shall apply.

### **Commencement and Delays**

#### **41.1 Commencement of Works**

The Contractor shall commence the works as soon as is reasonably possible after the receipt by him of notice to this effect from the Engineer, which notice shall be issued within the time stated in the Appendix to tender after the date of the Letter of Acceptance. Thereafter, the Contractor shall proceed with the works with due expedition and without delay.

#### **42.1 Possession of Site and Access Thereto**

Save insofar as the Contract may prescribe:

- (a) the extent of portions of the site of which the Contractor is to be given possession from time to time,

- (b) the order in which such portions shall be made available to the Contractor, and, subject to any requirement in the Contract as to the order in which the works shall be executed, the procuring agency will, with the Engineer's notice to commence the works give to the Contractor possession of
- (c) so much of the site, and
- (d) such access as, in accordance with the Contract, is to be provided by the procuring agency as may be required to enable the Contractor to commence and proceed with the execution of the works in accordance with the programme referred to in Clause 14, if any, and otherwise in accordance with such reasonable proposals as the Contractor shall, by notice to the Engineer with a copy to the procuring agency, make. Procuring agency will, from time to time as the works proceed, give to the Contractor possession of such further portions of the site as may be required to enable the Contractor to proceed with the execution of the works with due dispatch in accordance with such programme or proposals, as the case may be.

#### **42.2 Failure to Give Possession**

If the Contractor suffers delay and/or incurs costs from failure on the part of the procuring agency to give possession in accordance with the terms of Sub-Clause 42.1, the Engineer shall, after due consultation with the procuring agency and the Contractor, determine:

- (a) any extension of time to which the Contractor is entitled under Clause 44, and
- (b) the amount of such costs, which shall be added to the Contract Price, and shall notify the Contractor accordingly, with a copy to the procuring agency.

#### **42.3 Rights of Way and Facilities**

The Contractor shall bear all costs and charges for special or temporary way leaves required by him in connection with access to the site. The Contractor shall also provide at his own cost any additional facilities outside the site required by him for the purposes of the works.

#### **43.1 Time for Completion**

The whole of the works and, if applicable, any Section required to be completed within a particular time as stated in the Appendix to Tender, shall be completed, in accordance with the provisions of Clause 48, within the time stated in the Appendix to Tender for the whole of the works or the Section (as the case may be), calculated from the Commencement Date, or such extended time as may be allowed under Clause 44.

#### **44.1 Extension of Time for Completion**

In the event of:

- (a) the amount or nature of extra or additional work,
- (b) any cause of delay referred to in these Conditions
- (c) exceptionally adverse climatic conditions,
- (d) any delay, impediment or prevention by the procuring agency, or
- (e) other special circumstances which may occur, other than through a default of or breach of contract by the Contractor or for which he is responsible, being such as fairly to entitle the Contractor to an extension of the Time for completion of the works, or any Section or part thereof, the Engineer shall, after due consultation with the procuring agency and the Contractor, determine the amount of such extension and shall notify the Contractor accordingly, with a copy to the procuring agency.

#### **44.2 Contractor to Provide Notification and Detailed Particulars**

Provided that the Engineer is not bound to make any determination unless the Contractor has

- (a) within 28 days after such event has first arisen notified the Engineer with a copy to the procuring agency, and
- (b) within 28 days or such other reasonable time as may be agreed by the Engineer, after such notification submitted to the Engineer detailed particulars of any extension of time to which he may consider himself entitled in order that such submission may be investigated at the time.

#### **44.3 Interim Determination of Extension**

Provided also that where an event has a continuing effect such that it is not practicable for the Contractor to submit detailed particulars within the period of 28 days referred to in Sub-Clause 44.2(b), he shall nevertheless be entitled to an extension of time provided that he has submitted to the Engineer interim particulars at intervals of not more than 28 days and final particulars within 28 days of the end of the effects resulting from the event. On receipt of such interim particulars, the Engineer shall, without undue delay, make an interim determination of extension of time and, on receipt of the final particulars, the Engineer shall review all the circumstances and shall determine an overall extension of time in regard to the event. In both such cases the Engineer shall make his determination after due consultation with the procuring agency and the Contractor and shall notify the Contractor of the determination, with a copy to the procuring agency. No final review shall result in a decrease of any extension of time already determined by the Engineer.

#### **45.1 Restriction on Working Hours**

Subject to any provision to the contrary contained in the Contract, none of the works shall, save as hereinafter provided, be carried on during the night or on locally recognized days of rest without the consent of the Engineer, except when work is unavoidable or absolutely necessary for the saving of life or property or for the safety of the works, in which case the Contractor shall immediately advise the Engineer. Provided that the provisions of this Clause shall not be applicable in the case of any work which it is customary to carry out by multiple shift.

#### **46.1 Rate of Progress**

If for any reason, which does not entitle the Contractor to an extension of time, the rate of progress of the works or any Section is at any time, in the opinion of the Engineer, too slow to comply with the Time for Completion, the Engineer shall so notify the Contractor who shall thereupon take such steps as are necessary, subject to the consent of the Engineer, to expedite progress so as to comply with the Time for Completion. The Contractor shall not be entitled to any additional payment for taking such steps. If, as a result of any notice given by the Engineer under this Clause, the Contractor considers that it is necessary to do any work at night or on locally recognized days of rest, he shall be entitled to seek the consent of the Engineer so to do. Provided that if any steps, taken by the Contractor in meeting his obligations under this Clause, involve the procuring agency in additional supervision costs, such cost shall, after due consultation with the procuring agency and the Contractor, be determined by the Engineer and shall be recoverable from the Contractor by the procuring agency, and may be deducted by the procuring agency from any monies due or to become due to the Contractor and the Engineer shall notify the Contractor accordingly, with a copy to the procuring agency.

#### **47.1 Liquidated Damages for Delay**

If the Contractor fails to comply with the Time for Completion in accordance with Clause 48, for the whole of the works or, if applicable, any Section within the relevant time prescribed by Clause 48, the Contractor shall pay to the procuring agency the relevant sum stated in the Appendix to Tender as liquidated damages for such default and not as a penalty (which sum shall be the only monies due from the Contractor for such default) for every day or part of a day which shall elapse between the relevant Time for Completion and the date stated in Taking-Over Certificate of the whole of the works or the relevant Section, subject to the applicable limit stated in the Appendix to Tender. Procuring agency may, without prejudice to any other method of recovery, deduct the amount of such damages from any monies due or to become due to the Contractor. The payment or deduction of such damages shall not relieve the Contractor from his obligation to complete the works, or from any other of his obligations and liabilities under the Contract.

#### **47.2 Reduction of Liquidated Damages**

If, before the Time for Completion of the whole of the works or, if applicable, any Section, a Taking-Over Certificate has been issued for any part of the works or of a Section, the liquidated damages for delay in completion of the remainder of the works or of that Section shall, for any period of delay after the date stated in such Taking-Over Certificate, and in the absence of Alternative provisions in the Contract, be reduced in the proportion which the value of the part so certified bears to the value of the whole of the works or Section, as applicable. The provisions of this Sub-Clause shall only apply to the rate of liquidated damages and shall not affect the limit thereof.

#### **48.1 Taking-Over Certificate**

When the whole of the works have been substantially completed and have satisfactorily passed any Tests on Completion prescribed by the contract, the contractor may give a notice to that effect to the Engineer with a copy to the procuring agency, accompanied by a written undertaking to finish with due expedition any outstanding work during the Defects Liability Period. Such notice and undertaking shall be deemed to be a request by the contractor for the Engineer to issue a Taking-Over Certificate in respect of the works. The Engineer shall within 21 days of the date of delivery of such notice, either issue to the contractor, with a copy to the procuring agency, a Taking-Over Certificate, stating the date on which, in his opinion, the works were substantially completed in accordance with the contract, or give instructions in writing to the contractor specifying all the work which, in the Engineer's opinion, is required to be done by the contractor before the issue of such certificate. The Engineer shall also notify the contractor of any defect in the works affecting substantial completion that may appear after such instructions and before completion of the works specified therein. The contractor shall be entitled to receive such Taking-Over Certificate within 21 days of completion, to the satisfaction of the Engineer, of the works so specified and remedying any defects so notified.

#### **48.2 Taking Over of Sections or Parts**

Similarly, in accordance with the procedure set out in Sub-Clause 48.1, the Contractor may request the Engineer shall issue a Taking-Over Certificate in respect of:

- (a) any Section in respect of which a separate Time for Completion is provided in the Appendix to Tender,
- (b) any substantial part of the Permanent Works which has been both completed to the satisfaction of the Engineer and, otherwise than as provided for in the Contract, occupied or used by the procuring agency, or
- (c) any part of the Permanent Works which the procuring agency has elected to occupy or use prior to completion (where such prior occupation or use is not provided for in the Contract or has not been agreed by the Contractor as a temporary measure).

#### **48.3 Substantial Completion of Parts**

If any part of the Permanent Works has been substantially completed and has satisfactorily passed any Tests on Completion prescribed by the Contractor, the Engineer may issue a Taking-Over Certificate in respect of that part of the Permanent Works before completion of the whole of the works and, upon the issue of such Certificate, the Contractor shall be deemed to have undertaken to complete with due expedition any outstanding work in that part of the Permanent Works during the Defects Liability Period.

#### **48.4 Surfaces Requiring Reinstatement**

Provided that a Taking-Over Certificate give in respect of any Section or part of the Permanent Works before completion of the whole of the works shall not be deemed to certify completion of any ground or surfaces requiring reinstatement, unless such Taking-Over Certificate shall expressly so state.

### **Defects Liability**

#### **49.1 Defect Liability Period**

In these Conditions the expression “Defects Liability Period” shall mean the defects liability period named in the Appendix to Tender, calculated from:

- (a) the date of completion of the works certified by the Engineer in accordance with Clause 48, or
- (b) in the even of more than one certificate having issued by the Engineer under Clause 48, the respective dates so certified, and in relation to the Defects Liability Period the expression “the Works” shall be construed accordingly.

#### **49.2 Completion of Outstanding Work and Remedying Defects**

To the intent that the works shall, at or as soon as practicable after the expiration of the Defects Liability Period, be delivered to the procuring agency in the condition required by the Contract, fair wear and tear excepted, to the satisfaction of the Engineer, the Contractor shall:

- (a) complete the work, if any, outstanding on the date stated in the Taking-Over Certificate as soon as practicable after such date, and
- (b) execute all such work of amendment, reconstruction, and remedying defects, shrinkages or other faults as the Engineer may, during the Defects Liability Period or within 14 days after its expiration, as a result of an inspection made by or on behalf of the Engineer prior to its expiration, instruct the Contractor to execute.

#### **49.2 Cost of Remedying Defects**

All work referred to in Sub-Clause 49.2(b) shall be executed by the Contractor at his own cost if the necessity thereof is, in the opinion of the Engineer, due to:

- (a) the use of materials, Plant or workmanship not in accordance with the Contract,
- (b) where the Contractor is responsible for the design of part of the Permanent Works, any fault in such design, or
- (c) the neglect or failure on the part of the Contractor to comply with any obligation, expressed or implied, on the Contractor’s part under the Contract.

If, in the opinion of the Engineer, such necessity is due to any other cause, he shall



determine an addition to the Contract Price in accordance with Clause 52 and shall notify the Contractor accordingly, with a copy to the procuring agency.

#### **49.3 Contractor's Failure to Carry Out Instructions**

In case of default on the part of the Contractor in carrying out such instruction within a reasonable time, the procuring agency shall be entitled to employ and pay other persons to carry out the same and if such work is work which, in the opinion of the Engineer, the Contractor was liable to do at his own cost under the Contract, then all cost consequent thereon or incidental thereto shall, after due consultation with the procuring agency and the Contractor, be determined by the Engineer and shall be recoverable from the Contractor by the procuring agency, and may be deducted by the procuring agency from any monies due or to become due to the Contractor and the Engineer shall notify the Contractor accordingly, with a copy to the procuring agency.

#### **50.1 Contractor to Search**

If any defect, shrinkage or other fault in the works appears at any time prior to the end of the Defects Liability Period, the Engineer may instruct the Contractor, with a copy to the procuring agency, to search under the directions of the Engineer for the cause thereof. Unless such defect, shrinkage or other fault is one for which the Contractor is liable under the Contract, the Engineer shall, after due consultation with the procuring agency, and the Contractor, determine the amount in respect of the costs of such search incurred by the Contractor, which shall be added to the Contract Price and shall notify the Contractor accordingly, with a copy to the procuring agency. If such defect, shrinkage or other fault is one for which the Contractor is liable, the cost of the work carried out in searching as aforesaid shall be borne by the Contractor and he shall in such case remedy such defect, shrinkage or other fault at his own cost in accordance with the provisions of Clause 49.

### **Alterations, Additions and Omissions**

#### **51.1 Variations**

The Engineer shall make any variation of the form, quality or quantity of the works or any part thereof that may, in his opinion, be necessary and for that purpose, or if for any other reason it shall, in his opinion, be appropriate, he shall have the authority to instruct the Contractor to do and the Contractor shall do any of the following:

- (a) increase or decrease the quantity of any work included in the Contract,
- (b) omit any such work (but not if the omitted work is to be carried out by the procuring agency or by another contractor),
- (c) change the character or quality or kind of any such work,
- (d) change the levels, lines, position and dimensions of any part of the works,
- (e) execute additional work of any kind necessary for the completion of the works, or
- (f) change any specified sequence or timing of construction of any part of the works.

No such variation shall in any way vitiate or invalidate the Contract, but the effect, if any, of all such variations shall be valued in accordance with Clause 52. Provided that where the issue of an instruction to vary the works is necessitated by some default of or breach of contract by the Contractor or for which he is responsible, any additional cost attribute to such default shall be borne by the Contractor.

#### **51.2 Instructions for Variations**

The Contractor shall not make any such variation without an instruction of the Engineer. Provided that no instruction shall be required for increase or decrease in the quantity of any work where such increase or decrease is not the result of an instruction given under this Clause, but is the result of the quantities exceeding or being less than those stated in the Bill of Quantities.

