



# **LOCAL GOVERNMENT DEPARTMENT GOVERNMENT OF SINDH**

## **Bidding Documents Volume-I**

### **CONSTRUCTION OF SWD FROM HASSAN SQUARE TO LYARI RIVER**

#### **Volume I:**

- **INVITATION FOR BID**
- **INSTRUCTION TO BIDDERS**
- **BIDDING DATA**
- **FORM OF BID AND APPENDICES TO BID**
- **CONTRACT FORMS**
- **GENERAL CONDITIONS OF CONTRACT**
- **SPECIAL CONDITIONS OF CONTRACT**
- **SPECIAL PROVISIONS**

#### **Volume II: Drawings**

#### **Volume III: Specifications**

**Nov 2017**



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**BID DOCUMENTS**  
**FOR**  
**CONSTRUCTION OF SWD FROM HASSAN SQUARE TO LYARI RIVER**

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**VOLUME II:       DRAWINGS**

**VOLUME III:       TECHNICAL SPECIFICATIONS**

**National Highway Authority (NHA) General Specifications (Dec 1998)**

**Bidders are instructed to purchase the Specifications from the source of origin**

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# **INVITATION FOR BIDS**

# **NOTICE INVITING TENDERS**

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

**Provincial Government Funds: ADP No. 1914/2017-18**

**Bid Reference No: -----**

**Refer Invitation for Tenders issued by Local  
Government Department**

# **INSTRUCTIONS TO BIDDERS**

# **INSTRUCTIONS TO BIDDERS**

## **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/allocated/] 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 (NIT)/ 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 in case of ICB, or
  - (ii) a firm is blacklisted/ debarred by the procuring agency and the matter has been reported to the Authority, subject to Rule 30 of Sindh Public Procurement Rules 2010.
- (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 and discipline,
- (iii) registered with relevant tax authorities (income/sales tax, wherever 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 expense.
- 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 (SSP RULE 21)**

- 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, Integrity Pact 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 rejected.

### **IB.8 Clarification of Bidding Documents (SSP RULE 23(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. 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.

Provided that any clarification in response to query by any bidder; shall be communicated to all parties who have obtained bidding documents.

### **IB.9 Addendum/Modification 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 Special 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
  - (v) Availability of critical equipment.

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 (2) 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 partners;
- (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 partners;
- (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 its 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.

Additional / reduced duties, taxes and levies due to subsequent additions or changes in legislation shall be reimbursed / deducted as per Sub-Clause 13.7 of the General Conditions of Contract Part-I.

- 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 13.7 of GCC. The bidders shall furnish the prescribed information for the price adjustment formulae 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 shall be allowed as per Sub-Para 4(ii) of Section C of Instructions to bidders and bidding data.

### **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 favour 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 expired.
- 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.
- 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 Alteration is not to be made neither 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 copies 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 initialled 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 initialled 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 addressed 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 not 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**

- (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 in 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 outer 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 in 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, bid 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 IB.23.3.

#### **IB.24 Process to be Confidential. (SPP Rule 53)**

- 24.1 Information relating to the examination, clarification, evaluation and comparison of bid and recommendations for the award of a contract shall not be disclosed to bidders or any other person not officially concerned with such process before the announcement of bid evaluation report in accordance with the requirements of Rule 45, which states that Procuring agencies shall announce the results of bid evaluation in the form of a report giving reasons for acceptance or rejection of bids. The report shall be hoisted on website of authority and that of procuring agency if it website exists and intimated to all bidders at least seven (7) days prior to the award of contract. 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 as per Rule 31; however mere fact of lodging a complaint shall not warrant suspension of the procurement process.

#### **IB.25 Clarification of Bid (SPP Rule 43)**

- 25.1 To assist in the examination, evaluation and comparison 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 of 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 fulfils 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, the 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 stage-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 has major deviations to the commercial requirements and technical specifications will be considered technically non responsive. As a general rule, major deviations are those that if accepted, would not fulfil the purposes for which the bid is requested, or would prevent a fair comparison or affect the ranking of the bids that are compliant with the bidding documents.

**(A). Major (material) Deviations include:-**

- (i) has been not properly signed;
- (ii) is not accompanied by the bid security of required amount and manner;
- (iii) stipulating price adjustment when fixed price bids were called for;
- (iv) failing to respond to specifications;
- (v) failing to comply with Mile-stones/Critical dates provided in Bidding Documents;
- (vi) sub-contracting contrary to the Conditions of Contract specified in Bidding Documents;
- (vii) refusing to bear important responsibilities and liabilities allocated in the Bidding Documents, such as performance guarantees and insurance coverage;
- (viii) taking exception to critical provisions such as applicable law, taxes and duties and dispute resolution procedures;
- (ix) a material deviation or reservation is one :
  - (a) which affect in any substantial way the scope, quality or performance of the works;
  - (b) adoption/rectification whereof would affect unfairly the competitive position of other bidders presenting substantially responsive bids.

**(B) Minor Deviations**

Bids that offer deviations acceptable to the Procuring Agency and which can be assigned a monetary value may be considered substantially responsive at least as to the issue of fairness. This value would however be added as an adjustment for evaluation purposes only during the detailed evaluation process.

- 26.5 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 errors pursuant to clause IB 27;
  - (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 into 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 the 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 Bidders may be excluded if involved in **“Corrupt and Fraudulent Practices”** means either one or any combination of the practices given below SPP Rule2(q);
- (i) **“Coercive Practice”** means any impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence the actions of a party to achieve a wrongful gain or to cause a wrongful loss to another party;
  - (ii) **“Collusive Practice”** means any arrangement between two or more parties to the procurement process or contract execution, designed to achieve with or without the knowledge of the procuring agency to establish prices at artificial, non competitive levels for any wrongful gain;
  - (iii) **“Corrupt Practice”** means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence the acts of another party for wrongful gain;

- (iv) “Fraudulent Practice” means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- (v) “Obstructive Practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract or deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements before investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or acts intended to materially impede the exercise of inspection and audit rights provided for under the Rules.

## **28.6 Evaluation Report (SPP Rule 45)**

After the completion of evaluation process, as described in clauses IB 27 and IB 28, the procuring agency shall announce the results of bid evaluation in the form of report (available on the website of the authority) giving reasons for acceptance and rejection of bid. The report shall be hoisted on website of the authority and that of procuring agencies if its website exists and intimated to all bidders at least seven (7) days prior to the award of contract.

## **F. AWARD OF CONTRACT**

### **IB.29 Award (SPP Rule 49)**

- 29.1 Subject to clauses IB 30 and IB 34 and provision of the rule: 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, but not necessarily the lowest submitted price, within the original or extended period of bid validity. Provided that such bidder has been determined to be eligible in accordance with the provisions of clause IB 03 and qualify 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/Cancellation the Bidding Process (SPP Rule 25)**

Notwithstanding clause IB 29 and provision of the rule: (1) A procuring agency reserves may cancel the bidding process at any time prior to the acceptance of a bid or

proposal; (2) The procuring agency shall incur no liability towards bidders solely by virtue of its invoking sub-rule (1); (3) Intimation of the cancellation of bidding process shall be given promptly to all bidders and bid security shall be returned along with such intimation; (4) The procuring agency shall, upon request by any of the bidders, communicate to such bidder, grounds for cancellation of the bidding process, but is not required to justify such grounds.

### **IB.31 Notification/Publication of the Award of Contract (SPP Rule 25).**

- 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 meetings 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 Within seven days of the award of contract, procuring agency shall publish on the website of the Authority and on its own website, if such a website exists, the results of the bidding process, identify the bid through procurement identifying numbers, and the following information:
  - (1) Evaluation Report;
  - (2) Form of Contract and letter of Award;
  - (3) Bill of Quantities or Schedule of Requirement.

### **31.6 Debriefing (SPP Rule 51).**

- (a) A bidder may ask the procuring agency for reasons for non acceptance of his bid and 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 (SPP Rule 39)**

- 32.1 The successful bidder shall furnish to the procuring agency a Performance Security in the form of pay order or demand draft or bank guarantee, 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.
- 32.3 Validity of performance security shall extend at least ninety days beyond the date of completion of contract, or as mentioned in the bidding data to cover defects liability period or maintenance period subject to final acceptance by the procuring agency.

### **IB.33 Signing of Contract Agreement (SPP Rule 39)**

- 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.
- 33.3 A procurement contract shall come into force when the procuring agency requires signs contract, the date on which the signatures of both the procuring agency and the successful bidder are affixed to the written contract. Such affixing of signatures shall take place within the time prescribed in the bidding documents.

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.

