

**Part -I**  
**General & Special Conditions of the Contract**

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## **A. General**

### **1 DEFINITIONS**

- 1.1** Bill of quantities means the priced and completed bill of quantities forming part of the Bid.
- 1.2 Chief Engineer:** means Chief Engineer of the BIADA, Patna (Bihar).
- 1.3 Completion:** means completion of the work as certified by the Engineer-in-charge, accordance with the provision of agreement.
- 1.4 Contract:** means the contract between the Employer and the Contractor to execute, complete and/or maintain the work. Agreement is synonym of Contract and carries the same meaning wherever used.
- 1.5 Contract Data:** means the documents and other information which comprise of the contract.
- 1.6 Contractor:** means a person or legal entity whose bid to carry out the work has been accepted by the Employer.
- 1.7 Contractor's bid:** means the completed bid document submitted by the Contractor to the Employer.
- 1.8 Contract amount:** means the amount of contract work out on the basis of accepted bid.
- 1.9 Completion of work:** means completion of the entire contracted work. Exhaustion of quantity of any particular item mentioned in the bid document shall not imply completion of work or any component thereof.
- 1.10 Day:** means the calendar day
- 1.11 Defect:** means any part of the work not completed in accordance with the specifications included in the contract.
- 1.12 Department:** BIADA, Patna (Bihar) which adopts this document.
- 1.13 Drawing:** means drawings including calculations and other information provided or approved by Engineer-in-charge.
- 1.14 Employer:** means the party as define in the contract data, who employs the contractor to carry out the work. The employer may delegate any or all functions to a person or body nominated by him for specified functions. The word employer/ Government /Department wherever used denote the employer.
- 1.15 Engineer:** means the person named in the contract data.

- 1.16 Engineer in charge:** means the person named in the contract data.
- 1.17 Equipment:** means the Contractor's machinery and vehicles brought temporarily to the site for execution of work.
- 1.18 Government:** means Government of Bihar.
- 1.19 In Writing:** means communicated in written form and delivered against receipt.
- 1.20 Material:** means all supplies, including consumables, used by the contractor for the incorporation in the work.
- 1.21 Executive Engineer:** means Executive Engineer-in-Charge of the BIADA, Bihar.
- 1.22 Stipulated period of completion:** means the period in which the contractor is required to complete the work. The stipulated period is specified in the contract data.
- 1.23 Specification:** means the specification of the work included in the contract and any modification or addition made or approved by the Engineer-in-charge.
- 1.24 Start Date:** means the date of signing of agreement for the work.
- 1.25 Sub-contractor:** means a person or corporate body who has a contract with the contractor, duly authorized to carry out a part of construction work under the contract.
- 1.26 Temporary work:** means work, design, constructed, installed and removed by the contractors that are needed for construction or installation of the work.
- 1.27 Tender/Bid, Tenderer/Bidder:** are the synonyms and carry the same meaning wherever used.
- 1.28 Variation:** means any change in the work which is instructed or approved as variation under the contract.
- 1.29 Work:** The expression “work” or “works” where used in these conditions shall unless there be something either in the subject or context repugnant to such construction be construed and taken to mean the work by virtue of contract, contracted to be executed, whether temporary or permanent and whether original, altered, substituted or additional.

## **2 INTERPRETATIONS AND DOCUMENTS**

### **2.1 Interpretations**

In all the contract, except where the context requires or otherwise;

- a. words indicating one gender include all genders;
- b. Words indicating the singular also include the plural and vice versa

- c. Provisions including the word “agree”, “agreed” or “agreement” require the agreement to be recorded in writing.
- d. “Written” or “in writing” means hand-written, type-written, printed or electronically made, and resulting in a permanent record.

## **2.2 Documents Forming Part of Contract:**

- 1. NIT with all amendments
- 2. Instructions to Bidders (ITF, Bid Data Sheet with all Annexure)
- 3. Conditions of Contract:
  - i. Part I General Conditions of Contract and Contract Data; with all annexure
  - ii. Part II Special Conditions of Contract.
- 4. Specifications
- 5. Drawings
- 6. Bill of Quantities
- 7. Financial Bid
- 8. Agreement
- 9. Any other document(s), as specified.

## **3 Language and Law**

The language of the Contract and the law governing the Contract are stated in the Contract Data.

## **4 Financial BID**

- 4.1 The bidder shall quote Sum total cost in format referred in Bid Data Sheet on turnkey contract basis for Construction of required capacity CETP based on 100% ZLD concept. Additionally, the bidder shall quote Sum total cost in format referred in Bid Data Sheet on turnkey contract basis for Construction of required capacity CETP without ZLD concept.
- 4.2 Quoted rates shall be quoted in figures as well as in words. If any difference in figures and words is found, then only rate written in words shall be considered as valid and correct.
- 4.3 The bidder shall quote rates inclusive of all duties, taxes, royalties and other levies but exclusive of GST and the Employer shall not be liable for the same.

4.4 After 3 months of trial run the operation & maintenance rate would apply for ten year duration after successful commissioning of the plant & acceptance by Employer.

## **5 Period of Validity of Bids**

The bids shall remain valid for a period of 180 days from the date of submission. The validity of the bid can be extended.

## **6 Earnest Money Deposit (EMD)**

6.1 The Bidder shall furnish, as part of the Bid, Earnest Money Deposit (EMD), of Rs.80,00000/- (Rupees Eighty Lakhs Only) in favour of BIADA, Patna.

6.2 The EMD shall be in the form of any of the following:

- a. Indian post office term deposit 1 year/ 2 years/ 3 years; National saving Certificate; Kishan Vikash Patra duly endorsed by the Competent Postal authority in Bihar.
- b. Fixed deposit receipt of a Schedule bank, Fixed deposit receipt should be Valid for six months after last date of receipt of tender and shall be pledged in favour of the BIADA.
- c. 5 year National Development bond/ State development loan Certificate.
- d. Unconditional bank guarantee from any scheduled Indian bank issued within the state in the format given in Annexure-K (If issued from any bank outside state will be Converted to any bank within the state before executing the agreement.

6.3 Bid not accompanied by EMD shall be liable for rejection as non-responsive.

6.4 EMD of bidders whose bids are not accepted will be returned after the decision on the bid.

6.5 EMD of the successful Bidder will be discharged when the Bidder has signed the Agreement after furnishing the requisite Performance Security.

6.6 Failure to sign the contract by the selected bidder, within the specified period, for whatsoever reason, shall result in forfeiture of the earnest money deposit

## **7. Communications**

All certificates, notice or instruction to be given to the Contractor by the Employer/Engineer shall be sent to the address or contact details given by Contractor in.

The address and contact details for communication with the Employer/Engineer shall be as per the details given in the Contract Data. Communication between parties that are referred to in the conditions shall be in writing. The notice sent by facsimile (fax) or other electronic (email) shall also be effective on confirmation of the transmission. The notice sent by registered post or speed post shall be effective on delivery or at the expiry of the normal delivery period as undertaken by the postal service. In case of any change in address for communication, the same shall be immediately notified to Engineer-in-Charge.