#### **52.1 Valuation of Variations**

All variations referred to in Clause 51 and any additions to the Contract Price which are required to be determined in accordance with Clause 52 (for the purposes of this Clause referred to as “varied work”), shall be valued at the rates and prices set out in the Contract if, in the opinion of the Engineer, the same shall be applicable. If the Contract does not contain any rates or prices applicable e to the varied work, the rates and prices in the Contract shall be used as the basis for valuation so far as may be reasonable, failing which, after due consultation by the Engineer with the procuring agency and the Contractor, suitable rates or prices shall be agreed upon between the Engineer and the Contractor. IN the even of disagreement the Engineer shall fix such rate or prices as are, in his opinion, appropriate and shall notify the Contractor accordingly, with a copy to the procuring agency. Until such time as rates or prices are agreed or fixed, the Engineer shall determine provisional rates or prices to enable on-account payments to be included in certificates issued in accordance with Clause 60.

#### **52.2 Power of Engineer to Fix Rates**

Provided that if the nature or amount of any varied work relative to the nature or amount of the whole of the works or to any part thereof, is such that, in the opinion of the Engineer, the rate or price contained in the Contract for any item of the work is, by reason of such varied work, rendered inappropriate or inapplicable, then, after due consultation by the Engineer with the procuring agency and the Contractor, a suitable rate or price shall be agreed upon between the Engineer and the Contractor. In the event of disagreement the Engineer shall fix such other rate or price as is, in his opinion, appropriate and shall notify the Contractor accordingly, with a copy to the procuring agency. Until such time as rates or prices are agreed or fixed, the Engineer shall determine provisional rates or prices to enable on-account payments to be included in certificates issued accordance with Clause 60.

Provided also that no varied work instructed to be done by the Engineer pursuant to Clause 51 shall be valued under Sub-Clause 52.1 or under this Sub-Clause unless, within 14 days of the date of such instruction and, other than in the case of omitted work, before the commencement of the varied work, notice shall have been given either:

- (a) by the Contractor to the Engineer of his intention to claim extra payment or a varied rate or price, or
- (b) by the Engineer to the Contractor of his intention to vary a rate or price.

### **52.3 Variations Exceeding 15 per cent**

If on the issue of the Taking-Over Certificate for the whole of the works, it is found that as a result of:

- (a) all varied work valued under Sub-Clauses 52.1 and 52.2, and
- (b) all adjustments upon measurement of the estimated quantities set out in the Bill of Quantities, excluding Provisional Sums, day works and adjustment of price made under Clause 70. but not from any other cause, there have been additions to or deductions from the Contract Price which taken together are in excess of 15 per cent of the “Effective Contract Price” (which for the purposes of this Sub-Clause shall mean the Contract Price, excluding Provisional Sums and allowance for day works, if any) then and in such even (subject to any action already taken under any other Sub-Clause of this Clause), after due consultation by the Engineer with the procuring agency and the Contractor, there shall be added to or deducted from the Contract Price such further sums as may be agreed between the Contractor and the Engineer or, failing agreement, determined by the Engineer having regard to the Contractor’s site and general overhead costs of the Contract. The Engineer shall notify the Contractor of any determination made under this Sub-Clause, with a copy to the procuring agency. Such sum shall be based only on the amount by which such additions or deductions shall be in excess of 15 per cent of the Effective Contract Price.

### **52.4 Day work**

The Engineer may, if in his opinion it is necessary or desirable, issue an instruction that any varied work shall be executed on a day work basis. The Contractor shall then be paid for such varied work under the terms set out in the day work schedule included in the Contract and at the rates and prices affixed thereto by him in the Tender.

The Contractor shall furnish to the Engineer such receipts or other vouchers as may be necessary to provide the amounts paid and, before ordering material, shall submit to the Engineer quotations for the same for his approval.

In respect of such of the works executed on a day work basis, the Contractor shall during the continuance of such work, deliver each day to the Engineer an exact list in duplicate of the names, occupation and time of all workmen employed on such work and a statement, also in duplicate, showing the description and quantity of all materials and Contractor’s Equipment used thereon or there for other than Contractor’s Equipment which is included in the percentage addition in accordance with such day work schedule. One copy of each list and statement will, if correct, or when agreed, be signed by the Engineer and returned to the Contractor.

At the end of each month the Contractor shall deliver to the Engineer a priced statement of the labour, materials and contractor's Equipment, except as aforesaid, used and the Contractor shall not be entitled to any payment unless such lists and statements have been fully and punctually rendered. Provided always that if the Engineer considers that for any reason the sending of such lists or statements by the Contractor, in accordance with the foregoing provision, was impracticable he shall nevertheless be entitled to authorize payment for such work, either as day work, on being satisfied as to the time employed and the labour, materials and Contractor's Equipment used on such work, or at such value there for as shall, in his opinion, be fair and reasonable.

## **Procedure for Claims**

### **53.1 Notice of Claims**

Notwithstanding any other provision of the Contract, if the Contractor intends to claims any additional payment pursuant to any Clause of these Conditions or otherwise, he shall give notice of his intention to the Engineer with a copy to the procuring agency, within 28 days after the event giving rise to the claim has first arisen.

### **53.2 Contemporary Records**

Upon the happening of the event referred to in Sub-Clause 53.1, the Contractor shall keep such contemporary records as may reasonably be necessary to support any claim he may subsequently wish to make. Without necessarily admitting the procuring agency's liability, the Engineer shall, on receipt of a notice under Sub-Clause 53.1, inspect such contemporary records and may instruct the Contractor to keep any further contemporary records as are reasonable and may be material to the claim of which notice has been given. The Contractor shall permit the Engineer to inspect all records kept pursuant to this Sub-Clause and shall supply him with copies thereof as and when the Engineer so instructs.

### **53.3 Substantiation of Claims**

Within 28 days, or such other reasonable time as may be agreed by the Engineer, of giving notice under Sub-Clause 53.1, the Contractor shall send to the Engineer an account giving detailed particulars of the amount claimed and the grounds upon which the claim is based. Where the event giving rise to the claim has a continuing effect, such account shall be considered to be an interim account and the Contractor shall, at such intervals as the Engineer may reasonably require, send further interim accounts giving the accumulated amount of the claim and any further grounds upon which it is based. In cases where interim accounts are sent to the Engineer, the Contractor shall send a final account within 28 days of the end of the effects resulting from the event. The Contractor shall, if required by the Engineer so to do, copy to the procuring agency all accounts sent to the Engineer pursuant to this Sub-Clause.

#### **53.4 Failure to Comply**

If the contractor fails to comply with any of the provisions of this Clause in respect of any claim which he seeks to make, his entitlement to payment in respect thereof shall not exceed such amount as the Engineer or any arbitrator or arbitrators appointed pursuant to Sub-Clause 67.3 assessing the claim considers to be verified by contemporary records (whether or not such records were brought to the Engineer's notice as required under Sub-Clause 53.2 and 53.3).

#### **53.5 Payment of Claims**

The Contractor shall be entitled to have included in any interim payment certified by the Engineer pursuant to Clause 60 such amount in respect of any claim as the Engineer, after due consultation with the procuring agency and the Contractor, may consider due to the Contractor provided that the Contractor has supplied sufficient particulars to enable the Engineer to determine the amount due. If such particulars are insufficient to substantiate the whole of the claim, the Contractor shall be entitled to payment in respect of such part of the claim as such particulars may substantiate to the satisfaction of the Engineer. The Engineer shall notify the Contractor of any determination made under this Sub-Clause, with a copy to the procuring agency.

### **Contractor's Equipment, Temporary Works and Materials**

#### **54.1 Contractor's Equipment, Temporary Works and Materials; Exclusive Use for the Works**

All Contractor's Equipment Temporary Works and materials provided by the Contractor shall, when brought on to the site, be deemed to be exclusively intended for the execution of the works and the Contractor shall not remove the same or any part thereof, except for the purpose of moving it from one part of the site to another, without the consent of the Engineer. Provided that consent shall not be required for vehicles engaged in transporting any staff, labour, Contractor's Equipment, Temporary Works, Plant or materials to or from the site.

#### **54.2 Procuring Agency not Liable for Damage**

Procuring agency shall not at any time be liable, save as mentioned in Clause 20 and 65, for the loss of or damage to any of the said Contractor's Equipment, Temporary Works or materials.

#### **54.3 Customs Clearance**

Procuring agency will use his best endeavors in assisting the Contractor, where required, in obtaining clearance through the Customs of Contractor's Equipment, materials and other things required for the works.

#### **54.4 Re-export of Contractor's Equipment**

In respect of any Contractor's Equipment which the Contractor has imported for the purposes of the works, the procuring agency will use his best endeavors to assist h Contractor, where required, in procuring any necessary Government consent to the re-export of such Contractor's Equipment by the Contractor upon the removal thereof pursuant to the terms of Contract.

#### **54.5 Conditions of Hire of Contractor's Equipment**

With a view to securing, in the event of termination under Clause 63, the continued availability, for the purpose of executing the works, of any hired Contractor's Equipment, the Contractor shall not bring on to the site any hired Contractor's Equipment unless there is an agreement for hire thereof (which agreement shall be deemed not to include an agreement for hire purchase) which contains a provision that the owner thereof will, on request in writing made by the procuring agency within 7 days after the date on which any termination has become effective, and on the procuring agency undertaking to pay all hire charges In respect thereof from such date, hire such Contractor's Equipment to the procuring agency on the same terms in all respect as the same was hired to the Contractor save that the procuring agency shall be entitled to permit the use thereof by any other contractor employed by him for the purpose of execution and completing the works and remedying any defects therein, under the terms of the said Clause 63.

#### **54.6 Costs for the Purpose of Clause 63**

In the event of the procuring agency entering into any agreement for the hire of Contractor's Equipment pursuant to Sub-Clause 54.5, all sums properly paid by the procuring agency under the provision of any such agreement and all costs incurred by him (including stamp duties) in entering into such agreement shall be deemed, for the purpose of Clause 63, to be part of the cost of executing and completing the works and the remedying of any defects therein.

#### **54.7 Incorporation of Clause in Subcontracts**

The Contractor shall, where entering into any subcontract for the execution of any part of the works, incorporate in such subcontract (by reference or otherwise) the provisions of this Clause in relation to Contractor's Equipment, Temporary Works or materials brought on to the site by the Subcontractor.

#### **54.8 Approval of Materials not implied**

The operation of this Clause shall not be deemed to imply any approval by the Engineer of the materials or other matters referred to therein nor shall it prevent the rejection of any such materials at any time by the Engineer.

## **Measurement**

### **55.1 Quantities**

The quantities set out in the Bill of Quantities are the estimated quantities for the works, and they are not to be taken as the actual and correct quantities of the works to be executed by the Contractor in fulfillment of his obligation under the Contract.

### **56.1 Works to be measured**

The Engineer shall, except as otherwise stated, ascertain and determine by measurement the value of the works in accordance with the Contract and the Contractor shall be paid that value in accordance with Clause 60. The Engineer shall, when he requires any part of the works to be measured, give reasonable notice to the Contractor's authorized agent, who shall:

- (a) forthwith attend or send a qualified representative to assist the Engineer in making such measurement, and
- (b) Supply all particulars required by the Engineer.

Should the Contractor not attend, or neglect or omit to send such representative, then the measurement made by the Engineer or approved by him shall be taken to be the correct measurement of such part of the works. For the purpose of measuring such Permanent Works as are to be measured by records and drawings, the Engineer shall prepare records and drawings as the work proceeds and the Contractor, as and when called upon to do so in writing, shall, within 14 days, attend to examine and agree such records and drawings with the Engineer and shall sign the same when so agreed. If the Contractor does not attend to examine and agree such records and drawings, they shall be taken to be correct. If, after examination of such records and drawings, the Contractor does not agree the same or does not sign the same as agreed, they shall nevertheless be taken to be correct, unless the Contractor, within 14 days of such examination, lodges with the Engineer notice of the respects in which such records and drawings are claimed by him to be incorrect. On receipt of such notice, the Engineer shall review the records and drawings and either confirm or vary them.

### **57.1 Method of Measurement**

The works shall be measured net, notwithstanding any general or local custom, except where otherwise provided for in the Contract.

### **57.2 Breakdown of Lump Sum Items**

For the purposes of statements submitted in accordance with Sub-Clause 60.1, the Contractor shall submit to the Engineer, within 28 days after the receipt of the Letter of Acceptance, a breakdown for each of the lump sum items contained in the Tender. Such breakdowns shall be subject to the approval of the Engineer.

## **Provisional Sums**

### **58.1 Definition of “Provisional Sums”**

“Provisional Sum” means a sum included in the Contract and so designated in the Bill of Quantities for the execution of any part of the works or for the supply of goods, materials, Plant or services, or for contingencies, which sum may be used, in whole or in part, or not at all, on the instructions of the Engineer. The Contractor shall be entitled to only such amounts in respect of the work, supply or contingencies to which such Provisional Sums relate as the Engineer shall determine in accordance with this Clause. The Engineer shall notify the Contractor of any determination made under this Sub-Clause, with a copy to the procuring agency.

### **58.2 Use of Provisional Sums**

In respect of every Provisional Sum the Engineer shall have authority to issue instructions for the execution of work or for the supply of goods, material, Plant or services by:

- (a) the Contractor, in which case the Contractor shall be entitled to an amount equal to the value thereof determined in accordance with Clause 52, and
- (b) a nominated Subcontractor, as hereinafter defined, in which case the sum to be paid to the Contractor therefore shall be determined and paid in accordance with Sub-Clause 59.4.

### **58.3 Production of Vouchers**

The Contractor shall produce to the Engineer all quotations, invoices, vouchers and accounts or receipts in connection with expenditure in respect of Provisional Sums, except where work is valued in accordance with rates or prices set out in the Tender.

## **Nominated Subcontractor**

### **59.1 Definition of “Nominated Subcontractors”**

All specialists, merchants, tradesmen and other executing any work or supplying any goods, materials, Plant or services for which Provisional Sums are included in the Contract, who may have been or be nominated or selected or approved by the procuring agency or the Engineer, and all persons to whom by virtue of the provisions of the Contract the Contractor is required to subcontract shall, in the execution of such work or the supply of such goods, materials, Plant or services, be deemed to be subcontractors to the Contractor and are referred to in this Contract as “nominated Subcontractors”.

### **59.2 Nominated Subcontractors; Objection to Nomination**

The Contractor shall not be required by the procuring agency or the Engineer, or be deemed to be under any obligation, to employ any nominated Subcontractor against whom the Contractor may raise reasonable objection or who declines to enter into subcontract with the Contractor containing provisions:



- (a) that in respect of the work, goods, materials, Plant or services the subject of the subcontract, the nominated Subcontractor will undertake towards the Contractor such obligations and liabilities as will enable the Contractor to discharge his own obligations and liabilities towards the procuring agency under the terms of the Contract and will save harmless and indemnify the Contractor from and against the same and from all claims, proceedings, damages, costs, charges and expenses whatsoever arising out of or in connection therewith, or arising out of or in connection with any failure to perform such obligations or to fulfill such liabilities, and
- (b) that the nominated Subcontractor will save harmless and indemnify the Contractor from and against any negligence by the nominated Subcontractor, his agents, workmen and servants and from and against any misuse by him or them of any Temporary Works provided by the Contractor for the purposes of the Contract and from all claims as aforesaid.