### **33.4 Stamp Duty.**

The formal Agreement between the Procuring Agency and the successful bidder shall be duly stamped at rate of ----% of bid price (updated from time to time) stated in Letter of Acceptance

**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 action 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 (SPP Rule 89)**

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

**IB.36 Instructions not 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 (SPP Rule 34)**

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**

## Contact/Bidding Data

### Instructions to Bidders

#### Clause Reference

- 1.1 Name and address of the procuring agency:  
**Project Director  
Mega Schemes Karachi,  
Local Government Department  
Ground Floor, Sindh Secretariat Building No.5,  
Tughlaq House Kamal Attaturk Avenue,  
Karachi.  
Telephone No: 021-99212314**
- 1.2 Name of the Project and Summary of the works:  
**Name of Project:  
Mega Schemes For Karachi City.**  
**Name of Work:  
Construction Of Swd From Hassan Square To Lyari River.**  
**Scope of Work:**  
  - As detailed in Drawings, BOQ and Specifications.
- 1.2 **The successful bidder will be expected to complete the works within the time specified in Special Stipulations (Appendix-A).**
- 2.1 Name of the Funding Source;  
**Funds provided by the Government of Sindh**
- 2.1 Amount and Type of Financing/Scheme Cost and Allocated Funds.  
**(ADP No.1914/2017-18)**
- 3.1 Eligible Bidders:  
**This bidding is open to Prequalified Bidders only**
- 8.1 Time limit for clarification:  
**The written clarification should reach the addressee provided in Clause 1.1 above on any working day but not later than 7 working days prior to last date of bid submission.**
- 10.1 Bid language:  
**Bid language is English**
- 11.1(a) The bidder along with Bid shall submit the (i) letter of authorization (ii) Registration Certificate with Sindh Revenue Board, Government of Sindh (iii) PEC Registration Certificate for 2017 in category C2 in discipline CE01 & CE-02 (iv) NTN Certificate (v) Professional Tax payment. The failure to submit above mentioned documents shall lead to rejection of bid.
- 11.1 (b) Deleted

- 11.1(c) Add following  
The bidder shall submit the detailed CVs of proposed staff as per the requirement laid down in Appendix K. It is mandatory for the successful bidder to mobilize the same staff proposed in Appendix K after approval from the Engineer
- 13.1 Bidders to quote entirely in Pak. Rupee  
**The currency of Bid is Pakistan Rupee (PKR). All payment will be made in PKR only**
- 13.2 **IB Clause 13.2 is Not applicable**
- 14.1 Period of Bid Validity:  
**Period of Bid Validity shall be 90 days**
- 15.1 Amount of Bid Security:  
**The amount of the Bid Security shall be 2% of the Bid Price.**
- 16.1 Alternate Proposals/Bid  
**Alternative bids is not permitted, Alternative times for completion is not permitted, Alternative technical solutions is not permitted for any part of the Works**
- 17.1 Venue, time, and date of the pre-Bid meeting:  
  
**At the office of Local Government Department mentioned in IB Clause 1.1 above**  
**Date: As per Invitation for Bid**
- 18.4 Number of copies of the bid to be completed and returned:  
**Original + One Copy**
- 19.2 (a) Procuring Agency's address for the purpose of bid submission:  
**Project Director**  
**Mega Schemes Karachi**  
**Local Government Department**  
**Ground Floor, Sindh Secretariat Building No.5,**  
**Tughlaq House Kamal Attaturk Avenue,**  
**Karachi**  
**Telephone No: 021-99212314**
- (b) Name and Identification Number of the Contract:  
**Construction Of Swd From Hassan Square To Lyari River.**
- 20.1 (a) Deadline for submission of bids:  
  
**Date: As per Invitation for Bid**  
**Time: As per Invitation for Bid**
- (b) Venue, time, and date of bid opening:

**Venue: Office of the Project Director Local Government Department**  
**Date: As per Invitation for Bid**  
**Time As per Invitation for Bid**

28.4 **If the successful bidder failed to submit Performance Security of increased amount within twenty eight (28) days of demand by the PA, his bid shall be cancelled and his bid security shall be forfeited.**

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

**The performance security will be in the form of a “unconditional, irrevocable and acceptable bank guarantee” in the amount of 5% (Five percent) of the Accepted Contract Amount acceptable to the Procuring Agency in the attached format.**

32.3 Validity of performance security

**The Performance Security shall be valid for a period 90 days after the date of issue of Performance certificate.**

33.4 Stamp duty

The Contract will be executed on a non-judicial stamp paper of the value @ 0.35% of the contract value. The cost of the stamp duty shall be borne by the successful bidder. **[0.35% may vary depending upon the rules applicable at the time of signing the Contract].**

**FORM OF BID  
AND  
APPENDICES TO BID**

## FORM OF BID

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

To:

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

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 work, we/I, the undersigned, offer to execute and complete the work 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/I 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/I submit herewith a bid security in the amount of Rupees \_\_\_\_\_ (Rs. \_\_\_\_\_) drawn in your favour or made payable to procuring agency and valid for a period of \_\_\_\_\_ days beginning from the date, bid is opened.
4. We/I 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/I 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 your 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.
9. We undertake, if our/my bid is accepted, to execute the Performance Security referred to in Clause 10 of Conditions of Contract for the due performance of the Contract.
10. We confirm, if our bid is accepted, that all partners of the joint venture shall be liable jointly and severally for the execution of the Contract and the composition or the

constitution of the joint venture shall not be altered without the prior consent of the  
procuring agency. (Please delete this in case of Bid form a single bidder)

in the capacity of \_\_\_\_\_duly authorized to sign Bids for and on behalf of  
\_\_\_\_\_Dated this \_\_\_\_\_day of \_\_\_\_\_20\_\_\_\_\_

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

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

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

Witness:

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

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

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

**SPECIAL STIPULATIONS**  
**Particular Conditions of Contract- Part A**

	<b>Description</b>	<b>General Conditions Clauses</b>	<b>Stipulations</b>
1	Employer's name and address	1.1.2.2 & 1.3	<b>Project Director</b> Mega Schemes Karachi. Local Government Department, Government of Sindh Ground Floor, Sindh Secretariat Building No.5, Tughlaq House Kamal Attaturk Avenue, Karach Telephone No: 021-99212314 <b>Employer's Representative,</b> Project Manager
2	Engineer's name and address	1.1.2.4 & 1.3	EA Consulting (Pvt) limited AL-9, 15 <sup>th</sup> Lane, Khayaban-e-Hilal, DHA Phase VII, Karachi Telephone No: 021-111-111584 Fax No: 021-35841825
3	Sections	1.1.5.6	Not Applicable
4	Electronic transmission systems	1.3	Scanned copy via e-mail and facsimile are acceptable, if the original is received within three days.
5	Governing Law	1.4	The Laws of Islamic Republic of Pakistan.
6	Ruling language	1.4	English
7	Language for communications	1.4	English
8	Time for access to the Site	2.1	Within seven (07) days after Commencement Date.
9	Engineer representing Consulting Firm hired by the procuring agency to issue variation in case of emergency	3.1	Up to 1% of the contract price stated in the Letter of Acceptance.
10	Amount of Performance Security	4.2	The performance security will be in the form of a "unconditional, irrevocable and acceptable bank guarantee" in the amount of 5% (Five percent) of the contract price stated in the Letter of



	<b>Description</b>	<b>General Conditions Clauses</b>	<b>Stipulations</b>
			Acceptance.
11	Subcontract	4.4	The aggregate amount of the Works subcontracted shall not exceed 30% of the Contract Price.
12	Normal working hours	6.5	8 hrs a day and 6 days a week.
13	Time for Commencement	8.1	Within 07 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.
14	Time for Completion	8.2	180 days (6 Months) from the date of receipt of Engineer's Notice to Commence.
15	Time for Furnishing Programme	8.3	Within 14 days from the date of receipt of Letter of Acceptance.
16	Revised Programme	8.3	Revised Programme to be submitted within 7 days of the Engineer's notice.
17	Delay damages for the Works	8.7 & 14.15(b)	0.1% of the Contract Price per day, and For Interim Delay damages 0.05% of the Contract price per day Also, other charges mentioned in Special/Particular Conditions of Contract.
18	Maximum amount of delay damages	8.7& 14.15(b)	10% of the final Contract Price & For Interim Delay damages 5% of the Contract price per day Also, other charges mentioned in Part B, Particular Conditions of Contract
19	Defects Liability Period	11.1	365 days from the effective date of Taking Over Certificate.
20	Adjustments for Changes in Legislation	13.7 & 13.8	Sub Clause 13.8 & 13.7 are deleted. Contract Price Shall not be adjusted.
21	Advance payment	14.2	10% Percentage of the Accepted Contract Amount. First Instalment: 50% of total Advance Payment shall be made after fulfilling all the requirements provided in

	Description	General Conditions Clauses	Stipulations
			Conditions of the Contract.  Second Instalment: Remaining 50%, on mobilization of Plant, equipment and other resources at site by the Contractor to the satisfaction of the Engineer.
22	Repayment amortization rate of advance payment	14.2(b)	From first five consecutive IPCs in equal instalments.
23	Percentage of Retention	14.3	10 % of the amount of Interim/Running Payment Certificate.
24	Limit of Retention Money	14.3	5 % of Contract Price stated in the Letter of Acceptance.
25	Plant and Materials	14.5	Not Applicable
26	Minimum Amount of Interim Payment Certificates	14.6	3 % of the Accepted Contract Amount.
27	Payment	14.7	30 days.
28	Maximum total liability of the Contractor to the Employer	17.6	The product of two (02) times the Accepted Contract Amount
29	Maximum amount of deductibles for insurance of the Employer's risks	18.2(d)	10% of the Accepted Contract Amount
30	Minimum amount of Insurance Cover	18.1, 18.2, 18.3 and 18.4	<p><b>Type of cover</b> The Works</p> <p><b>Amount of cover</b> The sum stated in the Letter of Acceptance plus fifteen percent (15%)</p> <p><b>Type of cover</b> Contractor's Equipment:</p> <p><b>Amount of cover</b> Full replacement cost plus fifteen percent (15%)</p> <p><b>Type of cover</b> Third Party-injury to persons and damage to property</p> <p>The Third Party compensation Policy must contain following conditions of indemnification per occurrence with the number of occurrence unlimited:</p> <p>i) in case of death, Pak Rs.</p>

	Description	General Conditions Clauses	Stipulations
			<p>1,000,000/= per person</p> <p>ii) in case of major injury, Pak Rs. 500,000/= per person</p> <p>iii) in case of minor injury, Pak Rs. 100,000/= per person</p> <p>iv) in case of damage to property, full amount of repair/replacement as the case may be.</p> <p><b>Workers:</b></p> <p>i) in case of death, Pak Rs. 1,000,000/= per person</p> <p>ii) in case of major injury, Pak Rs. 500,000/= per person</p> <p>iii) in case of minor injury, Pak Rs. 100,000/= per person</p> <p><b>Other cover:</b> Contractor's All Risk Policy (In each case name of insured is Contractor and Procuring Agency)</p>
31	Rules of arbitration	20.6(a)	<p>Rules and Provisions of Arbitration Act 1940 of Islamic Republic of Pakistan enforced for the time being.</p> <p>The Place of Arbitration shall be Karachi.</p>

**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 13.8  
OF CONDITIONS OF CONTRACT**

**A. Weight ages or coefficients are used for price adjustment.**

The source of indices and the weightages or coefficients for use in the adjustment formula under Clause 13.8 shall be as follows:

Cost Element	Description	Weight ages	Applicable index
1	2	3	4
(i)	Fixed Portion	0.350	
(ii)	Local Labour		Government of Pakistan (GoP) Federal Bureau of Statistics (FBS) Monthly Statistical Bulletin.
(iii)	High Speed Dies (HSD)		-do-
(iv)	Common Coags		-do-
(v)	Reinforcing Steel		-do-
(vi)	Pre-Stressing Strands		-do-
(vii)	Bitumen		-do-
(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 15 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.
- 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.