## **8. Personnel**

8.1 The Contractor shall employ for the construction work and routine maintenance. The details of the Manpower should be enclosed. If the Contractor fails to deploy required number of technical staff, recovery as specified in the Contract Data will be made from the contractor.

8.2 If the Engineer asks the Contractor to remove a person who is a member of Contractor's staff or work force, stating the reasons, the Contractor shall ensure that the person leaves the site within three days and has no further connection with the works in the contract.

## **9 Force Majeure**

9.1 The term "Force Majeure" means an exceptional event or circumstance:

- a) Which is beyond a Party's control,
- b) Which such Party could not reasonably have provided against before entering into the Contract,
- c) Which, having arisen, such Party could not reasonably have avoided or overcome, and
- d) Which is not substantially attributable to the other Party?

Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind listed below, so long as conditions (a) to (d) above are satisfied:

- i) War, hostilities (whether war be declared or not), invasion, act of foreign enemies,
- ii) Rebellion, terrorism, sabotage by persons other than the Contractors Personnel, revolution, insurrection, military or usurped power, or civil war,
- iii) Riot, commotion, disorder, strike or lockout by persons other than the Contractors Personnel,

- iv) Munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the Contractors use of such munitions, explosives, radiation or radio-activity, and
- v) Natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity.

9.2 In the event of either party being rendered unable by force majeure to perform any duty or discharge any responsibility arising out of the contract, the relative obligation of the party affected by such force majeure shall upon notification to the other party be suspended for the period during which force majeure event lasts. The cost and loss sustained by either party shall be borne by respective parties.

9.3 For the period of extension granted to the Contractor due to Force Majeure the penalty clause shall not apply.

9.4 The time for performance of the relative obligation suspended by the force majeure shall stand extended by the period for which such clause lasts. Should the delay caused by force majeure exceed **twelve** months, the parties to the contract shall be at liberty to foreclose the contract after holding mutual discussions.

## **10 Contractor's Risks**

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

10.2 All risks and consequences arising from the inaccuracies or falseness of the documents, drawing, designs, other documents and/or information submitted by the contractor shall be the responsibility of the Contractor alone, notwithstanding the fact that the designs/ drawings or other documents have been approved by department.

## **11 Liability for Accidents to Person**

The contractor shall be deemed to have indemnified and saved harmless Government against all action, suits, claims, demands, costs etc. arising connection with injuries suffered by any persons employed by the contractor or his subcontractor for the works whether under the General law or under workman's compensation Act, or any other statute in force at the time of dealing with question of the liability of employees for the



injuries suffered by employees and to have taken steps properly to ensure against any claim there under.

## **12 Contractor to Construct the Works**

- 12.1 The Contractor shall construct, install and maintain the Works in accordance with the Specifications and Drawings as specified in the Contract Data.
- 12.2 The contractor shall supply and take upon himself the entire responsibility of the sufficiency of the scaffolding, timbering, machinery, tools and implements, and generally of all means used for the fulfilment of this contract whether such means may or may not be approved or recommended by the Engineer.

## **13 Discoveries**

Anything of historical or other interest or of significant value unexpectedly discovered on the Site shall be the property of the Employer. The Contractor shall notify the Engineer of such discoveries and carry out the Engineer's instructions for dealing with them.

## **14 Dispute Resolution System**

- 14.1 No dispute can be raised except before the Competent Authority as defined in Contract Data in writing giving full description and grounds of dispute. It is clarified that merely recording protest while accepting measurement and/or payment shall not be taken as raising a dispute.
- 14.2 No dispute can be raised after 45 days of its first occurrence. Any dispute raised after expiry of 45 days of its first occurrence shall not be entertained and the Employer shall not be liable for claims arising out of such dispute.
- 14.3 The Competent Authority shall decide the matter within 45 days.
- 14.4 Appeal against the order of the Competent Authority can be preferred within 30 days to the Appellate Authority as defined in the Contract data. The Appellate Authority shall decide the dispute within 45 days.
- 14.5 The Contractor shall have to continue execution of the Works with due diligence notwithstanding pendency of a dispute before any authority or forum.

14.6 Further Appeal against the Appellate Authority to be referred to Arbitration and conciliation Act, 1996 as amended from time to time, wherein panel of three Arbitrators (One Arbitrators by each party and the Arbitrator so appointed shall appoint a third presiding Arbitrator) should adjudicate the dispute. The language of Arbitration shall be English.

## **B. Time Control**

### **15 Program**

Submission of PERT chart for project planning, schedules of proposed work, Project planning should be made in reference to construction, Operation & Maintenance along with design, construction/laying of effluent conveyance system including conveyance of effluent by tanker and recycled water supply network of proposed Project.

15.1 Within the time stated in the Contract Data, the Contractor shall submit to the Engineer for approval a Program showing the general methods, arrangements, order and timing for all the activities for the construction of works.

15.2 The program shall be supported with all the details regarding key personnel, equipment and machinery proposed to be deployed on the works for its execution. The contractor shall submit the list of equipment and machinery being brought to site, the list of key personnel being deployed, the list of machinery/equipment being placed in field laboratory and the location of field laboratory along with the Program.

15.3 An update of the Program shall be a program showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining Works, including any changes to the sequence of the activities.

15.4 The Contractor shall submit to the Engineer for approval an update Program at intervals no longer than the period stated in the Contract Data. If the Contractor does not submit an updated Program within the period, the Engineer may withhold the amount stated in the Contract Data from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program has been submitted.

15.5 The Engineer's approval of the Program shall not alter the Contractor's obligations.

## **16 Extension of Time**

16.1 If the Contractor desires an extension of time for completion of the work on the ground of his having been unavoidably hindered in its execution or on any other grounds, he shall apply, in writing, to the Engineer-in-Charge, on account of which he desires such extension. Engineer-in-Charge shall forward the aforesaid application to the Competent Authority as prescribed.

16.2 The competent authority shall grant such extension at each such occasion within a period of 30 days of receipt of application from contractor and shall not wait for finality of work. Such extensions shall be granted in accordance with provisions under clause- 15 of this agreement.

16.3 In case the work is already in progress, the Contractor shall proceed with the execution of the works, including maintenance thereof, pending of the decision of the competent authority as aforesaid with all due diligence.

## **17 Compensation for Delay**

17.1 The time allowed for carrying out the works, as entered in the agreement, shall be strictly observed by the Contractor.

17.2 The time allowed for execution of the contract shall commence from the date of signing of the agreement. It is clarified that the need for issue of work order is dispensed with.

17.3 In the event milestones are laid down in the Contract Data for execution of the works, the contractor shall have to ensure strict adherence to the same.

17.4 Failure of the Contractor to adhere to the timelines and/or milestones shall attract such liquidated damages as is laid down in the Contract Data.

17.5 In the event of delay in execution of the Works as per the timelines mentioned on the Contract Data the Engineer-in-Charge shall retain from the bills of the Contractor amount equal to the liquidated damages liable until the Contractor make such delays good. However, the Engineer-in-Charge shall accept bankable security in lieu of retaining such amount.