### **59.3 Design Requirements to be Expressly Stated**

If in connection with any Provisional Sum the services to be provided include any matter of design or specification of any part of the Permanent Works or of any Plant to be incorporated therein, such requirement shall be expressly stated in the Contract and shall be included in any nominated Subcontract. The nominated Subcontract shall specify that the nominated Subcontractor providing such services will save harmless and indemnify the Contractor from and against the same and from all claims, proceedings, damages, costs, charges and expense whatsoever arising out of or in connection with any failure to perform such obligations or to fulfill such liabilities.

### **59.4 Payments to Nominated Subcontractors**

For all work executed or goods, materials, Plant or services supplied by any nominated Subcontractor, the Contractor shall be entitled to:

- (a) the actual price paid or due to be paid by the Contractor, on the instructions of the Engineer, and in accordance with the subcontract;
- (b) in respect of labour supplied by the Contractor, the sum, if any, entered in the Bill of Quantities or, if instructed by the Engineer pursuant to paragraph (a) of Sub-Clause 58.2, as may be determined in accordance with Clause 52; and
- (c) in respect of all other charges and profit, a sum being a percentage rate of the actual price paid or due to be paid calculated, where provision has been made in the Bill of Quantities for a rate to be set against the relevant Provisional Sum, at the rate inserted by the Contractor against that item or, where no such provision has been made, at the rate inserted by the Contractor in the Appendix to Tender and repeated where provision for such is made in a special item provided in the Bill of Quantities for such purpose.

#### **59.5 Certification of Payments to Nominated Subcontractors**

Before issuing, under Clause 60 any certificate, which includes any payment in respect of work done or goods, materials, Plant or services supplied by any nominated Subcontractor, the Engineer shall be entitled to demand from the Contractor reasonable proof that all payments, less retentions, included in previous certificates in respect of the work or goods, materials, Plant or services of such nominated Subcontractor have been paid or discharged by the Contractor. If the Contractor fails to supply such proof then, unless the Contractor:

- (a) satisfies the Engineer in writing that he has reasonable cause for withholding or refusing to make such payments, and
- (b) produces to the Engineer reasonable proof that he has so informed such nominated Subcontractor in writing, the procuring agency shall be entitled to pay to such nominated Subcontractor direct, upon the certificate of the Engineer, all payments, less retention, provided for in the nominated Subcontract, which the Contractor has failed to make to such nominated Subcontractor and to deduct by way of set-off the amount so paid by the procuring agency from any sums due or to become due from the procuring agency to the Contractor.

Provided that, where the Engineer has certified and the procuring agency has paid direct as aforesaid, the Engineer shall in issuing any further certificate in favour of the Contractor, deduct from the amount thereof the amount so paid, direct as aforesaid, but shall not withhold or delay the issue of the certificate itself when due to be issued under the terms of the Contract.

### **Certificates and Payment**

#### **60.1 Monthly Statements**

The Contractor shall submit to the Engineer after the end of each month six copies, each signed by the Contractor's representative approved by the Engineer in accordance with the Sub-Clause 15.1, of a statement, in such form as the Engineer may from time to time prescribe, showing the amounts to which the Contractor considers himself to be entitled up to the end of the month in respect of:

- (a) the value of the Permanent Works executed,
- (b) any other items in the Bill of Quantities including those for Contractor's Equipment, Temporary Works, day works and the like
- (c) the percentage of the invoice value of listed materials, all as stated in the Appendix to Tender, and Plant delivered by the Contractor on the site for incorporation in the Permanent Works but not incorporated in such works,
- (d) adjustments under Clause 70, and
- (e) any other sum to which the Contractor may be entitled under the Contract or otherwise

## **60.2 Monthly Payments**

The Engineer shall, within 28 days of receiving such statement, certify to the procuring agency the amount of payment to the Contractor which he considers due and payable in respect thereof, subject:

- (a) firstly, to the retention of the account calculated by applying the Percentage of Retention stated in the Appendix to Tender, to the amount to which the Contractor is entitled under paragraph (a), (b), (c) and (e) of sub-clause 60.1 until the amount so retained reaches the Limit of Retention Money stated in the Appendix to Tender, and
- (b) Secondly, to the deduction, other than pursuant to Clause 47, of any sums which may have become due and payable by the Contractor to the procuring agency.

Provided that the Engineer shall not be bound to certify any payment under this Sub-Clause if the net amount thereof, after all retentions and deductions, would be less than the Minimum Amount of Interim Payment Certificates stated in the Appendix to Tender.

Notwithstanding the terms of this Clause or any other Clause of the Contract no amount will be certified by the Engineer for payment until the performance security, if required under the Contract, has been provided by the Contractor and approved by the procuring agency.

## **60.3 Payment of Retention Money**

- (a) Upon the issue of the Taking-Over Certificate with respect to the whole of the works, one half of the Retention Money, or upon the issue of a Taking-Over Certificate with respect to a Section or part of the Permanent Works only such proportion thereof as the Engineer determines having regard to the relative value of such Section or part of the Permanent Works, shall be certified by the Engineer for payment to the Contractor.
- (b) Upon the expiration of the Defects Liability Period for the works the other half of the Retention Money shall be certified by the Engineer for payment to the Contractor. Provided that, in the event of different Defects Liability Periods having become applicable to different Sections or part of the Permanent Works pursuant to Clause 48, the expression “expiration of the Defects Liability Period” shall, for the purposes of this Sub-Clause, be deemed to mean the expiration of the latest of such periods. Provided also that if at such time, there shall remain to be executed by the Contractor any work instructed, pursuant to Clause 49 and 50, in respect of the works, the Engineer shall be entitled to withhold certification until completion of such work of so much of the balance of the Retention Money as shall, in the opinion of the Engineer, represent the cost of the work remaining to be executed.

#### **60.4 Correction of Certificates**

The Engineer may by any Interim Payment Certificate make any correction or modification in any previous certificate which shall have been issued by him and shall have authority, if any work is not being carried out to his satisfaction, to omit or reduce the value of such work in any Interim Payment Certificate.

#### **60.5 Statement at Completion**

Not later than 84 days after the issue of the Taking-Over Certificate in respect of the whole of the works, the Contractor shall submit to the Engineer a Statement at Completion with supporting documents showing in detail, in the form approved by the Engineer:

- (a) the final value of all work done in accordance with the Contract up to the date stated in such Taking-Over Certificate,
- (b) any further sums which the Contractor considers to be due, and
- (c) an estimate of amounts which the Contractor considers will become due to him under the Contract.

The estimated amounts shall be shown separately in such Statement at Completion.  
The Engineer shall verify payment in accordance with Sub-Clause 60.2.

#### **60.6 Final Statement**

Not later than 56 days after the issue of the Defect Liability Certificate pursuant to Sub-Clause 62.1, the Contractor shall submit to the Engineer for consideration a draft final statement with supporting documents showing in detail, in the form approved by the Engineer:

- (a) the value of all work done in accordance with the Contract, and
- (b) any further sums which the Contractor considers to be due to him under the Contract.

If the Engineer disagrees with or cannot verify any part of the draft final statement, the Contractor shall submit such further information as the Engineer may reasonably require and shall make such changes in the draft as may be agreed between them. The Contractor shall then prepare and submit to the Engineer the final statement as agreed (for the purposes of these Conditions referred to as the "Final Statement").

If, following discussions between the Engineer and the Contractor and any changes to the draft final statement which may be agreed between them, it becomes evident that a dispute exists, the Engineer shall deliver to the procuring agency an Interim Payment Certificate for those parts of the draft final statement, if any, which are not in dispute. The dispute may then be settled in accordance with Clause 67.

#### **60.7 Discharge**

Upon submission of the Final Statement, the Contractor shall give to the procuring agency, with a copy to the Engineer, a written discharge confirming that the total of the Final Statement represents full and final settlement of all monies due to the Contractor arising out of or in respect of the Contract. Provided that such discharge shall become effective only after payment due under the Final Payment Certificate issued pursuant to Sub-Clause 60.8 has been made and the performance security referred to in sub-clause 10.1, if any, has been returned to the Contractor.

#### **60.8 Final Payment Certificate**

Within 28 days after receipt of the Final Statement, and the written discharge, the Engineer shall issue to the procuring agency (with a copy to the Contractor) a Final Payment Certificate stating:

- (a) the amount which, in the opinion of the Engineer, is finally due under the Contract or otherwise, and
- (b) after giving credit to the procuring agency for all amounts previously paid by the procuring agency and for all sums to which the procuring agency is entitled other than under Clause 47, the balance, if any, due from the procuring agency as the case may be.

#### **60.9 Cessation of Procuring Agency's Liability**

Procuring agency shall not be liable to the Contractor for any matter or thing arising out of or in connection with the Contract or execution of the works, unless the Contractor shall have included a claim in respect thereof in his Final Statement and (except in respect of matters or things arising after the issue of the Taking-Over Certificate in respect of the whole of the works) in the Statement at Completion referred to in Sub-Clause 60.5.

#### **60.10 Time for Payment**

The amount due to the Contractor under any Interim Payment Certificate issued by the Engineer pursuant to this Clause, or to any other term of the Contract, shall, subject to Clause 47, be paid by the procuring agency to the Contractor within 28 days after such Interim Payment Certificate has been delivered to the procuring agency, or, in the case of the Final Payment Certificate referred to in Sub-Clause 60.8, within 56 days, after such Final Payment Certificate has been delivered to the procuring agency. In the event of the failure of the procuring agency to make payment within the times stated, the procuring agency shall pay to the Contractor interest at the rate stated in the Appendix to Tender upon all sums unpaid from the date by which the same should have been paid. The provisions of this Sub-Clause are without prejudice to the Contractor's entitlement under Clause 69 or otherwise.

### **61.1 Approval only by Defects Liability Certificate**

Only the defects Liability Certificate, referred to in Clause 62, shall be deemed to constitute approval of the works.

### **62.1 Defects Liability Certificate**

The Contract shall not be considered as completed until a Defects Liability Certificate shall have been signed by the Engineer and delivered to the procuring agency, with a copy to the Contractor, stating the date on which the Contractor shall have completed his obligations to execute and complete the works and remedy any defects therein to the Engineer's satisfaction. The Defects Liability Certificate shall be given by the Engineer within 28 days after the expiration of the Defects Liability Period, or, if different defects liability periods shall become applicable to different Sections or parts of the Permanent works, the expiration of the latest such period, or as soon thereafter as any works instructed, pursuant to Clause 49 and 50, have been completed to the satisfaction of the Engineer. Provided that the issue of the Defects Liability Certificate shall not be a condition precedent to payment to the Contractor of the second portion of the Retention Money in accordance with the conditions set out in Sub-Clause 60.3.

### **62.2 Unfulfilled Obligations**

Notwithstanding the issue of the Defects Liability Certificate the Contractor and the procuring agency shall remain liable for the fulfillment of any obligation incurred under the provisions of the Contract prior to the issue of the Defects Liability Certificate which remains unperformed at the time of such Defects Liability Certificate is issued and, for the purposes of determining the nature and extent of any such obligation, the Contract shall be deemed to remain in force between the parties to the Contract.

## **Remedies**

### **63.1 Default of Contractor**

If the Contractor is deemed by law unable to pay his debts as they fall due, or enters into voluntary or involuntary bankruptcy, liquidation or dissolution (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), or becomes insolvent, or makes an arrangement with, or assignment in favor of, his creditors, or agrees to carry out the Contract under a committee of inspection of his creditors, or if a receiver, administrator, trustee or liquidator is appointed over any substantial part of his assets, or if, under any law or regulation relating to reorganization, arrangement or readjustment of debts, proceedings are commenced against the Contractor or resolutions passed in connection with dissolution or liquidation or if any steps are taken to enforce any security interest over a substantial part of the assets of the Contractor, or if any act is done or event occurs with respect to the Contractor or his assets which, under any applicable law has a substantially similar effect to any of the foregoing acts or events, or if the Contractor has contravened Sub-Clause 3.1, or has an execution levied on his goods, or Contract, if the Engineer certifies the procuring agency, with a copy to the Contractor, that, in his opinion, the Contractor:

- (a) has repudiated the Contract, or
- (b) without reasonable excuse has failed
  - (i) to commence the works in accordance with Sub-Clause 41.1,
  - (ii) to proceed with the works, or any Section thereof, within 28 days after receiving notice pursuant to Sub-Clause 46.1,
- (c) has failed to comply with a notice issued pursuant to Sub Clause 37.4 or an instruction issued pursuant to Sub-Clause 39.1 within 28 days after having received it
- (d) despite previous warning from the Engineer, in writing, is otherwise persistently or flagrantly neglecting to comply with any of his obligations under the Contract, or
- (e) has contravened Sub-Clause 4.1, then the procuring agency may, after giving 14 days' notice to the Contractor, enter upon the site and the works and terminate the employment of the Contractor without thereby releasing the Contractor from any of his obligations or liabilities under the Contract, or affecting the rights and authorities conferred on the procuring agency or the Engineer by the Contract, and may himself complete the works or may employ any other contractor to complete the works. Procuring agency or such other contractor may use for such completion so much of the Contractor's Equipment, Temporary Works and materials as he or they may think proper.

#### **63.2 Valuation at Date of Termination**

The Engineer shall, as soon as may be practicable after any such entry and termination by the procuring agency, fix and determine ex part, or by or after reference to the parties or after such investigation or enquiries as he may think fit to make or institute, and shall certify:

- (a) what amount (if any) had, at the time of such entry and termination, been reasonably earned by or would reasonably accrue to the Contractor in respect of work then actually done by him under the Contract, and
- (b) the value of any of the said unused or partially used materials, any Contractor's Equipment and any Temporary Works.