**B When Escalation is allowed on the materials only.**

Price adjustment on following items shall be allowed:

Cost Element	Description	Base price	Applicable index
1	2	3	4
(i)	Cement – in bags (50kg bag)		Government of Pakistan (GP) Federal Bureau of Statistics (FBS) Monthly Statistical Bulletin for Karachi (Cement)
(ii)	Reinforcing Steel Steel		Amreli Steel
(iii)	Bitumen 60/70 in 300 80/100 in 300		Attock Petroleum Karachi
	Total three items.		

**Notes:**

1. The base prices shall be those as provided in above table. Current indices or prices shall be those applying last 28 days prior to the last day of the billing period.
2. Any fluctuation in the prices of materials other than those given above shall not be subject to adjustment of the Contract Price.

**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 at the rates 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 (in case of item not mentioned in Bill of Quantities).
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 14 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 and shall not be paid separately.
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 summarised in the Bill of Quantities. References to the relevant sections 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 13.5 of Part I, General Conditions of Contract.
8. The following abbreviations for the units or units of measurement have been used in the bidding documents including BOQ.

<b>Unit</b>	<b>Abbreviations</b>
• Linear Meter	LM or lm or M or m
• Square Meter	Sq.m. or SM or sm
• Cubic Meter	Cu.m. or CM or cm or Cum or cum
• Ton	Ton
• Kilogram	Kg or kg
• Per Number	No or Each
• Job	Job



**PROPOSED CONSTRUCTION SCHEDULE**

Pursuant to Sub-Clause 8.2 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 Appendix-E 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 may meet procuring agency's completion targets in days noted below and counted from the date of receipt of Engineer's Notice to Commence (Attach sheets as required for the specified form of Construction Schedule):

Completion Time ----- Refer Appendix "A".

**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 at site, 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.

**Safety Plan**

The Bidder is required to submit an outline Construction Safety and Health Plan for this particular Project. The outline Safety and Health Plan shall be in accordance with the requirements of relevant decrees and/or bye laws governing Occupational Safety and Health Programme in the construction industry being implemented in the Islamic Republic of Pakistan, and shall cover the following topics:

1. Organizational structure for handling all Safety and Health Matters
2. Composition of the Contractor's Construction Safety and Health Committee
3. Specific Safety Policies which the Contractor will undertake to observe and maintain
4. Provision of Protective Equipment
5. Safety Personnel
6. Emergency Occupational Health Personnel and Facilities
7. Worker's Welfare Facilities
8. Emergency Procedures

Award of the Contract to the Bidder shall not be deemed to mean that the outline Construction Safety and Health Plan is considered acceptable, and the Engineer shall be at liberty to instruct the Contractor to implement such safety and health procedures as he may deem necessary.

**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 mobilize at site 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 Specifications.]

<b>Equipment Type and Characteristics</b>		<b>Minimum Number required</b>	<b>Proposed by the Bidder</b>
1	Bulldozer	1	
2	Motor Grader	2	
3	Vibratory Roller	2	
4	Pneumatic Roller	2	
5	Tandem Roller	1	
6	Wheel Loader	2	
7	Plate Compactor	1	
8	Dump Truck	5	
9	Dump Truck	2	
10	Excavator	2	
11	Water Tanker	2	
12	Aggregate Crushing & Screening Plant	1	
13	Asphalt Plant	1	
14	Asphalt Distributor	1	
15	Asphalt Paver	2	
16	Concrete Batching Plant	1	
17	Wheel Tractor	2	
18	Concrete Transit Mixer	2	
19	Voncrete Vibrator	2	
20	Road marking machine	1	
21	Concrete Mixer	3	
22	Air Compresor	2	
23	Pneumatic Jack Hammer	2	
24	Crane	1	
25	Water Pump	3	
26	Concrete Pump	2	
27	Pilling Equipment		

**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						

**CONSTRUCTION CAMP AND HOUSING FACILITIES**

The Contractor in accordance with Clause 6 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 fittings, 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 (area 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.).

**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 the 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>

**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 million)</b>
<b>1</b>	<b>2</b>
Ist Month	
2nd Month	
3rd Month	
4th Month	
5th Month	
6th Month	
<b>Bid Price</b>	

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

(To be filled in by the bidder)



**PROPOSED STAFF**

(Detailed CVs of following Key staff shall be provided, it is mandatory. PEC registration Certificate and qualification certificates/degrees etc shall also be provided. It will be mandatory for successful bidder to mobilize same staff as proposed below after the approval of the Engineer. The proposed staff must be employee of the bidder)

Position	Qualification & Experience	Proposed Staff			
		Name	Qualification	Total Exp.	Relevant. Rxp
Project Manager	Qualification Msc (Civil) with 5 years experience (2 years relevant experience) or BE (Civil) with 10 years experience (5 years relevant experience)				
Planning Engineer	BE (Civil) with 5 years experience				
Contracts Engineer	BE (Civil) with 5 years experience				
Structures Engineers	BE (Civil) with 5 years experience with 2 years relevant experience of bridges				
Highway Engineer	BE (Civil) with 5 years experience with 2 years relevant experience of roads				
Electrical Engineer	BE (Electrical) with 5 years experience with 2 years relevant experience of roads				
Material Engineer	Msc (Geology) with 5 years experience				
Site Engineers	BE (Civil), with 5 year's experience. (2 No.)				
Sr. Surveyors	Diploma in Civil, Number (01), 5 years experience, Experience 2 Similar Assignments				
Surveyor	Diploma in Civil, Number (04), 5 years experience, Experience 1 year similar projects				
Quantity Surveyor	Diploma in Civil, Number (01), 5 years experience, Experience 2 similar projects				

(INTEGRITY PACT)

**DECLARATION OF FEES, COMMISSION AND BROKERAGE ETC; PAYABLE BY CONTRACTORS.**

(FOR CONTRACTS WORTH RS. 10.00 MILLION OR MORE)

Contract No. \_\_\_\_\_ Dated \_\_\_\_\_

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] represents 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 voidable 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**

**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 bank 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 Instructions 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 fulfilment 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 demand, 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**  
**(Bank 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 named, 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 11, 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 defences 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 date 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 \_\_\_\_\_

Title \_\_\_\_\_

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 witnesseth-- 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 bidders 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 completed Appendices to Bid (B, C, E to L);
  - (h) The Drawings;
  - (i) Special provisions
  - (i) The NHA General Specifications
  - (j) The priced Bill of Quantities (Appendix-D to Bid);
  - (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 Contactor

\_\_\_\_\_  
(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 fulfilment 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 is 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 any 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)

# **Condition of Contract**

**Federation International des Ingenieurs-Conseils, or FIDIC)**

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

## 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 harmonized Edition March 2006).

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 additions 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 document 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

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

FIDIC CASE POSTALE, CH-1215 Switzerland;

Tel. +41 22 799 49 00;

Fax; +41 22 799 49 01

E-mail: [fidic@fidic.org](mailto:fidic@fidic.org).

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## PART B - SPECIAL /PARTICULAR CONDITIONS OF CONTRACT

<b>1.1</b>	<b>Definitions</b>
1.1.1.4	“Form of Bid” is synonymous with “Letter of Tender”.
1.1.1.5	“Bid” is synonymous with “Tender”.
1.1.1.8	“The word ‘Tender’ is synonymous with ‘Bid’, and the words ‘Bidding’ with ‘Tendering’ and the words ‘Appendix to Tender’ with ‘Appendix to Bid’ and words ‘Tender Documents’ with ‘Bid Documents’”.
1.1.1.11	Insert this Sub Clause “Programme” means the programme to be submitted by the contractor in accordance with Sub-Clause 8.3 and any approved revisions thereto.
1.1.2.2	“Employer” is synonymous with “Procuring Agency”  <b>The Employer is:</b> Project Director Local Government Department, Government of Sindh Ground Floor, Sindh Secretariat Building No.5, Tughlaq House Kamal Attaturk Avenue, Karachi. Telephone No: 021-99212314 <b>Employer’s Representative,</b> To be Notified.
1.1.2.4	<b>The Engineer is:</b> EA Consulting (Pvt) Limited Al-9, 15 <sup>th</sup> Lane, Khayaban-e-Hilal, Phase VII, DHA Karachi.
1.1.2.9	“DB” is synonymous with “Committee”
1.1.3.1	Deleted
1.1.3.7	“Defects Notification Period is synonymous with Defects Liability Period”
<b>Sub-Clause 1.5</b> <b>Priority of Documents</b>	<i>Replace sequence of priority of documents with the following:</i>  (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 completed Appendices to Bid (B, C, E to L); (h) The Drawings;