17.6 If the Contractor is given extension of time after liquidated damages have been paid, the Engineer-in-Charge shall correct any over payment of liquidated damages by the Contractor in the next payment certificate.

17.7 In the event the Contractor fails to make good the delay until completion of the stipulated contract period (including extension of time) the sum so retained shall be adjusted against the liquidated damages levied.

## **18 Work's completeness**

It is not the intent to specify completely herein all details of the work. Never the less, work shall be complete and operative in all aspects. Any material or accessories which may not have been specifically mentioned but which is necessary for usual, satisfactory and trouble free operation of the system, shall be furnished by the supplier without extra charge.

## **C : Quality Control**

### **19 Tests**

19.1 The Contractor shall be responsible for:

- a. Carrying out the tests prescribed in specifications, and
- b. For the correctness of the test results, whether preformed in his laboratory or elsewhere.
- c. At least 10% test of material of prescribed frequencies should be carried out by IIT/NIT/Civil Engineering College/ as directed by Engineer-in-Charge. The charges for the same paid by the contractor.

19.2 The contractor shall have to establish field laboratory within the time specified and having such equipments as are specified in the Contract Data.

19.3 Failure of the Contractor to establish laboratory shall attract such penalty as is specified in the Contract Data.

### **20 Correction of Defects noticed during the Defect Liability Period**

20.1 The Defect Liability Period of work in the contract shall be as per the Contract Data.

20.2 The Contractor shall promptly rectify all defects pointed out by the Engineer In charge well before the end of the Defect Liability Period. The Defect Liability Period shall automatically stand extended until the defect is rectified.

20.3 If the Contractor has not corrected a Defect pertaining to the Defect Liability Period to the satisfaction of the Engineer In charge, within the time specified by the Engineer In charge, the Engineer In charge will assess the cost of having the Defect corrected, and the cost of correction of the Defect shall be recovered from the Performance Security or any amount due or that may become due to the contractor and other available securities.

## **D : Cost Control**

### **21 Variations – Change in original Specifications, Designs and Drawings etc.**

21.1 The Competent Authority shall have power to make any alterations, omissions or additions to or substitutions in the original specifications, drawings, designs and instructions that may appear to him to be necessary during the progress of the work and the contractor shall carry out the work in accordance with any instructions which may be given to him in writing signed by the Competent Authority and such alterations, omission, additions or substitutions shall not invalidate the contract and any altered, additional or substituted work, which the contractor may be directed to do in the manner above specified, as part of the work, shall be carried out by the contractor on the same conditions in all respects on which he agrees to do the main work.

21.2 The time for the completion of the work shall be adjusted in the proportion that the altered, additional or substituted work bears to the original contract work and the certificate of the Competent Authority shall be conclusive as to such proportion.

### **22 Extra Items**

All such items which are not included in the priced Bid shall be treated as extra it

### **23 Payments for Variations and / or Extra Quantities**

23.1 The rates for such additional (Extra quantity), altered or substituted work / extra items under this clause shall be worked out in accordance with the following provisions in their respective order:-

23.1.1 The contractor is bound to carry out the additional (Extra quantity), work at the same rates as are specified in the contract for the work.

23.1.2 If the item is not in the priced BOQ and is included in the SOR of the department, the rate shall be arrived at by applying the quoted tender on the SOR rate.

- i. SCHEDULE OF RATES FOR BUILDING WORKS IN BIHAR SCHEDULED RATE-2018,
- ii. Schedule of rates for Bihar Scheduled of Rates-2019 (RCD)
- iii. Unified Schedule of rates for Water supply & Sewerage works in
  - a. Bihar Schedule of rate-2018. (PHED)
  - b. Schedule of rates for E & M works in Bihar schedule of rate 2018.

**NOTE :- (i) ALL SOR AMENDMENT APPLICABLE UP TO ISSUE DATE OF NIT.**

**(ii) WHERE EVER ITEMS AND SOR, BIHAR IS NOT AVAILABLE CPWD SOR WILL APPLY.**

- c. If the rates for the altered or substituted work are not provided in applicable SOR – such rates will be derived from the rates for a similar class (type) of work as is provided in the contract (priced Bid) for the work.
- d. If the rates for the altered, substituted work cannot be determined in the manner specified in the sub clause (c) above – then the rates for such composite work item shall be worked out on the basis of the concerned Schedule of Rates minus/plus the percentage quoted by the contractor.
- e. If the rates for a particular part or parts of the item is not in the Schedule of Rates and the rates for the altered, or substituted work item cannot be determined in the manner specified in sub clause (b) to (d) above, the rate for such part or parts will be determined by the Competent Authority as defined in the Contract Data on the basis of the rate analysis derived out of prevailing market rates when the work was done.
- f. But under no circumstances, the contractor shall suspend the work on the plea of non-acceptability of rates on items failing under sub clause (a) to (e). In case the contractor does not accept the rate approved by the Competent Authority for a particular item, the contractor shall continue to carry out the item at the rates determined by the Competent Authority. The decision on the final rates payable shall be arrived at through the dispute settlement procedure.

#### **24 No compensation for alterations in or restriction of work to be carried out.**

24.1 If at any time after the commencement of the work, the Engineer-in-Charge, for any reason whatsoever, not require the whole or any part of the work as specified in the bid

to be carried out; the Engineer-in-Charge shall give notice in writing of the fact to the contractor and withdraw that whole or any part of the work.

24.2 The contractor shall have no claim to any payments or compensation whatsoever, on account of any profit or advantage which he might have derived from the execution of work in full or on account of any loss incurred for idle men and machinery due to any alteration or restriction of work for whatsoever reason.

24.3 The Engineer-in-Charge may supplement the work by engaging another agency to execute such portion of the work, without prejudice to his rights.

## **25 No Interest Payable**

No interest shall be payable to the Contractor on any payment due or awarded by any authority.

## **26 Recovery from Contractors**

Whenever any claim against the Contractor for the payment arises under the contract, the Department may be entitled to recover such sum by:

- (a) Appropriating, in part or whole of the Performance Security and Additional Performance Security, if any; and/or Security Deposit and/or any sums payable under the contract to the contractor.
- (b) If the amount recovered in accordance with (a) above is not sufficient, the balance sum may be recovered from any payment due to the contractor under any other contract of the department, including the securities which become due for release.

## **27 Tax**

27.1 The rates quoted by the contractor shall be deemed to be inclusive of the commercial tax and other levies, duties, cess, toll, taxes of Central and State Governments, local bodies and authorities except GST.

27.2 The liability, if any, on account of quarry fees, royalties, octroi and any other taxes and duties in respect of materials actually consumed on public work, shall be borne by the contractor.

27.3 Any changes in the taxes due to change in legislation or for any other reason shall not be payable to the contractor.

## **28 Check Measurements**

28.1 The department reserves to itself the right to prescribe a scale of check measurement of work in general or specific scale for specific works or by other special orders.

28.2 Checking of measurement by superior officer shall supersede measurements by subordinate officers(s), and the former will become the basis of the payment.