#### **63.3 Payment after Termination**

If the procuring agency terminates the Contractor's employment under this Clause, he shall not be liable to pay to the Contractor any further amount (including damages) in respect of the Contract until the expiration of the Defects Liability Period and thereafter until the costs of execution, completion (if any) and all other expenses incurred by the procuring agency have been ascertained and the amount thereof certified by the Engineer. The Contractor shall then be entitled to receive only such sum (if any) as the Engineer may certify would have been payable to him upon due completion by him after deducting the said amount. If such amount exceeds the sum which would have been payable to the Contractor on due completion by him, then the Contractor shall, upon demand, pay to the procuring agency the amount of such excess and it shall be deemed a debt due by the Contractor to the procuring agency and shall be recoverable accordingly.

#### **63.4 Assignment of Benefit of Agreement**

Unless prohibited by law, the Contractor shall, if so instructed by the Engineer within 14 days of such entry and termination referred to in sub-clause 63.1, assign to the procuring agency the benefit of any agreement for the supply of any goods or materials or services and/or for the execution of any work for the purposes of the Contract, which the Contractor may have entered into.

#### **64.1 Urgent Remedial Work**

If, by reason of any accident, or failure, or other event occurring to, in, or in connection with the works, or any part thereof, either during the execution of the works, or during the Defects Liability Period, any remedial or other work is, in the opinion of the Engineer, urgently necessary for the safety of the works and the Contractor is unable or unwilling at once to do such work, the procuring agency shall be entitled to employ and pay other persons to carry out such work as the Engineer may consider necessary. If the work or repair so done by the procuring agency is work which, in the opinion of the Engineer, the Contractor was liable to do at his own cost under the Contract, then all costs consequent thereon or incidental thereto shall, after due consultation with the procuring agency and the Contractor, be determined by the Engineer and shall be recoverable from the Contractor by the procuring agency, and may be deducted by the procuring agency from any monies due or to become due to may be deducted by the procuring agency from any monies due or to become due to the Contractor and the Engineer shall notify the Contractor accordingly, with a copy to the procuring agency. Provided that the Engineer shall, as soon after the occurrence of any such emergency as may be reasonably practicable, notify the Contractor thereof.

### **Special Risks**

#### **65.1 No Liability for Special Risks**

The Contractor shall be under no liability whatsoever in consequence of any of the special risks referred to in sub-clause 65.2, whether by way of indemnity or otherwise, for or in respect of:

- (a) destruction of or damage to the works, save to work condemned under the provisions of Clause 39 prior to the occurrence of any of the said special risks,
- (b) destruction of or damage to property, whether of the procuring agency or third parties, or
- (c) injury or loss of life.



## 65.2 **Special Risks**

The Special Risks are:

- (a) the risks defined under paragraphs (a), (c), (d) and (e) of sub-clause 20.4, and
- (b) the risks defined under paragraph (b) of sub-clause 20.4 insofar as these relate to the country in which the works are to be executed.

## 65.3 **Damage to Works by Special Risks**

If the works or any materials or Plant on or near or in transit to the site, or any of the Contractor's Equipment, sustain destruction or damage by reason of any of the said special risks, the Contractor shall be entitled to payment in accordance with the Contract for any Permanent Works duly executed and for any materials or Plant so destroyed or damaged and, so far as may be required by the Engineer or as may be necessary for the completion of the works, to payment for:

- (a) rectifying any such destruction or damage to the works, and
- (b) replacing or rectifying such materials or Contractor's Equipment, and the Engineer shall determine an addition to the Contract Price in accordance with Clause 52 (which shall in the case of the cost of replacement of Contractor's Equipment include the fair market value thereof as determined by the Engineer) and shall notify the Contractor accordingly, with a copy to the procuring agency.

## 65.4 **Projectile, Missile**

Destruction, damage, injury or loss of life caused by the explosion or impact, whenever and wherever occurring, of any mine, bomb, shell, grenade, or other projectile, missile, munitions, or explosive of war, shall be deemed to be a consequence of the said special risks.

## 65.5 **Increased Costs arising from Special Risk**

Save to the extent that the Contractor is entitled to payment under any other provision of the Contract, the procuring agency shall repay to the Contractor any costs of the execution of the Work (other than such as may be attributable to the cost of reconstructing work condemned under the provisions of Clause 39 prior to the occurrence of any special risk) which are howsoever attributable to or consequent on or the result of or in any way whatsoever connected with the said special risks, subject however to the provisions in this Clause hereinafter contained in regard to outbreak of war, but the Contractor shall, as soon as any such cost comes to his knowledge, forthwith notify the Engineer thereof. The Engineer shall, after due consultation with the procuring agency and the Contractor, determine the amount of the Contractor's costs in respect thereof which shall be added to the Contract Price and shall notify the Contractor accordingly, with a copy to the procuring agency.

#### **65.6 Outbreak of War**

If, during the currency of the Contract, there is an outbreak of war, whether war is declared or not, in any part of the world which, whether financially or otherwise, materially affects the execution of the works, the Contractor shall, unless and until the Contract is terminated under the provisions of this Clause, continue to use his best Endeavour to complete the execution of the works. Provided that the procuring agency shall be entitled, at any time after such outbreak of war, to terminate the Contract by giving notice to the Contractor and, upon such notice being given, the Contract shall, except as to the rights of the parties under this clause and Clause 64, terminate, but without prejudice to the rights of either party in respect of any antecedent breach thereof.

#### **65.7 Removal of Contractor's Equipment on Termination**

If the Contract is terminated under the provisions of sub-clause 65.6, the Contractor shall, with all reasonable dispatch, remove from the site all Contractors's Equipment and shall give similar facilities to his Subcontractors to do so.

#### **65.8 Payment if Contract Terminated**

If the Contract is terminated as aforesaid, the Contractor shall be paid by the procuring agency, insofar as such amounts or items have not already been covered by payments on account made to the Contractor, for all work executed prior to the date of termination at the rates and prices provided in the Contract and in addition:

- (a) the amounts payable in respect of any preliminary items referred to in the Bill of Quantities, so far as the work or service comprised therein has been carried out or performed, and a proper portion of any such items which have been partially carried out or performed;
- (b) the cost of materials, plant or goods reasonably ordered for the works which have been delivered to the Contractor or of which the Contractor is legally liable to accept delivery, such materials, plant or goods becoming the property of the procuring agency upon such payments being made by the procuring agency;
- (c) *a sum being the amount of any expenditure reasonably incurred by the Contractor in the expectation of completing the whole of the works insofar as such expenditure has not been covered by any other payments referred to in this Sub-Clause;*
- (d) any additional sum payable under the provisions of sub-clause 65.3 and 65.5;
- (e) *such proportion of the cost as may be reasonable, taking into account payments made or to be made for work executed, of removal of Contractor's Equipment under sub-clause 65.7 and, if required by the Contractor, return thereof to the Contractor's main plant yard in his country of registration or to other destination, at no greater cost; and*

- (f) *the reasonable cost of repatriation of all Contractor's staff and workmen employed on or in connection with the works at the time of such termination.*

Provided that against any payment due from the procuring agency under this Sub-Clause, the procuring agency shall be entitled to be credited with any outstanding balances due from the Contractor for advances in respect of Contractor's Equipment, materials and plant and any other sums which, at the date of termination, were recoverable by the procuring agency from the Contractor under the terms of Contract. Any sums payable under this Sub-Clause shall, after due consultation with the procuring agency and the Contractor, be determined by the Engineer who shall notify the Contractor accordingly, with a copy to the procuring agency.

## **Release from Performance**

### **66.1 Payment in Event of Release from Performance**

If any circumstance outside the control of both parties arises after the issue of the Letter of Acceptance which renders it impossible or unlawful for either party to fulfill his or their contractual obligations, or under the law governing the Contract the parties are released from further performance, then the parties shall be discharged from the Contract, except as to their rights under this Clause and Clause 67 and without prejudice to the right of either party in respect of any antecedent breach of the Contract, and the sum payable by the procuring agency to the Contractor in respect of the work executed shall be the same as that which would have been payable under clause 65 if the Contract had been terminated under the provisions of Clause 65.

## **Settlement of Disputes**

### **67.1 Engineer's Decision**

*If a dispute of any kind whatsoever arises between the procuring agency and the Contractor in connection with, or arising out of, the contract or the execution of the works, whether during the execution of the works or after their completion and whether before or after repudiation or other termination of the contract, including any dispute as to any opinion, instruction, determination, certificate or valuation of the Engineer, the matter in dispute shall, in the first place, be referred in writing to the Engineer, with a copy to the other party. Such reference shall state that it is made pursuant to this Clause. No later than the eighty-fourth day after the day on which he received such reference the Engineer shall give notice of his decision to the procuring agency and the Contractor. Such decision shall state that it is made pursuant to his Clause.*

*Unless the contract has already been repudiated or terminated, the Contractor shall, in every case, continue to proceed with the works with all due diligence and the Contractor and the procuring agency shall give effect forthwith to every such decision of the Engineer unless and until the same shall be revised, as hereinafter provided, in an amicable settlement or an arbitral award.*

*If either the procuring agency or the Contractor be dissatisfied with any decision of the Engineer, or if the Engineer fails to give notice of his decision on or before the eighty-fourth day on which he received the reference, then either the procuring agency or the Contractor may, on or before the seventieth day after the day on which he received notice of such decision, or on or before the seventieth day after the day on which the said period of 84 days expired, as the case may be, give notice to the other party, with a copy for information to the Engineer, of his intention to commence arbitration, as hereinafter provided, as to the matter*

*in dispute. Such notice shall establish the entitlement of the party giving the same to commence arbitration, as hereinafter provided, as to such dispute and, subject to Sub-Clause 67.4, no arbitration in respect thereof may be commenced unless such notice is given.*

*If the Engineer has give notice of his decision as to matter in dispute to the procuring agency and the Contractor and no notice of intention to commence arbitration as to such dispute has been given by either the procuring agency or the Contractor on or before the seventieth day after the day on which the parties received notice as to such decision from the Engineer, the said decision shall become final and binding upon the procuring agency and the Contractor.*

## **67.2 Amicable Settlement**

Where notice of intention to commence arbitration as to a dispute has been given in accordance with sub-clause 67.1, the parties shall attempt to settle such dispute amicably before the commencement of arbitration. Provided that, unless the parties otherwise agree, arbitration may be commenced on or after the fifty-sixth day after the day on which notice of intention to commence arbitration of such dispute was given, even if no attempt at amicable settlement thereof has been made.

## **67.3 Arbitration**

Any dispute in respect of which:

- (a) the decision, if any, of the Engineer has not become final and binding pursuant to sub-clause 67.1, and
- (b) Amicable settlement has not been reached within the period stated in sub-clause 67.2, shall be finally settled, unless otherwise specified in the Contract, under the Rules of Conciliation and Arbitration of the International Chamber of Commerce, by one or more arbitrators appointed under such Rules. The said arbitrator/s shall have full power to open up, review and revise any decision, opinion, instruction, determination, certificate or valuation of the Engineer related to the dispute.

Neither party shall be limited in the proceedings before such arbitrator(s) to the evidence or arguments put before the Engineer for the purpose of obtaining his said decision pursuant to sub-clause 67.1. no such decision shall disqualify the Engineer from being called as a witness and giving evidence before the arbitrator/s on any matter whatsoever relevant to the dispute. Arbitration may be commenced prior to or after completion of works, provided that the obligations of the procuring agency, the Engineer and the contractor shall not be altered by reason of the arbitration being conducted during the progress of the works.

#### **67.4 Failure to Comply with Engineer's Decision**

Where neither the procuring agency nor the Contractor has given notice of intention to commence arbitration of a dispute within the period stated in Sub-Clause 67.1 and the related decision has become final and binding, either party may, if the other party fails to comply with such decision, and without prejudice to any other rights it may have, refer the failure to arbitration in accordance with sub-clause 67.3. The provisions of sub-clause 67.1 and 67.2 shall not apply to any such reference.

### **Notices**

#### **68.1 Notice to Contractor**

All certificates, notices or instructions to be given to the Contractor by the procuring agency or the Engineer under the terms of the Contract shall be sent by post, cable, telex or facsimile transmission to or left at the Contractor's principal place of business or such other address as the Contractor shall nominate for that purpose.

#### **68.2 Notice to Procuring Agency and Engineer**

Any notice to be given to the procuring agency or to the Engineer under the terms of the Contract shall be sent by post, cable, telex or facsimile transmission to or left at the respective address nominated for that purpose in Part II of these Conditions.

#### **68.3 Change of Address**

Either party may change a nominated address to another address in the country where the works are being executed by prior notice to the other party, with a copy to the engineer, and the Engineer may do so by prior notice to both parties.

### **Default of Procuring Agency**

#### **69.1 Default of Procuring Agency**

In the event of the procuring agency:

- (a) failing to pay to the Contractor the amount due under any certificate of the engineer within 28 days after the expiry of the time stated in Sub-Clause 60.10 within which payment is to be made, subject to any deduction that the procuring agency is entitled to make under the Contract,
- (b) interfering with or obstructing or refusing any required approval to the issue of any such certificate,
- (c) becoming bankrupt or, being a company, going into liquidation, other than for the purpose of a scheme of reconstruction or amalgamation, or
- (d) Giving notice to the Contractor that for economic reasons it is impossible for him to continue to meet his contractual obligations, the Contractor shall be entitled to terminate his employment under the Contract by giving notice to the procuring agency, with a copy to the Engineer. Such termination shall take effect 14 days after the giving of the notice.

#### **69.2 Removal of Contractor's Equipment**

Upon the expiry of the 14 days' notice referred to in sub-clause 69.1, the Contractor shall, notwithstanding the provisions of sub-clause 54.1, with all reasonable dispatch, remove from the site all Contractor's Equipment brought by him thereon.

#### **69.3 Payment on Termination**

In the event of such termination the procuring agency shall be under the same obligations to the Contractor in regard to payment as if the Contract had been terminated under the provisions of Clause 65, but, in addition to the payments specified in sub-clause 65.8, the procuring agency shall pay to the Contractor the amount of any loss or damage to the Contractor arising out of or in connection with or by consequence of such termination.

#### **69.4 Contractor's Entitlement to Suspend Work**

Without prejudice to the Contractor's entitlement to interest under Sub-Clause 60.10 and to terminate under sub-clause 69.1, the Contractor may, if the procuring agency fails to pay the Contractor the amount due under any certificate of the Engineer within 28 days after the expiry of the time stated in sub-clause 60.10 within which payment is to be made, subject to any deduction that the procuring agency is entitled to make under the Contract, after giving 28 days' prior notice to the procuring agency, with a copy to the Engineer, suspend work or reduce the rate of work.