	<ul style="list-style-type: none"> <li>(i) Special provisions</li> <li>(i) The NHA General Specifications</li> <li>(j) The priced Bill of Quantities (Appendix-D to Bid);</li> <li>(k) _____ (any other)</li> </ul>
<b>Sub-Clause 1.6 Contract Agreement</b>	<i>Replace the word “Employer” with “Contractor” in last line</i>
<b>Sub-Clause 1.15 Inspections and Audit by the Bank</b>	This Sub-Clause is deleted entirely.
<b>Sub-Clause 2.4 Employer’s Financial Arrangements</b>	This Sub-Clause is deleted entirely.
<b>Sub-Clause 3.1 Engineer’s Duties and Authority</b>	<p><i>The following paragraph is added after duties:</i></p> <p>Procuring agency shall ensure that the Engineer’s Representative/Staff is a professional engineer as defined in the Pakistan Engineering Council Act 1975 (V of 1976)</p> <p><i>Replace part of Clause after the sentence “The following provisions shall apply” with following:</i></p> <p>The Engineer shall obtain the specific approval of the Employer before taking action under the following Sub Clauses of these conditions:</p> <ul style="list-style-type: none"> <li>a) Sub-Clauses 1.9, 2.1, 4.7, 4.12, 4.24, 7.4, 8.4, 8.5, 8.9, 10.3, 13.7, and 19.4: Agreeing or determining an extension of time and / or additional cost.</li> <li>b) Approving subletting of any part of the Works under Clause 4.4.</li> <li>c) Sub-Clause 8.8: Instructing suspension of Works;</li> <li>d) Sub-Clause 10.1: Issuing Taking Over Certificate</li> <li>e) Sub-Clause 10.2: Issuing Taking Over Certificates</li> <li>f) Sub-Clause 11.9: Issuing Performance Certificate(s)</li> <li>g) Sub Clause 13.1: Instructing a Variation, except; <ul style="list-style-type: none"> <li>i) in an emergency situation as determined by the Engineer, or</li> <li>ii) if such Variation would increase the Accepted Contract Amount not more than 1% cumulatively of such Amount.</li> </ul> </li> <li>h) Sub-Clause 13.3: Approving a proposal for Variation submitted by the Contractor in accordance with Sub Clause 13.1 or 13.2.</li> <li>i) Sub Clause 13.4: Specifying the amount payable in each of the applicable currencies</li> <li>j) Sub-Clause 13.7: Before Adjustment for Changes in Legislation</li> <li>k) Sub-Clause 13.8: Before Adjustment for Changes in Cost</li> <li>l) Sub-Clause 20.1: Approving Claims of the Contractor (Time / Financial) under Clause 20.1 and accepting principles of the Claims</li> </ul> <p>Notwithstanding the obligation, as set out above, to obtain</p>



	<p>approval, if, in the opinion of the Engineer, an emergency occurs affecting the safety of life or of Works or adjoining property, he may, without relieving the Contractor of any of his duties and responsibility 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, despite the absence of approval of the Employer, 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 13 and shall notify the Contractor accordingly, with a copy to the Employer.</p>
<p><b>Sub-Clause 3.6 Management Meetings</b></p>	<p><i>Insert this Sub Clause at the end of Clause 3</i></p> <p>“The Engineer or the Contractor’s Representative may require the other to attend a management meeting in order to review the progress with reference to the agreed program and arrangements for future works. The Engineer shall record the business of management meetings and supply copies of the record to those attending the meeting and to the Employer. In the record, responsibilities for any actions to be taken shall be in accordance with the Contract”.</p>
<p><b>Sub-Clause 4.1. Contractor’s General Obligation</b></p>	<p><i>Add following at the end of Sub-Clause 4.1:</i></p> <p>The Contractor shall prepare and submit one complete set of "As-Built" Documents on one master CD and two complete sets of print copies of "As-Built" Documents together with the back-up of the quantity calculation to the Engineer within 28 days after the date of taking over by Employer. These “As-Built” Documents shall indicate all approved changes made during construction, superimposed on the original plans / “As-Staked Documents”.</p> <p>The final measured quantities for all pay items shall be included on all "As-Built" Documents. These "As-Built" Documents shall be prepared continuously as execution of the Works progresses and shall be submitted to the Engineer for review as sections or parts of the Project are completed. No Taking-Over Certificate for a Sector or the whole of Works shall be issued to the Contractor by the Engineer without the approved "A</p> <p>s-Built" Documents. The preparation of the "As-Built" Documents shall be at the expense of the Contractor, payment for which is subsidiary to the pay items of the Contract.</p> <p>The review and approval by the Engineer or by the Employer of the "As-Built" Documents does not relieved the Contractor of any responsibility for and/or liabilities arising out of inaccurate, false or otherwise incorrect "As-Built" Documents prepared and submitted by the Contractor. The approved “As-Built Documents” shall be reproduced by the Contractor in four (4) hard copies and one (1) soft copies and return the same to the Employer.</p> <p><b>Shop Drawings.</b> The Contractor shall furnish to the Engineer all Contractor's, and Subcontractor's Shop Drawings. Shop Drawings shall be deemed to include design drawings, fabrication drawings, catalogue cuts, brochures, illustrations, material lists, design</p>

	<p>calculations, reference standards and performance data which may be required by the specification necessary for the proper execution of the Work, or as otherwise required by the Engineer for assurance that there is intent to meet the requirements of the specifications. All Shop Drawings shall be in English.</p> <p>The Contractor shall submit all Shop Drawings to the Engineer in the manner hereinafter described, in sufficient time to prevent delays in the delivery of materials or in the progress or completion of the work. Regardless of the source of Shop Drawings, all submissions shall be deemed to be submissions by the Contractor under the Contract.</p> <p>All Subcontractors' Shop Drawings shall first be sent directly to the Contractor. The Contractor shall thoroughly check all such Shop Drawings for measurements, sizes of members, materials and all other details, to assure him that the Shop Drawings conform to the intent of the Drawings and Specifications.</p> <p>The Contractor shall return to the Subcontractors for correction, such Shop Drawings that are found inaccurate or otherwise in error. After the Contractor has checked and approved such Shop Drawings he shall place thereon the date of such approval and the legible signature of the checker, and shall then submit them to the Engineer for review. The Engineer may refuse to check or review any Shop Drawings that are not submitted in compliance with the foregoing requirements.</p> <p>The Contractor shall submit five (5) copies of Shop Drawings plus the number that the Contractor wishes to return for his own and his Subcontractor's use.</p> <p>For all Equipment, Shop Drawings shall be completed in all respects and shall show clear compliance with the Specifications. Where applicable, performance figures of equipment, finishes and reference to other relevant drawings must be noted on the Shop Drawings. Details of ancillary items being supplied with the particular equipment must be submitted. Piecemeal submissions will not be considered.</p> <p>Descriptive brochures that are applicable shall be included for information. Any notation on the Shop Drawings which is on the prints and not on the original from which the prints were made shall be in GREEN INK.</p> <p>The Engineer will review submitted Shop Drawings within a reasonable time and will return them stamped with "NO COMMENT", "SEE COMMENTS" or "RESUBMIT".</p> <p>The Engineer may, at his discretion, require an immediate re-submission of Shop Drawings noted "SEE COMMENTS" so that he can make a further review or amendments. Drawings requiring re-submission shall be either amended and re-submitted or shall be superseded by another Shop Drawings. Comments on Shop</p>
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	<p>Drawings are not orders for Extra Work.</p> <p>Shop Drawings re-submitted for further review will be reviewed for response to previous notations only and the Contractor, by such re-submission shall be held to have represented that such Shop Drawings contain no other alterations, additions or deletions, unless the Contractor (in writing) directs the Engineer specific attention to the same.</p> <p>Should the Contractor question, or dissent, from such notations or comments, he shall direct the Engineer's attention to the same for further clarification before re-submitting.</p> <p><i>By reviewing Shop Drawings, the Engineer does not assume responsibility for errors or omissions and non-compliance with the Contract requirements. Such errors and omissions must be made good by the Contractor, irrespective, of the receipt, checking, or review of the Shop Drawings by the Engineer and even though the Work is done in accordance with such Shop Drawings.</i></p> <p><b>Quality of Plans (“As-Built”, “As Staked” and other Drawings for Variation).</b> All sheets of the “As-Built”, “As-Staked” and other drawings for Variations should be of uniform size and one (1) standard size (A1) using Mylar or other quality tracing paper. The sheets must be neat and clean and without any crossed-out or voided portion. The title block should be made an integral part of the sheet plans and not merely patched-up.</p> <p><b>Supplementary Drawings and Instructions.</b> The Engineer shall have the authority to issue to the Contractor from time to time such supplementary drawings and instructions to the proper and adequate execution of the Works and the remedying of any defects therein. The Contractor shall carry out and be bound by the same.</p> <p>The Contractor shall designate an additional set of drawings as “Record Drawings” and keep them to the site.</p> <p>The Contractor shall clearly and neatly mark the Record Drawing in ink to indicate all authorized changes in the work, and also as actually constructed. These additional plans will not change the work of the Contract but will elucidate or explain it.</p>
<b>Sub-Clause 4.3 Contractor’s Representative</b>	<p><i>Insert additional paragraph at the end of Sub-Clause 4.3</i></p> <p>The Contractor’s authorized representative and his other professional engineers working at site shall register themselves with the Pakistan Engineering Council.</p>
<b>Sub-Clause 4.4 Subcontractors</b>	<p><i>Replace first line with the following</i></p> <p>The Contractor may subcontract the Works for the maximum value equal to 30% of the Accepted Contract Amount.</p>
<b>Sub-Clause 4.8 Safety Procedures</b>	<p><i>Insert additional paragraph at the end of Sub-Clause 4.8</i></p> <p>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</p>