28.3 Any over/excess payments detected, as a result of such check measurement or otherwise at any stage up to the date of completion of the defect liability period specified in this contract, shall be recoverable from the Contractor, as per clause 26 above.

## **29 Termination by Engineer-in-Charge**

29.1 If the Contractor fails to carry out any obligation under the Contract, the Engineer-in-Charge may by notice require the Contractor to make good the failure and to remedy it within a specified reasonable time.

29.2 The Engineer-in-Charge shall be entitled to terminate the Contract if the Contractor

- (a) abandons the Works or otherwise plainly demonstrates the intention not to continue performance of his obligations under the contract;
- (b) the Contractor is declared as bankrupt or goes into liquidation other than for approved reconstruction or amalgamation;
- (c) without reasonable excuse fails to comply with the notice to correct a particular defect within a reasonable period of time;
- (d) the Contractor does not maintain a valid instrument of financial security as prescribed;
- (e) the Contractor has delayed the completion of the works by such duration for which the maximum amount of liquidated damages is recoverable;
- (f) If the Contractor fails to deploy machinery and equipment or personnel or set up a field laboratory as specified in the Contract Data;
- (g) If the Contractor, in the judgment of the Engineer-in-Charge has engaged in corrupt or fraudulent practices in completing for or in executing the contract;
- (h) Any other fundamental breaches as specified in the Contract Data.



29.3 In any of these events or circumstances, the Engineer-in-Charge may, upon giving 14 days" notices to the Contractor, terminate the Contract and expel the Contractor from the Site. However, in the case of sub-paragraph (b) or (g) of clause 29.2, the Engineer-in- Charge may terminate the Contract immediately without any damages etc.

29.4 Notwithstanding the above, the Engineer-in-Charge may terminate the Contract for convenience by giving notice to the Contractor provided the Engineer-in-Charge before termination must give reasonable opportunity to rectify defect or damages within reasonable period of time, if any.

### **30 Payment upon Termination**

30.1 If the contract is terminated, the Engineer shall issue a certificate for value of the work accepted on final measurements, less Advance Payments and Penalty as indicated in the Contract Data. The amount so arrived at shall be determined by the Engineer-in-Charge and shall be final and binding on both the parties.

30.2 If the total amount due to the Employer exceeds any payment due to the Contractor, the difference shall be recovered as per clause 26 above.

### **31 Release of Performance Security**

31.1 The Contractor shall have to submit performance security and additional performance security, if any, as specified in the Bid Data Sheet at the time of signing of the contract. The contractor shall have to ensure that such performance security and additional performance security, if any, remains valid for the period as specified in the Contract Data.

31.2 The performance security shall be released after finishing of Construction works plus 3 years 3 months.

31.3 Additional performance security shall be released after completion of construction works.

### **32 Refund of Security Deposit**

32.1 Security Deposit shall be deducted from each running bill at the rate as specified in the Contract Data. The total amount of Security Deposit so deducted shall not exceed the percentage of Contract Price specified in the Contract Data.

32.2 The security deposit may be replaced by equivalent amount of bank guarantee or fixed deposit receipt assigned to the Employer, with validity up to 3 (three) months beyond the completion of Defect Liability Period/ extended Defect Liability Period.

32.3 The Security Deposit shall be refunded as following: 100% shall be refunded on expiry of Defect Liability Period and successful completion of 1 Year O & M.

### **33 Secured Advance**

33.1 Payment of secured Advance shall be applicable if provided in the Contract Data.

33.2 If applicable, the Engineer shall make advance payment against materials intended for but not yet incorporated in the Works and against provision by the contractor of an unconditional Bank Guarantee in a form and by a nationalized/ scheduled bank, in the name as stated in the Contract Data, in amounts equal to the advance payment. The guarantee shall remain effective until the advance payment has been adjusted, but the amount of the guarantee shall be progressively reduced by the amounts adjusted by the contractor.

33.3 The Amount of secured advance and conditions to be fulfilled shall be as stipulated in the Contract Data.

33.4 The Secured Advance paid shall be recovered as stated in the Contract Data.

### **34 Payment Certificates**

The payment to the contractor will be as follows for construction work:

- a) The Contractor shall submit to the Engineer monthly statements of the value of the work executed less the cumulative amount certified previously, supported with detailed measurement of the items of work executed.
- b) The Engineer shall check the contractor's monthly statement and certify the amount to be paid to the contractor.
- c) The value of work executed shall be determined, based on the measurements approved by the Engineer/Engineer-in-charge.
- d) The value of work executed shall comprise the value of the quantities of the items in the Bill of quantities completed.
- e) The value of work executed shall also include the valuation of variations and compensation Events

- f) All payments shall be adjusted for deductions for advance payment, security deposit, other recoveries in terms of contract and taxes at source as applicable under the law.
- g) The Engineer may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.
- h) Payment of intermediate certificate shall be regarded as payments by way of advance against the final payment and not as payments for work actually done and completed.
- i) Intermediate payment shall not be preclude the requiring of bad, unsound and imperfect or unskilled work to be removed and taken away and reconstructed or be considered as an admission of the due performance of the contractor any part thereof, in any respect or the occurring of any claim.
- j) The payment of final bill shall be governed by the provisions of clause 36 of GCC.

## **E : Finishing the Contract**

### **35 Completion Certificate**

- 35.1 A Completion Certificate in the prescribed format in contract Data shall be issued by the Engineer-in-Charge after physical completion of the Work.
- 35.2 After Final payment to the contractor, a Final Completion Certificate in the prescribed format in the Contract Data shall be issued by the Engineer-in-Charge.

### **36 Final Account**

- 36.1 The Contractor Shall provide the Engineer with a detailed account of the total amount that the contractor considers payable for works under the contract within 21 days of issue of certificate of physical completion of works. The Engineer shall issue a Defects Liability Certificate and certify any payment that is due to the Contractor within 45 days of receiving the Contractor's account if it is correct and complete. If the account is not correct or complete, the Engineer shall issue within 45 days a schedule that states the scope of the corrections or additions that are necessary, If the Account is still unsatisfactory after it has been resubmitted, the matter shall be referred to the

Competent Authority as defined in the Contract Data, who shall decide on the amount payable to the Contractor after hearing the Contractor and the Engineer in charge.

- 36.2 In case the account is not received within 21 days of issue of Certificate of Completion as provided in Clause 35.1 above, the Engineer shall proceed to finalise the account and issue a payment certificate within 28 days.

### **Other Conditions of Contract**

#### **37 Currencies**

All payments will be made in Indian Rupees.

#### **38 Labour**

- 38.1 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.

- 38.2 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 the numbers of the several classes of labour from time to time employed by the Contractor on the Site and such other information as the Engineer may require.