If the Contractor suspends work or reduces the rate of work in accordance with the provisions of this sub-clause and thereby suffers delay or incurs costs the Engineer shall, after due consultation with the procuring agency and the Contractor, determine:

- (a) any extension of time to which the Contractor is entitled under Clause 44, and
- (b) The amount of such costs, which shall be added to the Contract Price, and shall notify the Contractor accordingly, with a copy to the procuring agency.

#### **69.5 Resumption of Work**

Where the Contractor suspends work or reduces the rate of work, having given notice in accordance with sub-clause 69.4, and the procuring agency subsequently pays the amount due, including interest pursuant to sub-clause 60.10, the contractor's entitlement under sub-clause 69.1 shall, if notice of termination has not been given, lapse and the Contractor shall resume normal working as soon as is reasonably possible.

### **Changes in Cost and Legislation**

#### **70.1 Increase or Decrease of Cost**

There shall be added to or deducted from the Contract Price such sums in respect of rise or fall in the cost of labour and/or materials or any other matters affecting the cost of the execution of the works as may be determined in accordance with part II of these Conditions.

## **70.2 Subsequent Legislation**

If, after the date 28 days prior to the latest date for submission of tenders for the Contract there occur in the country in which the works are being or are to be executed changes to any National or State Statute, Ordinance, Decree or other Law or any regulation or bye-law of any local or other duly constituted authority, or the introduction of any such State Statute, Ordinance, Decree, Law, regulation or bye-law which cause additional or reduced cost to the Contractor, other than under sub-clause 70.1, in the execution of the Contract, such additional or reduced cost shall, after due consultation with the procuring agency and the Contractor, be determined by the Engineer and shall be added to or deducted from the Contract Price and the Engineer shall notify the Contractor accordingly, with a copy to the procuring agency.

## **Currency and Rates of Exchange**

### **71.1 Currency Restrictions**

If, after the date 28 days prior to the latest date for submission of tenders for the Contract, the Government or authorized agency of the Government of the country in which the works are being or are to be executed imposes currency restrictions and/or transfer of currency restrictions in relation to the currency or currencies in which the Contract Price is to be paid, the procuring agency shall reimburse any loss or damage to the Contractor arising there from, without prejudice to the right of the Contractor to exercise any other rights or remedies to which he is entitled in such even.

### **72.1 Rates of Exchange**

Where the Contract provides for payment in whole or in part to be made to the Contractor in foreign currency or currencies, such payment shall not be subject to variations in the rate or rates of exchange between such specified foreign currency or currencies and the currency of the country in which the works are to be executed.

### **72.2 Currency Proportions**

Where the procuring agency has required the Tender to be expressed in a single currency but with payment to be made in more than one currency and the Contractor has stated the proportions or amounts of other currency or currencies in which he requires payment to be made, the rate or rates of exchange applicable for calculating the payment of such proportions or amounts shall, unless otherwise stated in Part II of these Conditions, be those prevailing, as determined by the Central Bank of the country in which the works are to be executed, on the date 28 days prior to the latest date for the submission of tenders for the Contract, as he been notified to the Contractor by the procuring agency prior to the submission of tenders or as provided for in the Tender.

### **72.3 Currencies of Payment for Provisional Sums**

Where the Contract provides for payment in more than one currency, the proportions or amounts to be paid in foreign currencies in respect of Provisional Sums shall be determined in accordance with the principles set forth in sub-clause 72.1 and 72.2 as and when these sums are utilized in whole or in part in accordance with the provisions of Clause 58 and 59.

## INDEX

### PART I GENERAL CONDITIONS

<b>Index</b>	<b>Clause</b>
Access to Site	42.1
Access to Works, Engineer	37.1
Access Contractor to Satisfy Himself	11.1
Accident or Injury to Workmen – Insurance Against	24.2
Accident or Injury to Workmen – Liability for	24.1
Address, Change of	68.3
Adequacy of Insurance	25.2
Adjustment of Contract Price if Variations Exceed 15 Percent of Tender	52.3
Sum	
Agreement	9.1
Alterations, Additions and Omissions	51&52
Ambiguities in Contract Documents	5.2
Amicable Settlement of Disputes	67.2
Appointment of Assistants to Engineer	2.4
Approval by the Engineer	7.3
Approval of Materials not Implied	54.8
Approval Only by Defects Liability Certificate	61.1
Arbitration	67.3
Assignment of Contract	3.1
Avoidance of Damage of Roads	30.1
Bills of Quantities – Estimated Only	55.1
Boreholes and Exploratory Excavation	18.1
Breakdown of Lump Sum items	57.2
Care of works	20.1
Cash Flow Estimate to be Submitted	14.3
Certificate, Final	60.8
Certificate and Payment, Monthly Statements	60.1
Certificates, Correction of	60.4
Certificate Taking – Over	48.1
Certification of Completion of Works	48.1
Certification of Completion of Sections or Parts	48.2
Cessation of Procuring Agency's Liability	60.9
Change of Address, Notice of	68.3
Claims, Contemporary Records	53.2
Claims, Notice of	53.1
Claims, Payment of	53.5
Claims, Substantiation of	53.3
Claims Under Performance Security	10.3
Clearance of Site on Completion	33.1
Commencement of Works	41.1
Completion of Works, Time for	43.1
Completion of Works, Time for, Extension of	44.1
Completion, Statement at	60.5



<b>INDEX</b>	<b>Clause</b>
Compliance with Insurance Policy Conditions	25.4
Compliance with Statues and Regulations	26.1
Contemporary Records for Claims	53.2
Contract Agreement	9.1
Contract Not Relieved of Duties or Responsibilities	14.4
Contractor's Employees	16.1
Contractor's Employees, Engineer at Liberty to Object	16.2
Contractor's Entitlement to Suspend Work for Procuring Agency's Default	69.4
Contractor's Equipment, Conditions of Hire	54.5
Contractor's Equipment, Procuring Agency not liable For Damage	54.2
Contractor's Equipment, Insurance of	21.1
Contractor's Equipment, Reference in Subcontracts	54.7
Contractor's Equipment, Temporary Works and Material; Exclusive Use for the Works	54.1
Contractor's Equipment, Transport of	30.2
Contractor's Failure to Carry Out Instructions	49.4
Contractor's Failure to Insure, Remedy	25.3
Contractor's General Responsibilities	8.1
Contractor's Superintendence	15.1
Contractor to Keep Site Clear	32.1
Contractor to Search	50.1
Correction of Certificates	60.4
Cost of Remedying Defects	49.3
Cost of Samples	36.2
Cost of Tests	35.3
Cost of Tests not provided for	36.4
Covering up Work, Examination Before	38.1
Cross Liabilities	23.3
Currencies of Payment for Provisional Sums	72.3
Currencies, Rates of Exchange	72.1
Currency Restrictions	71.1
Custody and Supply of Drawings and Documents	6.1
Customs Clearance	54.3
Damage to persons and Property	22.1
Damage to Roads, Avoidance of	30.1
Damage to Works, Special Risks	65.3
Damages, Liquidated	47.1
Dates for Inspection and Testing	37.3
Day work	52.4
Decrease or Increase of Costs	70.1
Default of Contractor in Compliance with Instructions On Improper Work	39.2
Default of Contractor, Remedies for	63.1
Default of Procuring Agency	69.1
Defective Materials and Work	39.1
Defects, Contractor to Search for, if Required	50.1

<b>Index</b>	<b>Clause</b>
Defects, Cost of Remedying	49.3
Defects Liability Certificate	62.1
Defects Liability Period	49.1
Defects, Remedying	49.2
Definitions	1.1
Delay, Liquidated Damages for	47.1
Delays and Cost of Delay of Drawings	6.4
Design by Nominated Subcontractors	59.3
Discharge	60.7
Discrepancies in Documents	5.2
Dismissal of Contractor's Employees	16.2
Disorderly Conduct, etc.	34.1
Dispute, Engineer's Decision	67.1
Disruption of Progress	6.3
Documents Mutually Explanatory	5.2
Drawings	6&7
Drawings and Documents – Custody and Supply of	6.1
Drawings and Instructions – Supplementary	7.1
Drawing, Copy to be kept on Site	6.2
Drawings, Delays and Cost of Delay of Drawings	6.4
Drawings, Failure by Contractor to submit	6.5
Procuring Agency not liable for Damage to Contractor's Equipment etc.	54.2
Procuring Agency's Liability, Cession of	60.9
Procuring Agency's Responsibilities	19.2
Procuring Agency's Risks	20.4
Engagement of Staff and Labour	34.1
Engineer's Authority to Delegate	2.3
Engineer's Determination Where Tests not provided for	36.5
Engineer's Duties and Authority	2.1
Engineer to Act Impartially	2.6
Environment – Protection of	19.1
Errors in Setting Out	17.1
Evidence and Terms of Insurance	25.1
Examination of Work before Covering Up	38.1
Exceptions	22.2
Exchange, Rates of	72.1
Exclusions	21.4
Extension of Time, due to Engineer's Failure to give Possession of Site	42.2
Extension of Time for Completion	44.1
Extension of Time for Completion, Contractor's Claims	44.2
Extension of Time for Completion, Engineer's Determination	44.3
Extraordinary Traffic	30.
Facilities for Other Contractors	31.2
Facilities – Rights of Way and	42.3
Failure by Contractor to Submit Drawings	6.5

<b>Index</b>	<b>Clause</b>
Failure to Comply with Claims Procedure	53.4
Failure to Comply with Engineer's Decision	67.4
Failure to give Possession of Site	42.2
Faulty Work, Removal of	39.1
Fees and Notices	26.1
Fencing, Watching Lighting, etc.	19.1
Final Payment Certificate	60.8
Final Statement	60.6
Foreign Currencies, Payment in	72.
Fossils	27.1
Foundations, Examination of	38.1
General Responsibilities of Contractor	8.1
Giving of Notices – Payment of Fees	26.1
Headings and Marginal Notes	1.2
Improper Work and Materials, Removal of	39.1
Increase or Decrease of Costs	70.1
Indemnity by Contractor	22.1&24.1
Indemnity by Procuring Agency	22.3
Independent Inspection	37.5
Injury to Persons – Damage to Property	22.1
Injury to Workmen	24.1
Inspection and Testing	37.2
Inspection of Testing, Dates for	37.3
Inspection of Foundations, etc.	38.1
Inspection of Operations	37.1
Inspection of Site by Contractor	11.1
Instructions for Variations	51.2
Instructions in Writing	2.5
Instructions, Supplementary	7.1
Insurance, Adequacy of	25.2
Insurance, Evidence and Terms of	25.1
Insurance, Minimum Amount of	23.2
Insurance of Works and Contractor's Equipment	21.1
Insurance, Remedy on Failure to Insurance	25.3
Insurance, responsibility for Amounts not Recovered	21.3
Insurance, Scope of Cover	21.2
Insurance, Third Party	23.1
Insurance, Workmen	24.2
Interference with Traffic and Adjoining Properties	29.1
Interim Determination of Extension	44.3
Interpretations	1.3
Labour, Engagements of	34.1
Language/s and Law	5.1
Law to which Contract Subject	5.1

<b>Index</b>	<b>Clause</b>
Legislation, Subsequent	70.2
Lighting, Fencing, Watching, etc.	19.1
Liquidated Damages for Delay	47.1
Liquidated Damages, Reduction of	47.2
Loss or Damage due to Procuring Agency's Risks	20.3
Loss or Damage – Responsibility to Rectify	20.2
Lump-Sum Items – Breakdown of	57.2
Materials and Plant, Transport of	30.3
Materials – Approval of, etc, not Implied	54.8
Materials, Improper – Removal of	39.1
Materials, Quality of	36.1
Materials, Supply of	8.1
Measurement by Engineer	56.1
Measurement Method of	57.1
Measurement, Quantities Estimated Only	55.1
Methods of Construction	8.2
Minimum Amount of Insurance	23.2
Monthly Payments	60.2
Nominated Subcontractors, Certification of Payments to	59.5
Nominated Subcontractors, Definition	59.1
Nominated subcontractors, Design by	59.3
Nominated Subcontractors, Objection to Nomination	59.2
Nominated Subcontractors, Payment of	59.4
Not Foreseeable Physical Obstructions or Conditions	12.2
Notice of Claims	53.1
Notices and Fees, Payment of	26.1
Notices, Consents and Approvals	1.5
Notice to Contractor	68.1
Notice to Procuring Agency and Engineer	68.2
Objections to Contractor's Employees	16.2
Obstructions or Conditions – Not Foreseeable Physical	12.2
Omissions, Alterations and Additions	59.0
Openings, Uncovering and Making	38.2
Operations, Inspection of	37.1
Order of Work, Contractor to Furnish Programme	14.1
Other Contractors, Opportunities for	31.1
Patent Rights	28.1
Payment if Contract Terminated for Contractor's Default	63.3
Payment if Contract Terminated for Procuring Agency's Default	69.3
Payment of Claims	53.5
Payment, Time for	60.10
Performance Security	10.1
Performance Security – Claims Under	10.3
Performance Security – Period of Validity	10.2
Period of Defects Liability	49.1

<b>Index</b>	<b>Clause</b>
Permanent Works Designed by Contractor	7.2
Physical Obstruction of Conditions – Not Foreseeable	12.2
Physical Obstruction or Conditions – Engineer’s Determination	12.3
Plant and Materials, Transport	30.3
Plant, Conditions of Hire	54.5
Plant, Customs Clearance	54.3
Plant, Procuring Agency not Liable for Damage to	54.2
Plant, etc. – Exclusive Use for the Works	54.1
Plant, Quality of	36.1
Plant, Re-export of	54.4
Plant, Removal of	39.1
Policy of Insurance – Compliance with Conditions	25.4
Possession of Site	42.1
Possession of Site, Failure to Give	42.2
Power of Engineer to Fix rates	52.2
Priority of Contract Documents	5.2
Programme to be submitted	14.1
Progress – Disruption of	6.3
Progress – Rate of	46.1
Protection of Environment	19.1
Provision to Indemnify Contractor	22.3
Provision to indemnify procuring Agency	22.2
Provisional Sums, Currencies of Payment	72.3
Provisional Sums, Definition	58.1
Provisional Sums, Production of Vouchers	58.3
Provisional Sums, Use of	58.2
Quality of Materials and Workmanship	36.1
Quantities	55.1
Rate of Progress	46.1
Rates of Exchange	72.1
Rates, Power of Engineer to Fix	52.2
Rectification of Loss or Damage	20.2
Reduction of Liquidated Damages	47.2
Re-export of Plant	54.4
Regulations, Status etc. Compliance with	26.1
Rejection	37.4
Release from Performance	66.1
Remedies for Default of Contractor	63.1
Remedying of Defects,	49.2
Remedying of Defects, Cost of	25.3
Removal of Contractor’s Employees	16.2
Removal of Contractor’s Equipment	69.2
Removal of Improper Work, Materials or Plant	39.1