	<p>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.</p>
<p><b>Sub-Clause 4.18 Protection of the Environment</b></p>	<p><i>Final paragraph to be added to after second paragraph</i></p> <p>The Contractor shall exercise care to protect the natural landscape and shall conduct his construction operation so as to prevent any unnecessary destruction, scarring or defacing of the natural surroundings in the vicinity of the Works, except where clearing is required for permanent works, approved temporary works and for excavation operations. All trees and native vegetation shall be preserved and shall be protected from damage, which may be caused, by the Contractor's construction operations and equipment. On completion of the Works, all work areas shall be smoothed and graded in a manner to scarring damage or defacing may occur as a result of the Contractor's operations, it shall be repaired, replanted or otherwise corrected as directed by the Engineer at Contractor's expense.</p> <p>Borrow areas shall be located and operated so as not to detract from the future usefulness or value of the sites. Upon completion of operations, borrow areas shall be left in a safe and sightly conditions. No borrow areas shall be located within 500 meter from the right of way.</p> <p>During the performance of the work required under the Contract, the Contractor shall carryout proper and efficient measures as often as necessary to reduce the dust nuisance, and to prevent dust originating from his operations. For waste water disposal, the provision of septic tank alone for worker's camp etc. will not be sufficient and may have to be supplemented with secondary treatment in form of gravel drains / constructed wetland depending on the laboratory results of effluent from the septic tank.</p> <p>The Contractor shall take all necessary measures to prevent water from the Site causing a nuisance on or, in any neighbouring land or property either by causing flooding or by depositing sediment on the surface of the ground or in drains or watercourses. Wherever necessary to prevent this, the Contractor shall construct temporary drainage channels, layer sumps and traps (in addition to those shown on the Contract) discharging into existing drain, ditches or watercourses. The Contractor snail removes over all sediment, which may accumulate on any land or in any drains, ditches or watercourses or in any other property as a result of his operations.</p> <p>All works including those below sub-soil standing water level shall be carried out in the dry unless specified otherwise. The Contractor's arrangements for controlling the inflow of water into the parts of the excavation being worked and during the placing of concrete and other works therein and for the collection and disposal</p>

	<p>of water shall be to the Engineer's Approval. Such arrangements may include interalia temporary cofferdams, well-point systems, pumps; drains trenches, flumes and other recognized means. All Costs and charges in dealing with water in any way whatsoever and the effects thereof will be deemed to be included in the Contract Price and in the unit rates or prices of the Contractor for excavations.</p> <p>Water flowing into excavations shall be carried by trenches, drainage layers or open jointed drains to sumps from which it shall be pumped. Such trenches drains or sands shall generally be clear of the Permanent Works unless approved otherwise by the Engineer. If, with the said Approval of the Engineer trenches drains or sumps are excavated under or immediately adjacent the Permanent Works, these shall comprise open-jointed pipes with gravel mounds. When no longer required and when approved by the Engineer they shall be filled with a cement /sand grout injected under pressure so as to fill the pipe and all voids completely.</p> <p>The Contractor shall keep all surfaces upon or against which concrete is to be deposited free from running water and no concrete shall be placed until such surfaces are properly drained. Suitable precautions shall be taken to prevent running water from washing out cement or concrete while it is setting or from injuring the Works in any other way.</p> <p>Notwithstanding the Approval by the Engineer of the Contractor's methods of dealing with water, the Contractor shall be responsible for and accept all the risks and liabilities of dealing with water from whatever source and of all effects thereof.</p> <p>The Contractor shall throughout the execution and completion of the Works and the remedying of any defects therein, comply with all applicable Environment Protection Laws and Regulations of the Country.</p>
<p><b>Sub-Clause 4.21 Progress Reports</b></p>	<p><i>Add following paragraphs after paragraph (h)</i></p> <ul style="list-style-type: none"> <li>(i) An updated construction schedule indicating the progress in percentage; and</li> <li>(j) Description of all works carried out since the last report; and</li> <li>(k) An updated Progress Curve/Projected Cash flow indicating the planned and actual progress; and</li> <li>(l) An updated Critical Resource Usage Chart showing comparison of planned and actual values; and</li> <li>(m) An updated material procurement plan showing comparison of planned and actual values; and</li> <li>(n) An updated schedule of shop drawings comparison of planned and actual values; and</li> <li>(o) Description of the Works planned for the next 28 days sufficiently detailed to enable the Engineer to determine his programme of inspection and testing; and</li> </ul>

	<p>(p) Summary of all submission; and</p> <p>(q) Information about problems and areas of concern and proposal to overcome the same.</p>
<b>Sub-Clause 6.5</b> Working Hours	<p><i>Add the following paragraph at the end of Sub-Clause 6.5:</i></p> <p>The Contractor shall pay overtime payment to the Engineer's Support Staff/Personnel who were required by the Contractor to perform their respective work assignment beyond the normal working hours stated in Part A – Particular Conditions (Appendix A).</p>
<b>Sub-Clause 6.10</b> <b>Records of Contractor's Personnel and Equipment</b>	<p><i>The following paragraphs added:</i></p> <p>The Contractor shall, upon request by the Engineer at any time in relation to any time 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.</p>
<b>Sub-Clause 6.23</b> <b>Epidemics</b>	<p><i>Insert sub-clauses after Sub-Clause 6.22:</i></p> <p>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 the purpose of dealing with and overcoming the same.</p>
<b>Sub-Clause 6.24 Workers' Organizations</b>	<p><i>Insert additional sub-clauses after Sub-Clause 6.23</i></p> <p>In countries where national law recognizes workers' rights to form and to join workers' organizations of their choosing without interference and to bargain collectively, the Contractor shall comply with national law. The Contractor shall not discriminate or retaliate against Contractor's Personnel who participate, or seek to participate, in such organizations. Where national law restricts workers' organizations, the Contractor shall ensure that Contractor's Personnel have alternative means to express their grievances and defend their rights regarding working conditions and terms of employment, such as worker committees or forums to facilitate dialogue between workers' representatives and the employer. Where national is silent on this issue, the Contractor shall not discriminate or retaliate against Contractor's Personnel who participate, or seek to participate, in organizations and forums designed to promote good working conditions and favourable terms of employment, consistent with the Contract.</p>
<b>Sub-Clause 6.25</b> <b>Non-Discrimination and Equal Opportunity</b>	<p><i>Insert additional sub-clauses after Sub-Clause 6.24</i></p> <p>The Contractor shall not make employment decisions on the basis of personal characteristics unrelated to inherent job requirements. The Contractor shall base the employment relationship on the principle of equal opportunity and fair treatment, and will not discriminate with respect to aspects of the employment</p>

	relationship, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, promotion, termination of employment or retirement, and discipline. In countries where national law provides for non-discrimination in employment, the Contractor shall comply with national law. When national laws are silent on non-discrimination in employment, the Contractor shall meet this Sub-Clause's requirements. Special measures of protection or assistance to remedy past discrimination or selection for a particular job based on inherent requirements of the job will not be deemed discrimination.
<b>Sub-Clause 7.9 Use of Pakistani Materials and Services</b>	<i>Insert additional sub-clauses after Sub-Clause 7.8</i> 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.
<b>Sub-Clause 8.1 Commencement of Works</b>	<i>Delete paragraph (b) entirely and substituted with the following.</i> 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
<b>Sub-Clause 8.3 Programme</b>	<i>Insert following additional paragraphs at the end of Sub Clause 8.3;</i> The program shall be submitted in the form of CPM charts. The Contractor will also have a licensed copy of the software from a reputed firm which shall be accessible to the Engineer as well as his assistants. Contractor shall organize a training program for his and Engineer's staff so that the program can be updated regularly as required.  The revised programme, in accordance with the Contract, shall be submitted within Seven (07) days of the request received from the Engineer.  Notwithstanding General Conditions of the Contract Sub Clause 8.3, the program to be submitted for the execution of the works shall, in addition to the program of pure construction activities, include an alleviation program for site staff and labour and their families (if allowed to stay at camp) in respect of Sexually Transmitted Infections (STI), Sexually Transmitted Diseases (STD) including HIV/AIDS. The STID and HIV/AIDS alleviation program shall indicate when, how and at what cost the Contractor plans to satisfy the requirements of Sub Clause 6.7 herein and the related Specifications.  The Contractor shall submit the Programme of Works on Primavera Project Planner P-5 or the latest (both hard and soft copy) for the consent of the Engineer. All items of works and activities including mobilization should be included in the Programme of Works. The