#### **39 Compliance with Labour Regulations**

- 39.1 During continuance of the Contract, the Contractor and his sub-Contractors shall abide at all times by all existing labour enactments and rules made there under, regulations, notifications and bye laws of the State or Central Government or local authority and any other labour law (including rules), regulations, bye laws that may be passed or notification that may be issued under any labour law in future either by the State or Central Government or local authority. Salient features of some of the major labour laws that are applicable to construction industry are given in the Contract Data. The Contractor shall keep the Employer indemnified in case any action is taken against the Employer by the competent authority on account of contravention of any of the provisions of any Act or rules made there under, regulations or notifications including amendments. If the Employer is caused to pay or reimburse, Such amounts as may be necessary to cause or observe, or for non-observance of the provisions stipulated in the notifications /byelaws/Acts/Rules/ regulations including amendments, if any, on the

part of the Contractor, the Engineer/Employer shall have the right to deduct from any money due to the Contractor including his amount of performance security. The Employer /Engineer shall also have right to recover from the Contractor any sum required or estimated to be required for making good the loss or damage suffered by the Employer . The Employees of the Contractor and the Sub-contractor in no case shall be treated as the employees of the Employer at any point of time.

#### **40 Audit and Technical Examination**

MD, BIADA, Patna (Bihar) shall have the right to cause an audit and technical examination of the works and the final bill of the contract including all supporting vouchers, Abstract etc. to be made after payment of the final bill and if as a result of such audit and technical examination any sum is found to have been overpaid in respect of any work done by the contractor under the contract and found not to, have been overpaid in respect of any work done by the contractor under the contract or any work claimed by him to have been done under the contract and found not to, have been executed , the Contractor shall be liable to refund the amount of overpayment and it shall be lawful for Government / BIADA. to recover the same from him in the manner prescribed in clause 26 above and if it is found that the Contractor was paid less than what was due to him, under the contract in respect of any work executed by him under it, the amount of such under payment shall be duly paid by Government /BIADA to the Contractor.

#### **41 Death or Permanent Invalidity of Contractor**

If the Contractor is an individual or a proprietary concern, partnership concern, dies during the currency of the contract or becomes permanently incapacitated, where the surviving partners are only minors, the contracts shall be closed without levying any damages/ compensation as provided for in clause 24 of the contract agreement. However, if the competent authority shall enter into a fresh agreement for the remaining work strictly on the same terms and conditions under which the contract was awarded.

#### **42 Managements Right**

MD BIADA reserves the right to accept all the tenders, split the work between the tenderers at lowest quoted rate in the interest of work or Cancel all the tenders without assigning any reason thereof.

#### **43 Jurisdiction**

This Contract has been entered into the State of Bihar and its validity, construction, interpretation and legal effect shall be subject to the courts at the place where this agreement is entered into. No other jurisdiction shall be applicable.

#### Contract Data

Sr. no.	Particulars	Data
1	Employer	MD, BIADA
2	Engineer	Junior Engineer, Assistant Engineer, Executive Engineer
	Engineer- in- Charge	Executive Engineer
	Stipulated period of completion	16 months including rainy season for Project Execution & 10 year O & M after successful commissioning of CETP
3	Language & Law of Contract	English
4	Address & contact details of the Contractor	Contact Details- Email- Phone no.- Mobile no.-
	Address & contact details of the Employer/ Engineer-Phone, Fax, e-mail	Consultant (P.I) BIADA, 1st Floor, East Gandhi Maidan, Patna Email-biada.engineering19@gmail.com Phone no.- Mobile no.-8084905579
5	Technical Personnel to be provided by the Contractor as per requirement, &	Separate Sheet to be Provided
	Penalty, if required Technical Personnel not employed	As per Contract Agreement
6	Specifications	Part-2 of RFP
	Drawing	
7	Competent Authority for deciding Dispute under Resolution System	MD- BIADA
	Appellate Authority for deciding dispute under Dispute Resolution	Principal Secretary, Department of Industry Cum- Chairman BIADA, GoB

Sr. no.	Particulars	Data
	System.	
8	Period for submission of updated Execution program	As per approved Pert chart / Contract Agreement.
	Amount to be withheld for not submitting construction program in the prescribed period	As per decision of Engineer-in-Charge
9	Competent Authority for granting Time Extension	MD-BIADA
10	Milestones laid down for the Contract	Yes
	If Yes, details of Milestones	As per Annexure C
	Liquidated damage	As per Annexure D
11	List of statutory permission	Consent to Establish (CTE) & Consent to Operate (CTO)
12	Defect Liability Period	3 Years after commissioning of CETP
13	Competent Authority for determining the rate	Managing Director, BIADA
14	Any other condition for breach of contract	Yes, as below: If the Contractor fails to achieve 50% Financial progress in any Milestone and/or fails to achieve 75% Financial progress in Two consecutive Milestones.
15	Penalty	Penalty shall include: a) Security deposit as per clause 31 of General Condition of Contract b) Liquidated damages imposed as per clause 17 or Performance Security (Guarantee) including additional Performance Security (Guarantee), if any, as per clause 31 of General Conditions of Contract, whichever is higher.
16	Performance guarantee (Security) shall be valid up to	Three month beyond the completion of defect Liability Period and 10 years O & M Period.
17	Security Deposit to be deducted from each running bill	At the rate of 8%

Sr. no.	Particulars	Data	
	Maximum limit of deduction of Security Deposit	Up to 10% of Final Contract amount	
18	Price Adjustment formula and procedure to calculate	N/A	
18.1	Price adjustment shall be applicable	N/A	
19	Mobilization Advance Applicable	Mobilization advance may be provided as per the provision made in PWD Code	
20	33.1 Secured Advance Applicable	Yes	
	33.2 If yes, Unconditional Bank Guarantee	In the format prescribed in Annexure-E	
	33.2 If yes, Amount of Secured advance	75% of value of material are in- accordance with the specification for works:	
	33.3 If yes, Condition for Secured advance	a.	The material are in- accordance with the specification for works:
		b.	Such material have been delivered to site, and are properly stored and protected against damage or deterioration to the satisfaction of the Engineer. The Contractor shall stock the bulk material in measurable stacks;
		c.	The Contractor's records or the requirements, orders, receipt and use of material are kept in a form approved by the engineer and such records shall be available for inspection by the Engineer;
d.		The contractor has submitted with his monthly statement the estimated value of the materials on site together with such document as may be required by the Engineer for the purpose of valuation of the materials and providing evidence of ownership and payment thereof;	
e.	Ownership of such materials shall be deemed to vest in the employer for which the Contractor has submitted an indemnity Bond in as acceptable format;		



Sr. no.	Particulars	Data
		and
	f.	The quantities of material are not excessive and shall be used within a reasonable time as determined by the Engineer.
	33.4 If yes, Recovery of Secured advance	The advance shall be repaid from each succeeding monthly payments to the extent materials (for which advance was previously paid) have been incorporated into the works.
21	Completion Certificate – after physical completion of the work	As per annexure- F
	Final Completion Certificate – after final payment on completion of the work	As per annexure- G
22	Competent authority	Managing Director, BIADA, Patna (Bihar)
23	Salient features of some of the major labour laws that are applicable	As per annexure- H
24	Competent authority	Managing Director, BIADA, Patna (Bihar)
25	Period of Feasibility bid	180 days
26	Earnest Money deposit	As per clause no 6 of GSCC
	Forms of Earnest Money deposit	As per clause no 6 of GSCC
	EMD valid for	As per clause no 6 of GSCC
	FDR/BG/DD must be drawn in favour of	BIADA, Patna
27	Amount of Performance Security	10% of contract value.