<b>INDEX</b>	<b>TABLE OF CONTENTS</b>	<b>Clause</b>
Removal of Plant, etc.		65.7
Responsibility to Rectify Loss or Damage		20.2
Responsibility Un-affected by Approval		7.3
Restriction on Working Hours		45.1
Resumption of Work		69.5
(143) Retention Money, Payment of		50.3
) Returns of Labour and Contractor's Equipment		35.1
Revised Programme		14.2
Rights of Way and Facilities		42.3
Risks, Procuring Agency's		20.4
Risks, Special		65.0
Roads, etc., - Damage by Extraordinary Traffic		30.1
Roads, Interference with Access to		29.1
Royalties		28.2
Safety, Security and Protection of the Environment		19.1
Samples, Cost of		36.2
Security. Safety and Protection of the Environment		19.1
Setting-Out		17.1
Singular and Plural		1.4
Site, Clearance on Completion		33.1
Site, Contractor to Keep Clear		32.1
Site Inspection by Contractor		11.1
Site Operations and Methods of Construction		8.2
Site, Possession of		42.1
Special Risks		65.0
Staff, Engagement of		34.1
Statement at Completion		60.5
Statement, Final		60.6
Statutes, Regulations, etc. - Compliance with		26.1
Subcontracting		4.1
Subcontractors, Nominated		59.0
Subcontractors, Responsibility of the Contractor for Acts and Default		4.1
Of Subsequent Legislation		70.2
Substantial Completion of Sections or Parts		48.3
Sufficiency of Tender		12.1
Supply of Plant, Materials and Labour		8.1
Surfaces Requiring Reinstatement		48.4
Supervision, Engineer's Determination		40.2
Suspension lasting more than 84 days		40.3
Suspension of Work		40.1
Taking Over Certificate		48.1
Taking Over of Sections or Parts		48.2
Tender Documents		11.1
Tender, Sufficiency of		12.1
Termination of Contract by Procuring Agency		63.1

## INDEX

## Clause

Termination of Contract by Procuring Agency, Assignment of Benefit	63.4
Terms of Insurance	25.1
Tests, Cost of	36.3
Test not Provide for – Cost of	36.4
Third Part Insurance	23.1
Time for Completion	43.1
Time for Completion, Extension of	44.1
Time for Payment	60.10
Traffic, Extraordinary	30.1
Traffic Interference with	29.1
Traffic Waterborne	30.4
Transport of Contractor's Equipment and Temporary Works	30.2
Transport of Materials and Plant	30.3
Uncovering Work and Making Openings	38.2
Unfulfilled Obligations	62.2
Urgent Remedial Work	64.1
Valuation at Date of Termination by the Employer	63.2
Variations	51.1
Variations, Daywork Basis	52.4
Variations, Exceeding 15 percent	52.3
Variations, Instructions for	51.2
Variations, Power of the Engineer to Fix Rates	52.2
Variations, Valuation of	51.3
Vouchers Production of	58.3
War, Outbreak of	20.4
Watching and Lighting, etc.	19.1
Waterborne Traffic	30.4
Work, Examination of Before Covering Up	38.1
Work, Improper, Removal of	39.1
Working Hours, Restriction of	45.1
Workmanship, Quality of	36.1
Workmen, Accident or Injury to	24.1
Works, Care of	20.1
Works, Completion of (Defects Liability Certificate)	62.1
Works Commencement of	41.1
Works Insurance of	21.1
Works Remedying of Defects	49.2
Works, Time for Completion of	43.1
Works to be Measured	56.1
Works, Suspension of	40.1
Work to be in Accordance with the Contract	13.1

**TABLE OF CONTENTS**  
**PART II - PARTICULAR CONDITIONS OF CONTRACT**

<b>Clause</b>	<b>Title</b>	<b>Page</b>
1.1	Definitions	147
2.1	Engineer's Duties and Authority	147
2.2	Engineer's Representative	149
2.7	Engineer Not Liable	149
2.8	Replacement of the Engineer	149
5.1	Language(s) and Law	149
5.2	Priority of Contract Documents	149
6.6	Shop Drawings	150
6.7	As-Built Drawings	150
10.1	Performance Security	150
10.4	Performance Security Binding on Variations and Changes	151
14.1	Programme to be Submitted	151
14.3	Cash Flow Estimate to be Submitted	151
14.5	Detailed Programme and Monthly Progress Report	151
15.2	Language Ability of Contractor's Representative	152
15.3	Contractor's Representative	152
16.3	Language Ability of Superintending Staff of Contractor	152
16.4	Employment of Local Personnel	152
19.3	Safety Precautions	152
19.4	Lighting Works at Night	153
20.4	Employer's Risks	153
21.1	Insurance of Works and Contractor's Equipment	153
21.4	Exclusions	154
25.5	Insurance Company	154
31.3	Co-operation with Other Contractors	154
34.2	Rates of Wages and Conditions of Labour	154
34.3	Employment of Persons in the Service of Others	154
34.4	Housing for Labour	154
34.5	Health and Safety	155
34.6	Epidemics	155
34.7	Supply of Water	155
34.8	Alcoholic Liquor or Drugs	155
34.9	Arms and Ammunition	155
34.10	Festivals and Religious Customs	155
34.11	Disorderly Conduct	156
34.12	Compliance by Subcontractors	156
35.2	Records of Safety and Health	156
35.3	Reporting of Accidents	156
36.6	Use of Pakistani Materials and Services	156
41.1	Commencement of Works	156
47.3	Bonus for Early Completion of Works	157
48.2	Taking Over of Sections or Parts	157
51.2	Instructions for Variations	157



## **TABLE OF CONTENTS**

### **PART II - PARTICULAR CONDITIONS OF CONTRACT**

<b>Clause</b>	<b>Title</b>	<b>Page</b>
52.1	Valuation of Variations	157
53.4	Failure to Comply	157
54.3	Customs Clearance	157
54.5	Conditions of Hire of Contractor's Equipment	157
59.4	Payments to Nominated Sub-contractors	157
59.5	Evidence of Payments	158
60.1	Monthly Statements	158
60.2	Monthly Payments	158
60.10	Time for Payment	158
60.11	Secured Advance on Materials	159
60.11	Financial Assistance to Contractor	159
63.1	Default of Contractor	161
65.2	Special Risks	161
67.3	Arbitration	161
68.1	Notice to Contractor	161
68.2	Notice to Procuring Agency and Engineer	162
70.1	Increase or Decrease of Cost	162
73.1	Payment of Income Tax	164
73.2	Customs Duty & Taxes	164
74.1	Integrity Pact	164
75.1	Termination of Contract for Procuring Agency's Convenience	164
76.1	Liability of Contractor	164
77.1	Joint and Several Liability	165
78.1	Details to be Confidential	165

## **PART II - PARTICULAR CONDITIONS OF CONTRACT**

### **1.1 Definitions**

- (a) (i) Procuring agency is ... **Project Director, Rehabilitation of DHQ / THQ Hospitals in Sindh**.....(insert name along with his full address).

- (a) (iv) The Engineer is .... **M/s. Atif Nazar Associates (Consulting Engineers & Architects)**.....(insert name of the Firm/Company/Person nominated as Engineer alongwith his full address), or any other competent person appointed by the procuring agency, and notified to the Contractor, to act in replacement of the Engineer. Provided always that except in cases of professional misconduct, the outgoing Engineers is to formulate his certifications/recommendations in relation to all outstanding matters, disputes and claims relating to the execution of the Works during his tenure.

The following paragraph is added:

- (b)(ix) “Programme” means the programme to be submitted by the Contractor in accordance with Sub-Clause 14.1 and any approved revisions thereto.
- (e)(i) The text is deleted and substituted with the following:

“Contract Price” means the sum stated in the Letter of Acceptance as payable to the Contractor for the execution and completion of the Works subject to such additions thereto or deductions there from as may be made and remedying of any defects therein in accordance with the provisions of the Contract.

### **2.1 Engineer's Duties and Authority**

With reference to Sub-Clause 2.1(b), the following provisions shall also apply;

The Engineer shall obtain the specific approval of the procuring agency before carrying out his duties in accordance with the following Clauses:

- (a) Consenting to the sub-letting of any part of the Works under Sub-Clause 4.1 “Subcontracting”.
- (b) Certifying additional cost determined under Sub-Clause 12.2 “Not Foreseeable Physical Obstructions or Conditions”.
- (c) Any action under Clause 10 “Performance Security” and Clauses 21,23,24 & 25 “Insurance” of sorts.
- (d) Any action under Clause 40 “Suspension”.
- (e) Any action under Clause 44 “Extension of Time for Completion”.

- (f) Any action under Clause 47 “Liquidated Damages for Delay” or Payment of Bonus for Early Completion of Works (PCC Sub-Clause 47.3).
- (g) Issuance of “Taking Over Certificate” under Clause 48.
- (h) Issuing a Variation Order under Clause 51, except:
  - a) in an emergency\* situation, as stated here below, or
  - b) if such variation would increase the Contract Price by less than the amount stated in the Appendix-A to Bid.
- (i) Fixing rates or prices under Clause 52.
- (j) Extra payment as a result of Contractor’s claims under Clause 53.
- (k) Release of Retention Money to the Contractor under Sub-Clause 60.3 “Payment of Retention Money”.
- (l) Issuance of “Final Payment Certificate” under Sub-Clause 60.8.
- (m) Issuance of “Defect Liability Certificate” under Sub-Clause 62.1.
- (n) Any change in the ratios of Contract currency proportions and payments thereof under Clause 72 “Currency and Rate of Exchange”.

(Note: Procuring agency may further vary according to need of the project)

\* (If in the opinion of the Engineer an emergency occurs affecting the safety of life or of the Works or of adjoining property, the Engineer may, without relieving the Contractor of any of his duties and responsibilities under the Contract, instruct the Contractor to execute all such work or to do all such things as may, in the opinion of the Engineer, be necessary to abate or reduce the risk. The Contractor shall forthwith comply with any such instruction of the Engineer. The Engineer shall determine an addition to the Contract Price, in respect of such instruction, in accordance with Clause 52 and shall notify the Contractor accordingly, with a copy to the Procuring agency.)

## **2.2 Engineer’s Representative**

The following paragraph is added:

Procuring agency shall ensure that the Engineer’s Representative is a professional engineer as defined in the Pakistan Engineering Council Act 1975 (V of 1976)

The following Sub-Clauses 2.7 and 2.8 are added:

## **2.7 Engineer Not Liable**

Approval, reviews and inspection by the Engineer of any part of the Works does not relieve the Contractor from his sole responsibility and liability for the supply of

materials, plant and equipment for construction of the Works and their parts in accordance with the Contract and neither the Engineer's authority to act nor any decision made by him in good faith as provided for under the Contract whether to exercise or not to exercise such authority shall give rise to any duty or responsibility of the Engineer to the Contractor, any Subcontractor, any of their representatives or employees or any other person performing any portion of the Works.

## **2.8 Replacement of the Engineer**

“If the Procuring agency intends to replace the Engineer, the Procuring agency shall, not less than 14 days before the intended date of replacement, give notice to the Contractor, of the name, address and relevant experience of the intended replacement Engineer. Procuring agency shall not replace the Engineer with a person against whom the Contractor raises reasonable objection by notice to the Procuring agency, with supporting particulars.”

## **5.1 Language(s) and Law**

- (a) The Contract Documents, shall be drawn up in the English language.
- (b) The Contract shall be subject to the Laws of Islamic Republic of Pakistan.

## **5.2 Priority of Contract Documents**

The documents listed at (1) to (6) of the Sub-Clause are deleted and substituted with the following:

- (a) The Contract Agreement (if completed);
- (b) The Letter of Acceptance;
- (c) The completed Form of Bid;
- (d) Special Stipulations (Appendix-A to Bid);
- (e) The Special Conditions of Contract – Part II;
- (f) The General Conditions – Part I;
- (g) The priced Bill of Quantities (Appendix-D to Bid);
- (h) The completed Appendices to Bid (B, C, E to L);
- (i) The Drawings;
- (j) The Specifications; and
- (k) \_\_\_\_\_ (any other).

In case of discrepancies between drawings, those of larger scale shall govern unless they are superseded by a drawing of later date regardless of scale. All Drawings and Specifications shall be interpreted in conformity with the Contract and these Conditions. Addendum, if any, shall be deemed to have been incorporated at the appropriate places in the documents forming the Contract.

The following Sub-Clauses 6.6 and 6.7 are added:

## **6.6 Shop Drawings**

The Contractor shall submit to the Engineer for review 3 copies of all shop and

erection drawings applicable to this Contract as per provision of relevant Sub-Clause of the Contract.

Review and approval by the Engineer shall not be construed as a complete check but will indicate only that the general method of construction and detailing is satisfactory and that the Engineer's review or approval shall not relieve the Contractor of any of his responsibilities under the Contract.

## **6.7 As-Built Drawings**

At the completion of the Works under the Contract, the Contractor shall furnish to the Engineer 6 copies and one reproducible of all drawings amended to conform to the Works as built. The price of such Drawings shall be deemed to be included in the Contract Price.

## **10.1 Performance Security**

The text is deleted and substituted with the following:

The Contractor shall provide Performance Security to the Procuring agency in the prescribed form. The Performance Security shall be 5% of the Contract price stated in the letter of Acceptance.

Besides obtaining 5% as Performance Security, the security Deposit at rate of 5% will also be deducted from running bills, thus amount equal to 10% of the Contract Price is obtained from contractor i.e. 5% as performance security and 5% security deposit as retention money. Deduction from interm/running bills will be made from successful bidder after the bidder has furnished the required performance security and signed the contract agreement;

The cost of complying with requirements of this Sub-Clause (performance security) shall be borne by the Contractor.

The following Sub-Clause 10.4 is added:

## **10.4 Performance Security Binding on Variations and Changes**

The Performance Security shall be binding irrespective of changes in the quantities or variations in the Works or extensions in Time for Completion of the Works which are granted or agreed upon under the provisions of the Contract.