	<p>programme shall identify and highlight those activities, which are on the Critical Path. The programme shall be revised monthly and should include a chart of principal activities of the work forecast for monthly execution and an updated schedule of the payment to be made by the Employer to the Contractor. This programme of works as scheduled shall form basis of Delay Damages pursuant to Sub-Clauses 8.7.</p> <p>In addition, cash flow estimates shall be supported with inputs of over drafts organized with financial institutions at various stages of the projects to meet the funding requirements of the project. The Contractor shall supply and maintain at his site office for his and Engineer's use a licensed copy of the project management computer software package namely Primavera for programming and to monitor the progress. It shall be supplied complete with manuals and technical training and support for the duration of the Contract as per requirements assessed by the Engineer.</p> <p>In order to assist the Engineer's Project Management Team, the Contractor shall be required to submit at 2 weeks intervals data to the Engineer on the cost and quantities and other data relevant to the monitoring of progress according to a particular format suitable for computer processing.</p> <p>The programme should be computerized and drawn up on the CPM with all details as illustrated in this Clause, identifying all items of work including temporary work. Progress reporting by the Contractor should be supported on a monthly basis with an up-to-date analysis of the progress including a statement on items, which are or are about to become critical to the progress of the work along with the proposals on how the Contractor intends to alleviate the situation.</p> <p><b>General Requirements:</b></p> <ol style="list-style-type: none"> <li>a. Programme should be submitted (both hard and soft copy) strictly following the guidelines and format specified in this Clause.</li> <li>b. The Engineer at any time during the execution of the Works; direct the Contractor to change/modify the Programme / Schedule based on the Priority of Works.</li> <li>c. No payment shall be released to the Contractor prior to approval of the Base Line Programme by the Engineer.</li> <li>d. Submittal of Programme consists of: <ol style="list-style-type: none"> <li>1. Construction Schedule (CPM);</li> <li>2. Progress Curve/Project Cash Flow;</li> <li>3. Critical Resources Usage Chart;</li> <li>4. Detailed Method Statement;</li> <li>5. Material Procurement Plan;</li> <li>6. Schedule of Submittals and Shop-Drawings;</li> <li>7. Any other details as required by the Engineer;</li> </ol> </li> </ol>
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	<p><b>Construction Schedule:F</b></p> <ol style="list-style-type: none"> <li>Construction Schedule shall be developed on the basis of Work Breakdown Structure provided or approved by the Engineer.</li> <li>Construction Schedule shall be detailed up to level 4 or as required by the Engineer.</li> <li>Durations of construction activity should be calculated practically in relation to quantity of work done and allocated resources. Any activity that demands duration greater than seven (07) calendar days should be split into number of activities to monitor the same accordingly.</li> <li>Construction activities of the schedule should be logically linked with preceding and succeeding activities and showed in submitted construction schedule.</li> <li>Critical Activities and Critical Path of the project should be highlighted with red colour in bar chart and precedence diagram. Total Float for non-critical activities should also be shown in the schedule.</li> <li>Appropriate quantity of direct resources (material, labour, equipment and non-consumable material) should be allocated to all activities and showed in submitted construction schedule. Labour resource should be divided according to related trades (e.g. Mason, Operator, helper etc.) Contractor should make sure that no resource is being over allocated. Indirect resources should be allocated to supervision / summary activity.</li> <li>BOQ amount should be loaded to reach construction activity. Accrual basis should be indicated to construction activity.</li> <li>Construction Schedule should show Activity ID, Activity Description, BOQ Quantity, Duration, Start Date, Finish Date, Total Float, Predecessors, Resource names with quantity, BOQ Amount and timescale where the bars show start and finish dates.</li> </ol> <p><b>Progress Curve / Projected Cash Flow:</b></p> <ol style="list-style-type: none"> <li>Progress Curve / Projected Cash Flow should be developed and presented on Project Management Software – Primavera Project Planner.</li> <li>S-Curve should be plotted between time (in weeks) and progress of work done (in % of work). The progress should be shown in cumulative percent of work done. Percent of work done should be calculated with the BOQ amount and payment terms.</li> </ol> <p><b>Critical Resources Usage Chart:</b></p> <ol style="list-style-type: none"> <li>Critical Usage Chart should be developed.</li> <li>List of Critical Resources included Labourers, equipments, consumable/non-consumable materials and/or identified by the Engineer.</li> </ol>
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	<p>c. Resource usage chart should show Resource Name and weekly utilization (numbers) of resources on each activity.</p> <p><b>Detailed Method Statement:</b></p> <p>a. Detailed method statement should be presented in descriptive format explaining the method of carrying out works, logistics, site layout, flow of work, quality and safety measures for each activity and any other details as required by the Engineer.</p> <p><b>Material Procurement Plan:</b></p> <p>a. Material Procurement Plan for major items of purchase should be presented in a Tabular Format to be submitted to the Engineer for pre-approval. The Plan must as a minimum show the list of local &amp; imported materials to be used, their specification reference, and planned dates for submittal to Consultant, approval process, placing of order, vendor contact, required delivery on site, status of Line of Credit (LOC) if applicable, and usage of material.</p> <p><b>Schedule of Shop Drawings and Submittals:</b></p> <p>Schedule of Shop Drawings and other Submittals should be presented in a Tabular Format to be submitted to the Engineer for pre-approval. Plan must as a minimum show the list of shop drawings required and their specification reference, planned dates for submittal to consultant, approval process, and usage of shop drawing.</p> <p>Cash Flow Estimates: The Contractor shall, within 28 days from the receipt 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.</p> <p>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 8.3, the Contractor shall produce, at the request of the Engineer, a revised programme showing the modifications to such programme necessary to ensure completion of the Works within the Time for Completion.</p>
<p><b>Sub-Clause 8.7 Delay Damages</b></p>	<p><i>Insert following additional paragraphs at the end of Sub-Clause 8.7</i></p> <p>Notwithstanding the provision of above stated conditions following shall prevail:</p> <p>The rate of Delay Damages shall be 0.1% per day of the Contract Price for every day of delay in which whole or part of the work(s) remained unfurnished subject to a maximum of 10% of the Final Contract Price.</p> <p>In addition to the Delay Damages, the Contractor shall borne all the cost/expenses related to the supervision of the works by the</p>

	<p>Engineer and his staff covering salaries of the Engineer and all of his Site Supervision staff including all the benefits, providing, running and maintenance of all the Engineer's Facilities up to the issuance of the Taking Over Certificate by the Employer. All the above cost/expanses will not be reimbursed / paid to the Contractor beyond the approved completion period of the works.</p> <p>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 delay 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 delay damages and shall not affect the limit thereof.</p> <p><b>Interim Delay Damages</b></p> <p>Contractor's works programme submitted under Sub-Clause 8.3 of the Conditions of Contract shall be considered part of the Contract Agreement. If the Contractor's progress is not as per approved programme of works, the Contractor shall be liable for Interim Delay Damages at the rate of 0.05% of the Contract Price for each day of delay, which shall be refunded if the progress again matches the approved programme of works during the currency of works.</p> <p>The amount of interim delay damages deducted by the Employer from the payment of the Contractor and refunded shall be taken into consideration while determining the delay damages for the whole of the Works.</p> <p>If the progress of works is observed to be behind approved programme of works against three consecutive months then the Employer may invoke Sub-Clause 15.2 of the Conditions of Contract.</p>
<b>Sub-Clause 8.11 Prolonged Suspension</b>	Replace 84 days by 120 days.
<b>Sub-Clause 10.1 Taking Over of the Works and Sections</b>	<p><i>Insert following as 3rd paragraph after 2nd paragraph</i></p> <p>Within 14 days of the date of receipt of Contractor's notice for issuance of Taking Over Certificate the Employer shall on the written request of the Engineer constitute a committee comprising of Engineer/Engineer's Representative, Employer's and Contractor's Representatives. The Committee shall conduct a detailed inspection of the works completed by the Contractor to ascertain the completion or the extent of completion to decide about the issuance of Taking Over Certificate.</p> <p>The Engineer shall take further action on the Contractor's application in pursuance to the recommendations of the committee.</p>
<b>Sub-Clause 11.9</b>	<i>Insert following as 2nd paragraph after 1st paragraph</i>

<b>Performance Certificate</b>	At the completion of the Defects Notification Period the Employer shall constitute a committee comprising of Engineer / Engineer's Representative, Employer's and Contractor's Representatives. The Committee shall conduct a detailed inspection of the works to ascertain the issuance of Performance Certificate or otherwise.
<b>Sub-Clause 13.1 Right to Vary</b>	In the last line of Para, after the word "Variation", the word "in writing" is added.
<b>Sub-Clause 13.3 Variation Procedure</b>	In the tenth line, after the words "as soon as practicable" following is added: "and within a period not exceeding one-eighth of the completion time"
<b>Sub-Clause 13.7 &amp; 13.8 Adjustment for Changes in cost</b>	<b>This Sub-Clause is deleted entirely.</b>
<b>Sub-Clause 14.1 The Contract Price</b>	<p><i>Renumber subparagraphs (c) and (d) as (e) and (f) and delete subparagraph (e).</i></p> <p><i>Insert following paragraphs (c), (d) and (e):</i></p> <p>(c) The Contract Price shall include all taxes, duties and other charges imposed outside the Country on the production, manufacture, sale and transport of the Contractor's Equipment. Plant, Materials and supplies to be used on or furnished under the Contract, and on the services to be performed under the Contract.</p> <p>(d) The Contractor's staff and labour will be liable to pay personal income taxes in the Country in respect of such of their salaries and wages as are chargeable under the Laws for the time being in force, and the Contractor shall perform such duties in regard to such deductions thereof as may be imposed on him by such laws.</p>
<b>Sub-Clause 14.2 Advance Payment</b>	<p><i>Delete the Clause in entirety and replace with following</i></p> <p>The Employer if requested by the Contractor shall make an advance payment for mobilization and cash flow support, when the Contractor submits a guarantee in accordance with this Sub-Clause. The total advance payment, the number and timing of instalments (if more than one) shall be as stated in the Appendix A.</p> <p>The Advance Payment (if required) shall be paid in two equal instalments after the following conditions have been fulfilled.</p> <p>Installment-1: 50% of the total amount of the Advance Payment</p> <ul style="list-style-type: none"> <li>• That the Contract Agreement has been signed by the Parties.</li> <li>• The Contractor has submitted bank guarantee for the full amount of the advance payment in the form of irrevocable without recourse bank guarantee.</li> <li>• The Contractor has submitted the Performance Security in the form as prescribed in Sub-Clause 4.2.</li> </ul>