#### 44 Bidding Forms

**LETTER OF ACCEPTANCE (LOA)**

No. \_\_\_\_\_

Dated: \_\_\_\_\_

To

M/s \_\_\_\_\_ (Name and address of the contractor)

Subject: \_\_\_\_\_

(Name of the work as appearing in the bid for work)

Dear Sir (s),

Your bid for the work mentioned above has been accepted on behalf of the MD, BIADA at your bided on turnkey basis.

You are requested to submit within 15 (Fifteen) days from the date of issue of this letter:

- a. The performance security/performance guarantee of Rs. \_\_\_\_\_ (in figures)

(Rupees \_\_\_\_\_ in words only).

The performance security shall be in the shape of term deposit receipt/bank guarantee of any nationalized/scheduled commercial bank valid up to three months after the expiry of defects liability period.

- b. Sign the contract agreement.

Please note that the time allowed for carrying out the work as entered in the bid is prescribed in NIT months including/rainy season, shall be reckoned from the date of signing the contract agreement.

Signing the contract agreement shall be reckoned as intimation to commencement of work and no separate letter for commencement of work is required. Therefore, after signing of the agreement, you are directed to contact the Engineer-in-charge for taking the possession of site and necessary instructions to start the work.

Yours faithfully,

**Consultant (PI)**

**PERFORMANCE SECURITY**

To

----- (Name of Employer)

----- (address of employer)

WHEREAS \_\_\_\_\_ [name and address of Contractor)

(Hereinafter called "the Contractor") has undertaken, in pursuance of Letter of Acceptance No. \_\_\_\_\_ dated \_\_\_\_\_ to execute \_\_\_\_\_ [name of Contract and brief description of Works] (Hereinafter called "the Contract").

AND WHEREAS it has been stipulated by you in the said Contract that the Contractor shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with his obligation in accordance with the contract;

AND WHEREAS we have agreed to give the Contractor such a Bank Guarantee:

NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you on behalf of the Contractor, up to a total of \_\_\_\_\_ [amount of guarantee]\* \_\_\_\_\_ (in words), such sum being payable in the types and proportions of currencies in which the contract Price is payable, and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of \_\_\_\_\_ [amount of guarantee] as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the contractor before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the Contract of the Works to be performed there under or of any of the Contract documents which may be made between you and the Contractor shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

Our liability under this Bank Guarantee shall not exceed Rs. ....(Rs. ....only) &

we further declare that this Bank Guarantee will be valid from .....to ..... and we declare that this Bank Guarantee will be renewed automatically; we undertake to renew this Bank Guarantee on our own till the matter is settled & fully discharged by the MD, BIADA, Patna (Bihar). The liability of the importer shall not be discharged in any account without the consent of the MD, BIADA, Patna (Bihar) in writing.

This guarantee shall be valid until 3 (three) months from the date of expiry of the Defect Liability Period (i.e., up to completion of O&M period).

Signature, Name and Seal of the guarantor \_\_\_\_\_

Name of Bank \_\_\_\_\_

Address \_\_\_\_\_

Phone No., Fax No., E-mail Address, of Signing Authority \_\_\_\_\_

Date \_\_\_\_\_

An amount shall be inserted by the Guarantor, representing the percentage the Contract Price specified in the Contract including additional security for unbalanced Bids, if any and denominated in Indian Rupees.

**Table of Mile Stone(s)**

<b>Sl. No.</b>	<b>Financial Progress</b>	<b>Time allowed (from date of start)</b>
1.	1/8 <sup>TH</sup> (of whole work)	1/4 <sup>TH</sup> (of whole work)
2.	3/8 <sup>TH</sup> (of whole work)	1/2 <sup>TH</sup> (of whole work)
3.	3/4 <sup>TH</sup> (of whole work)	3/4 <sup>TH</sup> (of whole work)
4.	Full	Full

**Compensation for Delay**

If the contractor fails to achieve the milestones, and the delay in execution of work is attributable to the contractor, the Employer shall retain an amount from the sums payable and due to the contractor as per following scale –

- i. Slippage up to 25% in financial target during the milestone under consideration
  - 2.5% of the work remained unexecuted in the related time span.
- ii. Slippage exceeding 25% but Up to 50% in financial target during the milestone under consideration
  - 5% of the work remained unexecuted in the related time span.
- iii. Slippage exceeding 50% but Up to 75% in financial target during the milestone under consideration
  - 7.5% of the work remained unexecuted in the related time span.
- iv. Slippage exceeding 75% in financial target during the milestone under consideration
  - 10% of the work remained unexecuted in the related time span.

**Note:** For arriving at the dates of completion of time span related to different milestones, delays which are not attributable to the Contractor shall be considered. The slippage on any milestone is if made good in subsequent milestones or at the time of stipulated period of completion, the amount retained as above shall be refunded. In case the work is not completed within the stipulated period of completion along with all such extensions which are granted to the Contractor for either Employer`s default of Force Majeure, the compensation shall be levied on the contractor at the rate of 0.05% per day of delay limited to a maximum of 10% of contract price.

The decision of **M.D BIADA** shall be final and binding upon both the parties.

**Bank Guarantee form for Secured Advance**

**INDENTURE FOR SECURED ADVANCES**

This indenture made the ..... day of..... 20.....  
BETWEEN ..... (herein after called the contractor which expression shall where  
the context so admits or implies be deemed to include his executors, administrators and  
assigns) or the one part and the Employer of the other part.

Whereas by an agreement dated ..... (Herein after called the said  
agreement) the contractor has agreed.

AND WHEREAS the contractor has applied to the Employer that he may be allowed  
advanced on the security of materials absolutely belonging to him and brought by him to  
the site of the works the subject of the said agreement for use in the construction of such of  
the works as he has undertaken to executive at rates fixed for the finished work (inclusive of  
the cost of materials and labour and other charges).

AND WHEREAS the Employer has agreed to advance to the Contractor the sum of  
Rupees  
..... On the security of materials the quantities and other particulars of  
which are detailed in Accounts of Secured Advance attached to the Running Account Bill  
for the said works signed by the Contractor on ..... date the Employer has reserved  
to himself 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 WITNESSETH that in pursuance of the said agreement  
and in consideration of the sum of Rs. on or before the execution of these presents paid to  
the Contractor by the Employer (the receipt where of the Contractor doth hereby  
acknowledge) and of such further advances (if any) as may be made to him as aforesaid the  
Contractor doth hereby covenant and agree with the President and declare as follows:

That the said sum of Rupees ..... so advanced by the  
Employer to

- (1) The Contractor as aforesaid and all or any further sum of sums 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 details in the said account of Secured Advances which have been offered to and accepted by the Employer as security are absolutely the Contractor's own propriety and 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 indemnified the Employer against all claims to any materials in respect of which an advance has be made to him as aforesaid.
- (3) That the materials detailed in the said account of Secured Advances and all other materials on the security of which any further advance or advances may hereafter be made as aforesaid (hereafter 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 Engineer.
- (4) That the Contractor shall make at his own cost all necessary and adequate arrangements for the proper watch, safe custody and protection against all risks of the said materials 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 on his own responsibility and shall at all times be open to inspection by the Engineer or any officer authorized by him. In the event of the said materials or any part thereof being stolen, destroyed or damaged or becoming deteriorated in a greater degree than is due to reasonable use and wear thereof the Contractor will forthwith replace the same with other materials of like quality or repair and make good the same required by the Engineer.
- (5) That the said materials shall not be removed from the site of the said works except with the written permission of the Engineer or an officer authorized by him on that behalf.
- (6) That the advances shall be repayable in full when or before the Contract receives payment form the Employer 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 than on the occasion of each such payment the Employer will be at liberty to make a recovery from the Contractor's bill for such payment by deducting there from the value of the said materials than 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 materials at the rates at which the amounts 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 observance 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 of the Employer shall immediately on the happening of such default be repayable by the Contractor to be the Employer together with interest thereon at twelve percent per annum from the date or respective dates of such advance or advances to the date of repayment and with all costs, charges, damages and expenses incurred by the Employer in or for the recovery thereof or the enforcement of this security or otherwise by reason of the default of the Contractor and the Contractor hereby covenants and agrees with the employer to reply and pay the same respectively to him accordingly
- (8) That the Contractor hereby charges all the said materials with the repayment to the Employer of the said sum of Rupees ..... and any further sum of sums advanced as aforesaid and all costs, charges, damages and expenses payable under these presents PROVIDED ALWAYS and it is hereby agreed and declared that notwithstanding anything in the said agreement and without prejudice to the power contained therein if and whenever the covenant for payment and repayment here-in-before contained shall become-enforceable and the money owing shall not be paid in accordance there with the Employer may at any time thereafter adopt all or any of the following courses as he 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 provision in that behalf contained in the said agreement debiting the Contractor with the actual cost of effecting such completion and the amount due to the

Contractor with the value of work done as if 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 same to Employer on demand.

- (b) Remove and sell by public auction the seized materials or any part thereof and out of the moneys arising from the sale retain all the sums aforesaid repayable or payable to the Employer 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 in the event of such default on the part of the Contractor as aforesaid 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 here-in-before expressly provide for the same shall be referred to the Employer whose decision shall be final and the provision of the Indian Arbitration Act for the time being in force shall apply to any such reference.

### Physical Completion Certificate

Name of Work: .....

Agreement No. .... Date .....

Amount of Contract Rs.....

Name of Agency: ..... Used MB No.

.....

Last measurement recorded:

a. Page No. & MB No. .... b. Date

.....

Certified that the above mentioned work was physically completed on ..... (date) and taken over on ..... (date) and that I have satisfied myself to best of my ability that the work has been done properly.

Date of issued

**EXECUTIVE ENGINEER**

.....

.....

**Final Completion Certificate**

Name of Work:

.....  
.....

.....  
.... Agreement No. .... Date .....  
Name of Agency:  
..... Used MB No.  
.....

Last measurement recorded:

- a. Page No. & MB No. ....
- b. Date .....

Certified that the above mentioned work was physically completed on  
..... (date) and taken over on .....  
(date). Agreement amount Rs.  
Final amount paid to contractor Rs.  
..... Incumbency of officers for the  
work.

I have satisfied myself to best of my ability that the work has been done properly.

Date of issue:

**EXECUTIVE ENGINEER**

.....  
.....

## **SALIENT FEATURES OF SOME MAJOR LABOUR LAWS APPLICABLE**

- a) **Workmen Compensation Act 1923:-** The Act provides for compensation in case of injury by accident arising out of and during the course of employment.
- b) **Payment of Gratuity Act 1972:-** Gratuity is payable to an employee under the Act on satisfaction of certain conditions on separation if an employee has completed the prescribed minimum years (say, five years) of service or more or on death the rate of prescribed minimum days (say, 15 days) wages for every completed year of service the Act is applicable to all establishments employing the prescribed minimum number (say, 10) or more employees.
- c) **Employees P.F. and miscellaneous Provisions Act 1952:-** The Act provides for monthly contributions by the employer plus workers at the rate prescribed (say, 10% or 8.33%). The benefits payable under the Act are:
  - i. Pension or Family pension on retirement or death as the case may be.
  - ii. Deposit linked insurance on the death in harness of the worker.
  - iii. Payment of P.F. accumulation on retirement/death.
- d) **Maternity Benefit Act 1951:-** The Act provides for leave and some other benefits to women employees in case of confinement or miscarriage etc.
- e) **Contract Labor (Regulation & Abolition) Act 1970:-** The Act provides for certain welfare measures to be provided by the Contractor to contract labour and in case the Contractor fails to provide, the same are required to be provided, by the Principal Employer by the law. The Principal Employer is required to take Certificate of Registration and the Contractor is required to take license from the designated Officer. The act is applicable to the establishments or Contractor of Principal Employer if they employ prescribed minimum (say, 20) or more contract labour.
- f) **Minimum Wages Act 1948:-** The Employer is to pay not less than the minimum wages fixed by appropriate Government as per provision of the Act if the employment is a scheduled employment. Construction of buildings, roads, runways is scheduled employment.

- g) **Payment of Wages Act 1936:-**It lays down as to by what date the wages are to be paid, when it will be paid and what deductions can be made from the wages of the workers.
- h) **Equal Remuneration Act 1979:-** The Act provides for payment of equal wages for work of equal nature to male and female workers and for not making discrimination against female employees in the matters of transfers, training and promotions etc.
- i) **Payment of Bonus Act 1965:-** The Act is applicable to all establishments employing prescribed minimum (say, 20) or more workmen. The Act provides for payments of annual bonus within the prescribed range of percentage of wages to employees drawing up to the prescribed amount of wages, calculated in the prescribed manner. The Act does not apply to certain establishments. The newly set-up establishments are exempted for five years in certain circumstances. States may have different number of employment size.
- j) **Industrial Disputes Act 1947:-** The Act lays down the machinery and procedure for resolution of Industrial disputes, in what situations a strike or lock-out becomes illegal and what are the requirements for laying off or retrenching the employees or closing down the establishment.
- k) **Industrial Employment (Standing Orders) Act 1946:-** It is applicable to all establishments employing prescribed minimum (say, 100 or 50). The Act provides for laying down rules governing the conditions of employment by the Employer on matters provided in the Act and gets these certified by the designated Authority.
- l) **Trade Unions Act 1926:-** The Act lays down the procedure for registration of trade unions of workmen and Employers. The Trade Unions registered under the Act have been given certain immunities from civil and criminal liabilities.
- m) **Child Labour (Prohibition & Regulation) Act 1986:-** The Act prohibits employment of children below 14 years of age in certain occupations and processes and provides for regulations of employment of children in all other occupations and processes. Employment of child labour is prohibited in building and construction industry.