## **14.1 Programme to be Submitted**

The programme shall be submitted within 42 days from the date of receipt of Letter of Acceptance, which shall be in the form of:

- a) a Bar Chart identifying the critical activities.
- b) Critical Path Method (CPM) identifying the critical path/activities.
- c) Program Evaluation and review Techniques (PERT)

(Procuring agency to select appropriate one)

### **14.3 Cash Flow Estimate to be Submitted**

The detailed Cash Flow Estimate shall be submitted within 21 days from the date of receipt of Letter of Acceptance

The following Sub-Clause 14.5 is added:

### **14.5 Detailed Programme and Monthly Progress Report**

- a) For purposes of Sub-Clause 14.1, the Contractor shall submit to the Engineer detailed programme for the following:
  - (1) Execution of Works;
  - (2) Labour Employment;
  - (3) Local Material Procurement;
  - (4) Material Imports, if any; and
  - (5) Other details as required by the Engineer.
- (b) During the period of the Contract, the Contractor shall submit to the Engineer not later than the 8<sup>th</sup> day of the following month, 10 copies each of Monthly Progress Reports covering:
  - (1) A Construction Schedule indicating the monthly progress in percentage;
  - (2) Description of all work carried out since the last report;
  - (3) Description of the work planned for the next 56 days sufficiently detailed to enable the Engineer to determine his programme of inspection and testing;
  - (4) Monthly summary of daily job record;
  - (5) Photographs to illustrate progress ;and
  - (6) Information about problems and difficulties encountered, if any, and proposals to overcome the same.
- (c) During the period of the Contract, the Contractor shall keep a daily record of the work progress, which shall be made available to the Engineer as and when requested. The daily record shall include particulars of weather conditions, number of men working, deliveries of materials, quantity, location and assignment of Contractor's equipment.

The following Sub-Clauses 15.2 and 15.3 are added:

### **15.2 Language Ability of Contractor's Representative**

The Contractor's authorised representative shall be fluent in the English language. Alternately an interpreter with ability of English language shall be provided by the Contractor on full time basis.

### **15.3 Contractor's Representative**

The Contractor's authorised representative and his other professional engineers working at Site shall register themselves with the Pakistan Engineering Council.

The Contractor's authorised representative at Site shall be authorised to exercise adequate administrative and financial powers on behalf of the Contractor so as to achieve completion of the Works as per the Contract.

The following Sub-Clauses 16.3 and 16.4 are added in (GCC):

### **16.3 Language Ability of Superintending Staff of Contractor**

A reasonable proportion of the Contractor's superintending staff shall have a working knowledge of the English language. If the Contractor's superintending staff is not fluent in English language, the Contractor shall make competent interpreters available during all working hours in a number deemed sufficient by the Engineer.

### **16.4 Employment of Local Personnel**

The Contractor is encouraged, to the extent practicable and reasonable, to employ staff and labour from sources within Pakistan.

The following Sub-Clauses 19.3 and 19.4 are added in (GCC):

### **19.3 Safety Precautions**

In order to provide for the safety, health and welfare of persons, and for prevention of damage of any kind, all operations for the purposes of or in connection with the Contract shall be carried out in compliance with the Safety Requirements of the Government of Pakistan with such modifications thereto as the Engineer may authorise or direct and the Contractor shall take or cause to be taken such further measures and comply with such further requirements as the Engineer may determine to be reasonably necessary for such purpose.

The Contractor shall make, maintain and submit reports to the Engineer concerning safety, health and welfare of persons and damage to property, as the Engineer may from time to time prescribe.

### **19.4 Work at Night**

In the event of work being carried out at night, the Contractor shall at his own cost, provide and maintain such good and sufficient light as will enable the work to proceed satisfactorily and without danger. The approaches to the Site and the Works where the night-work is being carried out shall be sufficiently lighted. All arrangement adopted for such lighting shall be to the satisfaction of the Engineer's Representative.

## **20.4 Procuring Agency's Risks**

Procuring Agency's risks are:

Delete the text and substitute with the following:

- (a) insofar as they directly affect the execution of the Works in Pakistan:
  - (i) war and hostilities (whether war be declared or not), invasion, act of foreign enemies,
  - (ii) rebellion, revolution, insurrection, or military or usurped power, or civil war,
  - (iii) ionizing radiations, or contamination by radioactivity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof,
  - (iv) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds,
  - (v) riot, commotion or disorder, unless solely restricted to the employees of the Contractor or of his Subcontractors and arising from the conduct of the Works;
- (b) loss or damage due to the use or occupation by the procuring agency of any Section or part of the Permanent Works, except as may be provided for in the Contract;
- (c) loss or damage to the extent that it is due to the design of the Works, other than any part of the design provided by the Contractor or for which the Contractor is responsible; and
- (d) any operation of the forces of nature (insofar as it occurs on the Site) which an experienced contractor:
  - (i) could not have reasonably foreseen, or
  - (ii) could reasonably have foreseen, but against which he could not reasonably have taken at least one of the following measures:
    - (a) prevent loss or damage to physical property from occurring by taking appropriate measures, or
    - (b) insure against.

## **21.1 Insurance of Works and Contractor's Equipment**

(Procuring agency may vary this Sub-Clause 21.1 (b))

## **21.4 Exclusions**

The text is deleted and substituted with the following:

There shall be no obligation for the insurances in Sub-Clause 21.1 to include loss or damage caused by the risks listed under Sub-Clause 20.4 paras (a) (i) to (iv).



The following Sub-Clause 25.5 is added:

### **25.5 Insurance Company**

The Contractor shall be obliged to place all insurances relating to the Contract (including, but not limited to, the insurances referred to in Clauses 21, 23 and 24) with National Insurance Company of Pakistan.  
Costs of such insurances shall be borne by the Contractor.

The following Sub-Clause 31.3 is added in (GCC):

### **31.3 Co-operation with other Contractors**

During the execution of the Works, the Contractor shall co-operate fully with other contractors working for the procuring agency at and in the vicinity of the Site and also shall provide adequate precautionary facilities not to make himself a nuisance to local residents and other contractors.

The following Sub-Clauses 34.2 to 34.12 are added in (GCC):

### **34.2 Rates of Wages and Conditions of Labour**

The Contractor shall pay rates of wages and observe conditions of labour not less favourable than those established for the trade or industry where the work is carried out, as per the labour laws for the time being in force. In the absence of any rates of wages or conditions of labour so established, the Contractor shall pay rates of wages and observe conditions of labour which are not less favourable than the general level of wages and conditions observed by other procuring agency whose general circumstances in the trade or in industry in which the Contractor is engaged are similar.

### **34.3 Employment of Persons in the Service of Others**

The Contractor shall not recruit his staff and labour from amongst the persons in the services of the procuring agency or the Engineer; except with the prior written consent of the procuring agency.

### **34.4 Housing for Labour**

Save insofar as the Contract otherwise provides, the Contractor shall provide and maintain such housing accommodation and amenities as he may consider necessary for all his supervisory staff and labour, employed for the purposes of or in connection with the Contract including all fencing, electricity supply, sanitation, cookhouses, fire prevention, water supply and other requirements in connection with such housing accommodation or amenities. On completion of the Contract, these facilities shall be handed over to the procuring agency or if the procuring agency so desires, the temporary camps or housing provided by the Contractor shall be removed and the Site reinstated to its original condition, all to the approval of the Engineer to his satisfaction.

#### **34.5 Health and Safety**

Due precautions shall be taken by the Contractor, and at his own cost, to ensure the safety of his staff and labour at all times throughout the period of the Contract. The Contractor shall further ensure that suitable arrangements are made for the prevention of epidemics and for all necessary welfare and hygiene requirements.

#### **34.6 Epidemics**

In the event of any outbreak of illness of an epidemic nature, the Contractor shall comply with and carry out such regulations, orders and requirements as may be made by the Government, or the local medical or sanitary authorities, for purpose of dealing with and overcoming the same.

#### **34.7 Supply of Water**

The Contractor shall, so far as is reasonably practicable, having regard to local conditions, provide on the Site, to the satisfaction of the Engineer or his representative, adequate supply of drinking and other water for the use of his staff and labour.

#### **34.8 Alcoholic Liquor or Drugs**

The Contractor shall not, otherwise than in accordance with the Statutes, Ordinances and Government Regulations or Orders for the time being in force, import, sell, give, barter or otherwise dispose of any alcoholic liquor or drugs, or permit or suffer any such importation, sale, gift, barter or disposal by his Subcontractors, agents, staff or labour.

#### **34.9 Arms and Ammunition**

The Contractor shall not give, or otherwise dispose of to any person or persons, any arms or ammunition of any kind or permit or suffer the same as aforesaid.

#### **34.10 Festivals and Religious Customs**

The Contractor shall in all dealings with his staff and labour have due regard to all recognised festivals, days of rest and religious and other customs.

#### **34.11 Disorderly Conduct**

The Contractor shall at all times take all reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or amongst staff and labour and for the preservation of peace and protection of persons and property in the neighbourhood of the Works against the same.

### **34.12 Compliance by Subcontractors**

The Contractor shall be responsible for compliance by his Subcontractors of the provisions of this Clause.

The following Sub-Clauses 35.2 and 35.3 are added in (GCC):

### **35.2 Records of Safety and Health**

The Contractor shall maintain such records and make such reports concerning safety, health and welfare of persons and damage to property as the Engineer may from time to time prescribe.

### **35.3 Reporting of Accidents**

The Contractor shall report to the Engineer details of any accident as soon as possible after its occurrence. In the case of any fatality or serious accident, the Contractor shall, in addition, notify the Engineer immediately by the quickest available means.

The following Sub-Clause 36.6 is added in (GCC):

### **36.6 Use of Pakistani Materials and Services**

The Contractor shall, so far as may be consistent with the Contract, make the maximum use of materials, supplies, plant and equipment indigenous to or produced or fabricated in Pakistan and services, available in Pakistan provided such materials, supplies, plant, equipment and services shall be of required standard.

### **41.1 Commencement of Works**

The text is deleted and substituted with the following:

The Contractor shall commence the Works on Site within the period named in Appendix-A to Bid from the date of receipt by him from the Engineer of a written Notice to Commence. Thereafter, the Contractor shall proceed with the Works with due expedition and without delay.

The following Sub-Clause 47.3 is added in (GCC):

### **47.3 Bonus for Early Completion of Works**

~~The contractor shall in case of earlier completion for either whole or part(s) of the works pursuant to sub clauses 48.1 and 48.2(a) respectively of the General conditions of contract, be paid bonus up to a limit and at a rate equivalent to 50% of the relevant limit and rate of liquidated damages prescribed in Appendix A to bid "Special Stipulation". No bonus will be paid until and unless it is mentioned in the said Appendix. It is limited to only those projects which are time sensitive and the procuring agency has the discretion to award such bonus.~~

## **48.2 Taking Over of Sections or Parts**

For the purposes of para (a) of this Sub-Clause, separate Times for Completion shall be provided in the Appendix-A to Bid “Special Stipulations”.

## **51.2 Instructions for Variations**

At the end of the first sentence, after the word “Engineer”, the words “in writing” are added.

## **52.1 Valuation of Variations**

In the tenth line, after the words “Engineer shall” the following is added:  
Within a period not exceeding one-eighth of the completion time subject to a minimum of 56 days from the date of disagreement whichever is later.

## **53.4 Failure to Comply**

This Sub-Clause is deleted in its entirety.

## **54.3 Customs Clearance**

(Procuring Agency may vary this Sub-Clause)

## **54.5 Conditions of Hire of Contractor’s Equipment**

The following paragraph is added in (GCC):

The Contractor shall, upon request by the Engineer at any time in relation to any item of hired Contractor’s Equipment, forthwith notify the Engineer in writing the name and address of the Owner of the equipment and shall certify that the agreement for the hire thereof contains a provision in accordance with the requirements set forth above.

The following Sub-Clauses 59.4 & 59.5 are added in (GCC):

## **59.4 Payments to Nominated Subcontractors**

The Contractor shall pay to the nominated Subcontractor the amounts which the Engineer certifies to be due in accordance with the subcontract. These amounts plus other charges shall be included in the Contract Price in accordance with Clause 58 [Provisional Sums], except as stated in Sub-Clause 59.5 [Certification of Payments].

## **59.5 Certification of Payments & Nominated Subcontractors**

The text is deleted and substituted with the following:

Before issuing a Payment Certificate which includes an amount payable to a nominated Subcontractor, the Engineer may request the Contractor to supply reasonable evidence that the nominated Subcontractor has received all amounts due in accordance with previous Payment Certificates, less applicable deductions for retention or otherwise. Unless the Contractor:

- a) submits reasonable evidence to the Engineer, or
- b)
  - i) satisfies the Engineer in writing that the Contractor is reasonably entitled to withhold or refuse to pay these amounts, and
  - ii) submits to the Engineer reasonable evidence that the nominated Subcontractor has been notified of the Contractor's entitlement, then the Procuring Agency may (at his sole discretion) pay direct to the nominated Subcontractor, part or all of such amounts previously certified (less applicable deductions) as are due to the nominated Subcontractor and for which the Contractor has failed to submit the evidence described in sub-paragraphs (a) or (b) above. The Contractor shall then repay, to the Procuring Agency, the amount which the nominated Subcontractor was directly paid by the Procuring Agency.

## **60.1 Monthly Statements**

In the first line after the word "shall", the following is added:

"on the basis of the joint measurement of work done under Clause 56.1,"

In Para (c) the words "the Appendix to Tender" are deleted and substituted with the words " Sub-Cause 60.11 (a)(6) hereof".

(in case Clause 60.11 is applicable)

## **60.10 Time for Payment**

The text is deleted.

The following Sub-Clause 60.11 is added:

## **60.11 Secured Advance on Materials**

- a) The Contractor shall be entitled to receive from the Procuring Agency Secured Advance against an indenture bond in public works account form no.31(fin. R. Form no.2) acceptable to the Procuring Agency of such sum as the Engineer may consider proper in respect of non-perishable materials brought at the Site but not yet incorporated in the Permanent Works provided that:
  - (i) The materials are in accordance with the Specifications for the Permanent Works;
  - (ii) Such materials have been delivered to the Site and are properly stored and protected against loss or damage or deterioration to the satisfaction and verification of the Engineer but at the risk and cost of the Contractor;
  - (iii) The Contractor's records of the requirements, orders, receipts and use of materials are kept in a form approved by the Engineer, and such records shall be available for inspection by the Engineer;

- (iv) The Contractor shall submit with his monthly statement the estimated value of the materials on Site together with such documents as may be required by the Engineer for the purpose of valuation of materials and providing evidence of ownership and payment therefore;
- (v) Ownership of such materials shall be deemed to vest in the Procuring Agency and these materials shall not be removed from the Site or otherwise disposed of without written permission of the Procuring Agency;
- (vi) The sum payable for such materials on Site shall not exceed 75 % of the (i) landed cost of imported materials, or (ii) ex-factory / ex-warehouse price of locally manufactured or produced materials, or (iii) market price of other materials.
- (vii) Secured Advance shall not be allowed unless and until the previous advance, if any, is fully recovered;
- (viii) Detailed account of advances must be kept in part II of running account bill or a separate statement; and
- (ix) Secured Advance may be permitted only against materials/quantities anticipated to be consumed / utilized on the work within the period of 3 months from the date of issue of secured advance and in no case for full quantities of materials for the entire work/contract.