	<ul style="list-style-type: none"> <li>• The Contractor has submitted the Programme of Works in the form detailed in Sub-Clause 8.3 and the Engineer has given his concurrence.</li> </ul> <p>Installmentt-2: Remaining 50% of the total amount of the Advance Payment shall be paid on mobilization of Plant, Equipment and other resources at site by the Contractor to the satisfaction of the Engineer</p> <p>Unless and until the Employer receives this guarantee, or if the total advance payment is not stated in the Appendix A, this Sub-Clause shall not apply.</p> <p>The Engineer shall deliver to the Employer and to the Contractor an Interim Payment Certificate for the advance payment or its first instalment after receiving a Statement (under Sub-Clause 14.3 [Application for Interim Payment Certificates]) and after the Employer receives (i) the Performance Security in accordance with Sub-Clause 4.2 [Performance Security] and (ii) a guarantee in amount equal to the advance payment. This guarantee shall be issued by an entity and from within a country (or other jurisdiction) approved by the Employer, and shall be in the form annexed to the Particular Conditions or in another form approved by the Employer.</p> <p>The Contractor shall ensure that the guarantee is valid and enforceable until the advance payment has been repaid, but its amount shall be progressively reduced by the amount repaid by the Contractor as indicated in the Payment Certificates. If the terms of the guarantee specify its expiry date, and the advance payment has not been repaid by the date 28 days prior to the expiry date, the Contractor shall extend the validity of the guarantee until the advance payment has been repaid.</p> <p>At any time, the bank guarantee shall be valid for an amount not less than the amount of the original Advance Payment less any partial repayment of that Advance Payment which may have been affected. The Contractor shall inform the guaranteeing bank, by letter, counter signed by the Employer, of the required amount of the guarantee from time to time. Reduction of the amount shall not be made without such authorizing letter.</p> <p>Unless stated otherwise in the Appendix A, the advance payment shall be recovered in 5 equal instalments starting from first month of operations.</p> <p>If the advance payment has not been repaid prior to the issue of the Taking-Over Certificate for the Works or prior to termination under Clause 15 [Termination by Employer], Clause 16 [Suspension and Termination by Contractor] or Clause 19 [Force Majeure] (as the case may be), the whole of the balance then outstanding shall immediately become due and in case of termination under Clause 15 [Termination by Employer] and Sub-Clause 19.6 [Optional Termination, Payment and Release], payable by the Contractor to the Employer.</p> <p>In the event that the amount of money certified and due to the Contractor under the contract at any time is less than the total of due repayments of Advance Payment, the balance of the due repayments shall be paid to the Employer by the Contractor within seven days of demand by the Employer. If the balance is not so paid, the Employer shall be empowered to call in sufficient of the</p>
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	<p>Advance payment bank guarantee to cover the said balance.</p> <p>The Employer shall be empowered to call in the guarantee in whole or in part(s) if the Contractor defaults in the repayment(s) for any reason(s).</p>
<b>Sub-Clause 14.5 Plant and Materials intended for the Works</b>	<b>This Sub-Clause is deleted entirely.</b>
<b>Sub-Clause 14.6 Issue of Interim Payment Certificates</b>	<p><i>Add following in second line after the words “Performance Security.”</i></p> <p>No amount shall be certified or paid until the Engineer has received and approved the Programme of Works.</p>
<b>Sub-Clause 14.8 Delayed Payment</b>	<b>This Sub-Clause is deleted entirely.</b>
<b>Sub-Clause 14.15 Currencies of Payment</b>	Currency of Payment is Pakistan Rupee (PKR).
<b>Sub-Clause 15.2 Termination by Employer</b>	<p><i>Insert following as paragraph (g) after paragraph (f)</i></p> <p>(g) If the progress of works with respect to the Programme of Works is observed to be behind the approved program of works pursuant to Sub Clause 8.7 for two consecutive months.</p> <p><i>The following Para is added at the end of the sub-clause:</i></p> <p>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.</p>
<b>Sub-Clause 15.6 Corrupt and Fraudulent Practices</b>	<p><i>The following text is to be added as 3rd paragraph:</i></p> <p><i>Successful Contractor has to provide Integrity Pact (for contracts worth Rs.10.0 million and above).</i> 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:</p> <ol style="list-style-type: none"> <li>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;</li> <li>terminate the Contract; and</li> <li>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.</li> </ol>

	The termination under sub-para (b) of this Sub-Clause shall proceed in the manner prescribed under sub-clauses <b>15.2</b> & 15.5 and the payment under Sub-Clause 15.4 shall be made after having deducted the amounts due to the procuring agency under Sub-Para (a) and (c) of this Sub-Clause.
<b>Sub-Clause 16.1 Contractor's Entitlement to Suspend Work</b>	<i>Delete words "... Sub-Clause 2.4 [Employer's Financial Arrangements] or ..." from first paragraph</i>  Delete paragraph 2 <i>in entirety</i> (i.e. from words "Notwithstanding" to "notification from the bank").
<b>Sub-Clause 16.2 Termination by Contractor</b>	<i>Delete paragraph (a) in entirety.</i>
<b>Sub-Clause 17.3 Employer's Risks</b>	Delete paragraph (a) in entirety.
<b>Sub-Clause 18.1 General Requirements for Insurance</b>	Add following text  The contractor shall be obliged to place all insurances relating to the contract (including, but not limited to, the insurances referred to in Clauses 18.1, 18.2, 18.3, and 18.4) with Insurance Company having at least AA rating from PACRA/JCR in favour of the Employer valid for a period 28 days after the expiry of Defects Liability Period.  Costs of such insurances shall be borne by the contractor.
<b>Sub-Clause 19.6 Optional Termination, Payment and release by the Employer</b>	Delete paragraph (c), (d) and (e) in entirety.
<b>Sub-Clause 20.1 Contractor's Claims</b>	<i>Insert following at the end of Sub-Clause 20.1</i>  The Contractor shall not be entitled for any extension of Time for Completion and/or additional payment in respect of the claim(s) if the Contractor fails to comply with the requirements or any of the requirement of Sub-Clause 20.1 within the time period stipulated there in the Clause above mentioned and or fails in keeping and producing necessary records whenever demanded by the Engineer.
<b>Sub-Clause 20.6 Arbitration</b>	<i>Delete the Clause in entirety and replace with following</i>  Any dispute in respect of which:  a. the decision, of the Dispute Board has not become final and binding pursuant to sub-clause 20.2, and  b. amicable settlement has not been reached within the period stated in sub-clause 20.5, shall be finally settled, under the provisions of the Arbitration Act, 1940 as amended or any statutory modification/Rules of Conciliation And Arbitration PEC Islamabad or re-enactment thereof for the time being in force.

	<p>The place of arbitration shall be Karachi, in Sindh Province.</p> <p>The arbitrators shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of the Engineer, and any decision of the DB, relevant to the dispute. Nothing shall disqualify representatives of the Parties and the Engineer from being called as a witness and giving evidence before the arbitrators on any matter whatsoever relevant to the dispute.</p> <p>Neither Party shall be limited in the proceedings before the arbitrators to the evidence or arguments previously put before the DB to obtain its decision, or to the reasons for dissatisfaction given in its notice of dissatisfaction. Any decision of the DB shall be admissible in evidence in the arbitration.</p> <p>Arbitration shall be commenced after completion of the Works. The obligations of the Parties, the Engineer and the DB shall not be altered by reason of any arbitration.</p>
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## **APPENDIX: DISPUTE BOARD**

### **General Conditions of Dispute Board Agreement**

#### **1. Definitions**

Each “Dispute Board Agreement” is a tripartite agreement by and between:

- (a) the “Employer”;
- (b) the “Contractor”; and
- (c) the “Member” who is defined in the Dispute Board Agreement as being:
  - (i) the sole member of the "DB" and, where this is the case, all references to the “Other Members” do not apply, or
  - (ii) one of the three persons who are jointly called the “DB” (or “Dispute Board”) and, where this is the case, the other two persons are called the “Other Members.”

The Employer and the Contractor have entered (or intend to enter) into a contract, which is called the "Contract" and is defined in the Dispute Board Agreement, which incorporates this Appendix. In the Dispute Board Agreement, words and expressions which are not otherwise defined shall have the meanings assigned to them in the Contract.

#### **2. General Provisions**

Unless otherwise stated in the Dispute Board Agreement, it shall take effect on the latest of the following dates:

- (a) the Commencement Date defined in the Contract,
- (b) when the Employer, the Contractor and the Member have each signed the Dispute Board Agreement, or
- (c) when the Employer, the Contractor and each of the Other Members (if any) have respectively each signed a dispute board agreement.

This employment of the Member is a personal appointment. At any time, the Member may give not less than 70 days’ notice of resignation to the Employer and to the Contractor, and the Dispute Agreement shall terminate upon the expiry of this period.

#### **3. Warranties**

The Member warrants and agrees that he/she is and shall be impartial and independent of the Employer, the Contractor and the Engineer. The Member shall promptly disclose, to each of them and to the Other Members (if any), any fact or circumstance which might appear inconsistent with his/her warranty and agreement of

impartiality and independence.

When appointing the Member, the Employer and the Contractor relied upon the Member's representations that he/she is:

- (a) experienced in the work which the Contractor is to carry out under the Contract,
- (b) experienced in the interpretation of contract documentation, and
- (c) fluent in the language for communications defined in the Contract.

#### **4. General Obligations of the Member**

The Member shall:

- (a) have no interest financial or otherwise in the Employer, the Contractor or Engineer, nor any financial interest in the Contract except for payment under the Dispute Board Agreement;
- (b) not previously have been employed as a consultant or otherwise by the Employer, the Contractor or the Engineer, except in such circumstances as were disclosed in writing to the Employer and the Contractor before they signed the Dispute Board Agreement;
- (c) have disclosed in writing to the Employer, the Contractor and the Other Members (if any), before entering into the Dispute Board Agreement and to his/her best knowledge and recollection, any professional or personal relationships with any director, officer or employee of the Employer, the Contractor or the Engineer, and any previous involvement in the overall project of which the Contract forms part;
- (d) not, for the duration of the Dispute Board Agreement, be employed as a consultant or otherwise by the Employer, the Contractor or the Engineer, except as may be agreed in writing by the Employer, the Contractor and the Other Members (if any);
- (e) comply with the annexed procedural rules and with Sub-Clause 20.4 of the Conditions of Contract;
- (f) not give advice to the Employer, the Contractor, the Employer's Personnel or the Contractor's Personnel concerning the conduct of the Contract, other than in accordance with the annexed procedural rules;
- (g) not while a Member enter into discussions or make any agreement with the Employer, the Contractor or the Engineer regarding employment by any of them, whether as a consultant or otherwise, after ceasing to act under the Dispute Board

Agreement;

- (h) ensure his/her availability for all site visits and hearings as are necessary;
- (i) become conversant with the Contract and with the progress of the Works (and of any other parts of the project of which the Contract forms part) by studying all documents received which shall be maintained in a current working file;
- (j) treat the details of the Contract and all the DB's activities and hearings as private and confidential, and not publish or disclose them without the prior written consent of the Employer, the Contractor and the Other Members (if any); and
- (k) be available to give advice and opinions, on any matter relevant to the Contract when requested by both the Employer and the Contractor, subject to the agreement of the Other Members (if any).