- n) **Inter-state Migrants Workmen's (Regulation of Employment & Condition of Service) Act 1979:-** The Act is applicable to an establishment which employs prescribed minimum (say, five) or more inter-state migrant's workmen through an intermediary (who has recruited workmen in one state for employment in the establishment situated in other state). The Inter-State migrant workmen, in an establishment to which this act becomes applicable, are required to be provided certain facilities such as Housing, Medical-Aid, Travelling expenses from home up to the establishment and back etc.
- o) **The Building and Other Construction workers (Regulation of Employment & Condition of Service) Act 1996 :-)** All the establishment who carry on any building or other construction work and employs the prescribed minimum (say, 10) or more workers are covered under this Act. All such establishment are required to pay cess at the rate not exceeding 2% of the cost of construction as may be modified by the Government. The Employer of the establishment is required to provide safety measures, such as canteens, first-aid facilities, ambulance, housing accommodations for workers near the work place etc. The Employer to whom the Act applies to obtain a registration certificate from the Registering Officer appointed by the Government.
- Factories Act 1948:-** The Act lays down the procedure for approval of program before setting up factory, health and safety provision, welfare provision, working hours, annual earn leave and rendering information regarding accident or dangerous occurrence to designated authorities. It is applicable to premises employing the prescribed minimum (say, 10) persons or more with aid of power or another prescribed minimum (say, 20) or more persons without the aid of power engaged in manufacturing process.

**Provisions required to be Included in the Joint Venture Agreement**

If the application is made by a joint venture of two or more firms, the evidence of clear mandate (i.e. in the form of respective Board Resolution duly authenticated by competent authority) by such two or more firms willing to form Joint Venture among themselves for the specified projects should accompany duly recognising their respective authorised signatories signing for and on behalf of the respective Firms for the purpose of forming the Joint Venture. A certified copy of the power of attorney to the authorized representatives, signed by legally authorized signatories of all the firms of the joint venture shall accompany the application. The JV Agreement shall be signed by the authorized representative of the joint venture. The JV Agreement shall need to be submitted consisting but not limited to the following provisions:

- a. Name, style and Project(s) specific JV with Head Office address
- b. Extent (or Equity) of participation of each party in the JV
- c. Commitment of each party to furnish the Bond money (i.e. Bid Security, performance Security and security for Mobilisation advance) to the extent of his participation in the JV
- d. Responsibility of each Partner of JV (in terms of Physical and Financial involvement)
- e. Working Capital arrangement of JV
- f. Operation of separate Bank account in the name of JV to be operated by at least one foreign partner and one local partner. In case of JV among local partners, both the partners are required to operate.
- g. Provision for cure in case of non-performance of responsibility by any party of the JV.
- h. Provision that NEITHER party of the JV shall be allowed to sign, pledge, sell or otherwise dispose all or part of its respective interests in JV to any party including existing partner(s) of the JV The Employer derives right for any consequent action (including blacklisting) against any or all JV partners in case of any breach in this regard.
- i. Management Structure of JV with details
- j. Lead Partner to be identified who shall be empowered by the JV to incur liabilities on behalf of JV
- k. Parties/firms committing themselves to the Employer for jointly and severally responsible for the intended works



l. The Power of Attorney shall be duly notarized. m. Any other relevant details

**AGREEMENT FORM**

**AGREEMENT**

This agreement, made on the ..... day of .....  
between  
..... (name and address of Employer) (Hereinafter called “the Employer”) and..... (Name and address of contractor) hereinafter called “the Contractor” of the other part.

Whereas the Employer is desirous that the Contractor execute .....  
..... (name and identification number of Contract) (hereinafter called “the Works”) and the Employer has accepted the Bid by the Contractor for the execution and completion of such Works and the remedying of any defects therein, at a cost of Rs.....

NOW THIS AGREEMENT WITNESSED as follows:

1. In this Agreement, words and expression shall have the same meanings as are respectively assigned to them in the conditions of contract hereinafter referred to and they shall be deemed to form and be read and construed as part of this Agreement.
2. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and complete the Works as remedy any defects therein in conformity in all aspects with the provisions of the contract.
3. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of works and the remedying the defects wherein 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.
4. The following documents shall be deemed to form and be ready and construed as part of this Agreement viz.
  - i. Letter of Acceptance

ii. Contractor's Bid

iii. Condition of Contract:

General and Special

iv. Contract Data

v. Bid Data

vi. Drawings

vii. Bill of Quantities and

viii. Any other documents listed in the Contract Data as forming part of the Contract. In witnessed whereof the parties were to have caused this Agreement to be executed the day and year first before written.

The Common Seal of ..... was here unto affixed in the presence of:

Signed, Sealed and Delivered by the said

.....

..... In the presence of: Binding signature of Employer

.....

Binding

Signature of Contractor

.....

## BID SECURITY (BANK GUARANTEE UNCONDITIONAL)

WHEREAS, \_\_\_\_\_ [name of Bidder] (hereinafter called "the Bidder") has submitted his Bid dated \_\_\_\_\_ [date] for the construction of \_\_\_\_\_ [name of Contract hereinafter called "the Bid"].

KNOW ALL PEOPLE by these presents that We \_\_\_\_\_ [name of Bank] of \_\_\_\_\_ [name of country] having our registered office at \_\_\_\_\_ (hereinafter called "the Bank") are bound unto \_\_\_\_\_ [name of Employer] (hereinafter called "the Employer") in the sum of \_\_\_\_\_ \*for which payment well and truly to be made to the said Employer by the Bank itself, his successors and assigns by these presents.

SEALED with the Common Seal of the said Bank this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

THE CONDITIONS of this obligation are :

- (1) If after Bid opening the Bidder withdraws his bid during the period of Bid validity specified in the Form of Bid;

OR

- (2) If the Bidder having been notified to the acceptance of his bid by the Employer during the period of Bid validity :
- (a) fails or refuses to execute the Form of Agreement in accordance with the Instructions to Bidders, if required; or
  - (b) fails or refuses to furnish the Performance Security, in accordance with the Instruction to Bidders; or
  - (c) does not accept the correction of the Bid Price pursuant to Clause 27.

We undertake to pay to the Employer up to the above amount upon receipt of his first written demand, without the Employer having to substantiate his demand, provided that in his demand the Employer will note that the amount claimed by him as due to him owing to the occurrence of one or any of the three conditions, (specifying the occurred condition or conditions).

This Guarantee will remain in force up to and including the date \_\_\_\_\_\*\* days after the deadline for submission of Bids as such deadline is stated in the Instructions to Bidders or as it may be extended by the Employer, notice of which extension(s) to the Bank is hereby waived. Any demand in respect of this guarantee should reach the Bank not later than the above date.

DATE \_\_\_\_\_ SIGNATURE \_\_\_\_\_

WITNESS \_\_\_\_\_ SEAL \_\_\_\_\_

\_\_\_\_\_  
[Signature, name and address]

- \* The Bidder should insert the amount of the guarantee in words and figures denominated in Indian Rupees. This figure should be the same as shown in Clause 16.1 of the Instructions to Bidders.
- \*\* 45 days after the end of the validity period of the Bid. Date should be inserted by the Employer before the Bidding documents are issued.