**(c) Recovery of Secured Advance:**

- (i) Secured Advance paid to the Contractor under the above provisions shall be effected from the monthly payments on actual consumption basis, but not later than period specified in the rules not more than three months (even if unutilized);
- (ii) As recoveries are made the outstanding accounts of the items concerned in Part II / statement should be reduced by making deduction entries in the column; “deduct quantity utilized on work measured since previous bill,” equivalent of materials used by the contractor on items of work as executed in part I of the bill/bill of quantities.

The following sub-clause 60.12 is added in (GCC):

**60.12 Financial Assistance to Contractor**

Financial assistance shall be made available to the Contractor by the Procuring Agency by adopting any one of the following two Alternatives:

*(Appropriate alternative only to be retained)*

**(a) Alternative One: Mobilization Advance**

- (i) Mobilization Advance up to 10 % of the Contract Price may be paid by the procuring agency to the contractor on the works costing Rs.2.5 million or above on following condition:
  - (a) on submission by the contractor of a mobilization advance guarantee for the full amount of the advance in the specified form, from a scheduled Bank in Pakistan, to the procuring agency;
  - (b) Contractor shall pay interest on the mobilization advance at the rate of 10% per annum on the advance; and
- (iii) This Advance including the interest shall be recovered in 5 equal instalments from the 5 R.A bills and in case the number of bills is less than 5 then 1/5 of the advance inclusive of the interest thereon shall be recovered from each bill and the balance together with interest be recovered from the final bill. It may be insured that there is sufficient amount in the final bill to enable recovery of the Mobilization Advance.

**(b) Alternative Three: Materials Supplied by Employer**

Procuring agency may supply to the Contractor with whom arrangements in respect of completed items of works, i.e., for both labour and materials, have been entered into. Materials like cement, steel, bitumen or any other material whichever deemed necessary to complete the project; and the cost thereof shall be recovered from the Contractor through monthly statements on the basis of actual consumption on following conditions:

- (i) The list of materials, quantities, place or places of delivery and rates to be charged to the Contractor for each description of material shall be provided alongwith Appendix-A to Bid “Special Stipulations”.
- (ii) The contractor should be held responsible from obtaining from procuring agency all such materials required for the work and for making payment therefore, by deductions from the bills, at the rates specified, regardless of fluctuation in the market rates or stock rates of the Procuring agency;
- (iii) No carriage or incidental charges are borne by Procuring agency for moving the materials beyond the place where contractor has agreed to take delivery thereof;
- (iv) Issues of materials to contractors for bona fide use on works exempt from the usual charges of 10% on account of supervision, storage and contingencies, which is made when stock materials are sold to the public.

(Procuring agency may opt either “Secured Advance on Materials” or “any alternate of Financial Assistance to Contractor”)

### 63.1 Default of Contractor

The following para is added at the end of the Sub-Clause:

Provided further that in addition to the action taken by the Procuring agency against the Contractor under this Clause, the Procuring agency may also refer the case of default of the Contractor to Pakistan Engineering Council for punitive action under the Construction and Operation of Engineering Works Bye-Laws 1987, as amended from time to time.

### 65.2 Special Risks

The text is deleted and substituted with the following:

The Special Risks are the risks defined under Sub-Clause 20.4 sub paragraphs (a) (i) to (v).

### 67.3 Arbitration

In the sixth to eight lines, the words “shall be finally settled ..... appointed under such Rules” are deleted and substituted with the following:

shall be finally settled under the provisions of the Arbitration Act, 1940 as amended or any statutory modification or re-enactment thereof for the time being in force.

The following paragraph is added:

The place of arbitration shall be **Karachi**, in Sindh Province.

### 68.1 Notice to Contractor

The following paragraph is added:

For the purposes of this Sub-Clause, the Contractor shall, immediately after receipt of Letter of Acceptance, intimate in writing to the Procuring agency and the Engineer by registered post, the address of his principal place of business or any change in such address during the period of the Contract. If the change in address has not been notified by the contractor, then procuring agency shall not be responsible for delivery of the notice.

### 68.2 Notice to Procuring Agency and Engineer

For the purposes of this Sub-Clause, the respective address are:

- a) The Procuring Agency :

**Project Director, Rehabilitation of DHQ / THQ Hospitals in Sindh**

(To be filled in by the Procuring Agency as appropriate)

- b) The Engineer:

**M/s. Atif Nazar Associates (Consulting Engineers & Architects)**



## 70.1 Increase or Decrease of Cost

Sub-Clause 70.1 in (GCC) is deleted in its entirety, and substituted with the following:

### (a) Locally funded Projects/Schemes.

The amounts payable to the Contractor, pursuant to Sub-Clause 60.1, shall be adjusted in respect of the rise or fall in the cost of labor, materials only, and will be paid to the contractor as per notification issued by finance department after the date of opening the tender ( new escalation) on those items mentioned in it. Similarly reduction in the cost of these materials will also be recovered from the contractor accordingly.

All escalation notified prior to date of opening of the tender will not be claimable in the contract.

### (b) Foreign funded Projects/Schemes.

The amounts payable to the Contractor, pursuant to Sub-Clause 60.1, shall be adjusted in respect of the rise or fall in the cost of labor, materials, and other inputs to the works, by applying to such amount the formula prescribed in his Sub-Clause.

#### (i) Other Changes in Cost (for foreign funded projects only)

To the extent that full compensation for any rise or fall in costs to the Contractor is not covered by the provisions of this or other Clauses in the Contract, the unit rates and prices included in the Contract shall be deemed to include amounts to cover the contingency of such other rise or fall of costs and the amount shall be calculated as per the following formula.

$$P_n = A + b \frac{L_n}{L_o} + c \frac{M_n}{M_o} + d \frac{E_n}{E_o} + \dots$$

Where:

$P_n$  is a price adjustment factor to be applied to the amount for the payment of the work carried out in the subject month, determined in accordance with Paragraph 60.1 (a), and with Paragraphs 60.1 (b) and (e), where any variations and day work are not otherwise subject to adjustment;

$A$  is a constant, specified in Appendix-C to Bid, representing the nonadjustable portion in contractual payments;

$b, c, d$ , etc., are weightages or coefficients representing the estimated proportion of each cost element (labour, cement and reinforcing steel etc.) in the Works or Sections thereof, net of Provisional Sums and Prime Cost; the sum of  $A, b, c, d$ , etc., shall be one;

$L_n, M_n, E_n$ , etc., are the current cost indices or reference prices of the cost elements for month “n”, determined pursuant to Sub-Clause 70.1(d), applicable to each cost element; and

Lo, Mo, Eo, etc., are the base cost indices or reference prices corresponding to the above cost elements at the date specified in Sub-Clause 70.1(d).

**(ii) Sources of Indices and Weightages**

The sources of indices shall be those listed in Appendix-C to Bid, as approved by the Engineer. As the proposed basis for price adjustment, the Contractor shall have submitted with his bid the tabulation of Weightages and Source of Indices if different than those given in Appendix-C to Bid, which shall be subject to approval by the Engineer.

**(iv) Base, Current, and Provisional Indices**

The base cost indices or prices shall be those prevailing on the day 28 days prior to the latest date for submission of bids. Current indices or prices shall be those prevailing on the day 28 days prior to the last day of the period to which a particular monthly statement is related. If at any time the current indices are not available, provisional indices as determined by the Engineer will be used, subject to subsequent correction of the amounts paid to the Contractor when the current indices become available.

**(iv) Adjustment after Completion**

If the Contractor fails to complete the Works within the Time for Completion prescribed under Clause 43, adjustment of prices thereafter until the date of completion of the Works shall be made using either the indices or prices relating to the prescribed time for completion, or the current indices or prices, whichever is more favorable to the procuring agency, provided that if an extension of time is granted pursuant to Clause 44, the above provision shall apply only to adjustments made after the expiry of such extension of time.

**(v) Weightages**

The weightages for each of the factors of cost given in Appendix-C to Bid shall be adjusted if, in the opinion of the Engineer, they have been rendered unreasonable, unbalanced, or inapplicable as a result of varied or additional work executed or instructed under Clause 51. Such adjustment(s) shall have to be agreed in the variation order.

The following Sub-Clauses 73.1, 73.2, 74.1, 75.1, 76.1, 77.1 and 78.1 are added in (GCC):

**73.1 Payment of Income Tax**

The Contractor, Subcontractors and their employees shall be responsible for payment of all applicable taxes on income arising out of the contract and the rates and prices stated in the contract shall be deemed to cover all such taxes.

**73.2 Customs Duty & Taxes**

(Procuring agency may incorporate provisions where applicable)

#### **74.1 Integrity Pact (for contracts worth Rs. 10 million and above)**

If the Contractor or any of his Subcontractors, agents or servants is found to have violated or involved in violation of the Integrity Pact signed by the Contractor as Appendix-L to his Bid, then the procuring agency shall be entitled to:

- (a) recover from the Contractor an amount equivalent to ten times the sum of any commission, gratification, bribe, finder's fee or kickback given by the Contractor or any of his Subcontractors, agents or servants;
- (b) terminate the Contract; and
- (c) recover from the Contractor any loss or damage to the procuring agency as a result of such termination or of any other corrupt business practices of the Contractor or any of his Subcontractors, agents or servants.

The termination under Sub-Para (b) of this Sub-Clause shall proceed in the manner prescribed under Sub-Clauses 63.1 to 63.4 and the payment under Sub-Clause 63.3 shall be made after having deducted the amounts due to the procuring agency under Sub-Para (a) and (c) of this Sub-Clause.

#### **75.1 Termination of Contract for Procuring Agency Convenience**

Procuring agency shall be entitled to terminate the Contract at any time for the Procuring agency's convenience after giving 56 days prior notice to the Contractor, with a copy to the Engineer. In the event of such termination, the Contractor:

- (a) shall proceed as provided in Sub-Clause 65.7 hereof; and
- (b) shall be paid by the procuring agency as provided in Sub-Clause 65.8 hereof.

#### **76.1 Liability of Contractor**

The Contractor or his Subcontractors or assignees shall follow strictly, all relevant labour laws including the Workmen's Compensation Act and the procuring agency shall be fully indemnified for all claims, damages etc. arising out of any dispute between the Contractor, his Subcontractors or assignees and the labour employed by them.

#### **77.1 Joint and Several Liabilities**

If the Contractor is a joint venture of two or more persons, all such persons shall be jointly and severally bound to the procuring agency for the fulfilment of the terms of the Contract and shall designate one of such persons to act as leader with authority to bind the joint venture. The composition or the constitution of the joint venture shall not be altered without the prior consent of the procuring agency.

### **78.1 Details to be Confidential**

The Contractor shall treat the details of the Contract as private and confidential, save in so far as may be necessary for the purposes thereof, and shall not publish or disclose the same or any particulars thereof in any trade or technical paper or elsewhere without the prior consent in writing of the procuring agency or the Engineer. If any dispute arises as to the necessity of any publication or disclosure for the purpose of the Contract, the same shall be referred to the decision of the Engineer whose award shall be final.

## ***PART II –PARTICULAR CONDITIONS OF CONTRACT***

<b>Index</b>	<b>Clause</b>
Alcoholic Liquor or Drugs	34.8
Arbitration	67.3
Arms and Ammunition	34.9
As-Built Drawings	6.7
Bonus for Early Completion of Works	47.3
Cash Flow Estimate to be Submitted	14.3
Commencement of Works	41.1
Compliance by Sub-Contractors	34.12
Conditions of Hire of Contractor's Equipment	54.5
Contractor's Representative	15.3
Co-operation with Other Contractors	31.3
Customs Clearance	54.3
Customs Duty and Taxes	73.2
Default of Contractor	63.1
Definitions	1.1
Detailed Programme and Monthly Progress Report	14.5
Details to be Confidential	78.1
Disorderly Conduct	34.11
Procuring agency's Risks	20.4
Employment of Local Personnel	16.4
Employment of Persons in the Service of Others	34.3
Engineer Not Liable	2.7
Engineer's Duties and Authority	2.1
Engineer's Representative	2.2
Epidemics	34.6
Exclusions	21.4
Failure to Comply	53.4
Festivals and Religious Customs	34.10
Financial Assistance to Contractor	60.11
Health and Safety	34.5
Housing for Labour	34.4
Increase or Decrease of Cost	70.1
Instructions for Variations	51.2
Insurance of Works and Contractor's Equipment	21.1
Insurance Company	25.5
Integrity Pact	74.1
Joint and Several Liability	77.1
Language Ability of Contractor's Representative	15.2
Language Ability of Superintending Staff of Contractor	16.3
Language(s) and Law	5.1
Liability of Contractor	76.1
Lighting Work at Night	19.4
Monthly Payments	60.2

<b>Index</b>	<b>Clause</b>
Monthly Statements	60.1
Notice to Contractor	68.1
Notice to procuring agency and Engineer	68.2
Payment of Income Tax	73.1
Payments of Nominated Subcontractors	59.4
Performance Security	10.1
Performance Security Binding on Variation and Changes	10.4
Priority of Contract Documents	5.2
Programme to be Submitted	14.1
Rates of Wages and Conditions of Labour	34.2
Records of Safety and Health	35.2
Replacement of the Engineer	2.8
Reporting of Accidents	35.3
Safety Precautions	19.3
Secured Advance on Materials	60.11
Shop Drawings	6.6
Special Risks	65.2
Supply of Water	34.7
Taking Over of Sections or Parts	48.2
Termination of Contract for procuring agency's Convenience	75.1
Time for Payment	60.10
Use of Pakistani Materials and Services	36.6
Valuation of Variations	52.1

## SPECIFICATIONS

DRAWING