**5. General  
Obligations of the  
Employer and the  
Contractor**

The Employer, the Contractor, the Employer's Personnel and the Contractor's Personnel shall not request advice from or consultation with the Member regarding the Contract, otherwise than in the normal course of the DB's activities under the Contract and the Dispute Board Agreement. The Employer and the Contractor shall be responsible for compliance with this provision, by the Employer's Personnel and the Contractor's Personnel respectively.

The Employer and the Contractor undertake to each other and to the Member that the Member shall not, except as otherwise agreed in writing by the Employer, the Contractor, the Member and the Other Members (if any):

- (a) be appointed as an arbitrator in any arbitration under the Contract;
- (b) be called as a witness to give evidence concerning any dispute before arbitrator(s) appointed for any arbitration under the Contract; or
- (c) be liable for any claims for anything done or omitted in the discharge or purported discharge of the Member's functions, unless the act or omission is shown to have been in bad faith.

The Employer and the Contractor hereby jointly and severally indemnify and hold the Member harmless against and from claims from which he is relieved from liability under the preceding paragraph.

Whenever the Employer or the Contractor refers a dispute to the DB under Sub-Clause 20.4 of the Conditions of Contract, which will require the Member to make a site visit and attend a hearing, the Employer or the Contractor shall provide appropriate security for a sum equivalent to the reasonable expenses to be incurred by the Member. No account shall be taken of any other payments due

or paid to the Member.

## **6. Payment**

The Member shall be paid as follows, in the currency named in the Dispute Board Agreement:

- (a) a retainer fee per calendar month, which shall be considered as payment in full for:
  - (i) being available on 28 days' notice for all site visits and hearings;
  - (ii) becoming and remaining conversant with all project developments and maintaining relevant files;
  - (iii) all office and overhead expenses including secretarial services, photocopying and office supplies incurred in connection with his duties; and
  - (iv) all services performed hereunder except those referred to in sub-paragraphs (b) and (c) of this Clause.

The retainer fee shall be paid with effect from the last day of the calendar month in which the Dispute Board Agreement becomes effective; until the last day of the calendar month in which the Taking-Over Certificate is issued for the whole of the Works.

With effect from the first day of the calendar month following the month in which the Taking-Over Certificate is issued for the whole of the Works, the retainer fee shall be reduced by one third. This reduced fee shall be paid until the first day of the calendar month in which the Member resigns or the Dispute Board Agreement is otherwise terminated.

- (b) a daily fee which shall be considered as payment in full for:
  - (i) each day or part of a day up to a maximum of two days' travel time in each direction for the journey between the Member's home and the site, or another location of a meeting with the Other Members (if any);
  - (ii) each working day on Site visits, hearings or preparing decisions; and
  - (iii) each day spent reading submissions in preparation for a hearing.
- (c) all reasonable expenses including necessary travel expenses (air fare in less than first class, hotel and subsistence and other direct travel expenses) incurred in connection with the Member's duties, as well as the cost of telephone calls, courier charges, faxes and telexes: a receipt shall be required for each item in excess of five percent of the daily fee referred to in sub-paragraph (b) of this Clause;
- (d) any taxes properly levied in the Country on payments made to the Member (unless a national or permanent resident of the

Country) under this Clause 6.

The retainer and daily fees shall be as specified in the Dispute Board Agreement. Unless it specifies otherwise, these fees shall remain fixed for the first 24 calendar months, and shall thereafter be adjusted by agreement between the Employer, the Contractor and the Member, at each anniversary of the date on which the Dispute Board Agreement became effective.

If the parties fail to agree on the retainer fee or the daily fee, the appointing entity or official named in the Contract Data shall determine the amount of the fees to be used.

The Member shall submit invoices for payment of the monthly retainer and air fares quarterly in advance. Invoices for other expenses and for daily fees shall be submitted following the conclusion of a site visit or hearing. All invoices shall be accompanied by a brief description of activities performed during the relevant period and shall be addressed to the Contractor.

The Contractor shall pay each of the Member's invoices in full within 56 calendar days after receiving each invoice and shall apply to the Employer (in the Statements under the Contract) for reimbursement of one-half of the amounts of these invoices. The Employer shall then pay the Contractor in accordance with the Contract.

If the Contractor fails to pay to the Member the amount to which he/she is entitled under the Dispute Board Agreement, the Employer shall pay the amount due to the Member and any other amount which may be required to maintain the operation of the DB; and without prejudice to the Employer's rights or remedies. In addition to all other rights arising from this default, the Employer shall be entitled to reimbursement of all sums paid in excess of one-half of these payments, plus all costs of recovering these sums and financing charges calculated at the rate specified in Sub-Clause 14.8 of the Conditions of Contract.

If the Member does not receive payment of the amount due within 70 days after submitting a valid invoice, the Member may (i) suspend his/her services (without notice) until the payment is received, and/or (ii) resign his/her appointment by giving notice under Clause 7.

## **7. Termination**

At any time: (i) the Employer and the Contractor may jointly terminate the Dispute Board Agreement by giving 42 days' notice to the Member; or (ii) the Member may resign as provided for in Clause 2.

If the Member fails to comply with the Dispute Board Agreement, the Employer and the Contractor may, without prejudice to their other rights, terminate it by notice to the Member. The notice shall

take effect when received by the Member.

If the Employer or the Contractor fails to comply with the Dispute Board Agreement, the Member may, without prejudice to his other rights, terminate it by notice to the Employer and the Contractor. The notice shall take effect when received by them both.

Any such notice, resignation and termination shall be final and binding on the Employer, the Contractor and the Member. However, a notice by the Employer or the Contractor, but not by both, shall be of no effect.

## **8. Default of the Member**

If the Member fails to comply with any of his obligations under Clause 4 (a) - (d) above, he shall not be entitled to any fees or expenses hereunder and shall, without prejudice to their other rights, reimburse each of the Employer and the Contractor for any fees and expenses received by the Member and the Other Members (if any), for proceedings or decisions (if any) of the DB which are rendered void or ineffective by the said failure to comply.

If the Member fails to comply with any of his obligations under Clause 4 (e) - (k) above, he shall not be entitled to any fees or expenses hereunder from the date and to the extent of the non-compliance and shall, without prejudice to their other rights, reimburse each of the Employer and the Contractor for any fees and expenses already received by the Member, for proceedings or decisions (if any) of the DB which are rendered void or ineffective by the said failure to comply.

## **9. Disputes**

Any dispute or claim arising out of or in connection with this Dispute Board Agreement, or the breach, termination or invalidity thereof shall be finally settled by institutional arbitration. If no other arbitration institute is agreed, the arbitration shall be conducted under the Rules of Arbitration of the International Chamber of Commerce by one arbitrator appointed in accordance with these Rules of Arbitration.

### **Annex: Procedural Rules**

Unless otherwise agreed by the Employer and the Contractor, the DB shall visit the site at intervals of not more than 140 days, including times of critical construction events, at the request of either the Employer or the Contractor. Unless otherwise agreed by the Employer, the Contractor and the DB, the period between consecutive visits shall not be less than 70 days, except as required to convene a hearing as described below.

The timing of and agenda for each site visit shall be as agreed jointly by the DB, the Employer and the Contractor, or in the absence of agreement, shall be decided by the DB. The purpose of site visits is to enable the DB to become and remain acquainted with the progress of the Works and of any actual or potential problems or claims, and, as far as reasonable, to endeavour to prevent potential problems or claims from becoming disputes.

Site visits shall be attended by the Employer, the Contractor and the Engineer and shall be co-ordinated by the Employer in co-operation with the Contractor. The Employer shall ensure the provision of appropriate conference facilities and secretarial and copying services. At the conclusion of each site visit and before leaving the site, the DB shall prepare a report on its activities during the visit and shall send copies to the Employer and the Contractor.

The Employer and the Contractor shall furnish to the DB one copy of all documents which the DB may request, including Contract documents, progress reports, variation instructions, certificates and other documents pertinent to the performance of the Contract. All communications between the DB and the Employer or the Contractor shall be copied to the other Party. If the DB comprises three persons, the Employer and the Contractor shall send copies of these requested documents and these communications to each of these persons.

If any dispute is referred to the DB in accordance with Sub-Clause 20.4 of the Conditions of Contract, the DB shall proceed in accordance with Sub-Clause 20.4 and these Rules. Subject to the time allowed to give notice of a decision and other relevant factors, the DB shall:

- (a) act fairly and impartially as between the Employer and the Contractor, giving each of them a reasonable opportunity of putting his case and responding to the other's case, and
- (b) adopt procedures suitable to the dispute, avoiding unnecessary delay or expense.

The DB may conduct a hearing on the dispute, in which event it will decide on the date and place for the hearing and may request that written documentation and arguments from the Employer and the Contractor be presented to it prior to or at the hearing.

Except as otherwise agreed in writing by the Employer and the Contractor, the DB shall have power to adopt an inquisitorial procedure, to refuse admission to hearings or audience at hearings to any persons other than representatives of the Employer, the Contractor and the Engineer, and to proceed in the absence of any party who the DB is satisfied received notice of the hearing; but shall have discretion to decide whether and to what extent this power may be exercised.

The Employer and the Contractor empower the DB, among other things, to:

- (a) establish the procedure to be applied in deciding a dispute,
- (b) decide upon the DB's own jurisdiction, and as to the scope of any dispute referred to it,

- (c) conduct any hearing as it thinks fit, not being bound by any rules or procedures other than those contained in the Contract and these Rules,
- (d) take the initiative in ascertaining the facts and matters required for a decision,
- (e) make use of its own specialist knowledge, if any,
- (f) decide upon the payment of financing charges in accordance with the Contract,
- (g) decide upon any provisional relief such as interim or conservatory measures, and
- (h) open up, review and revise any certificate, decision, determination, instruction, opinion or valuation of the Engineer, relevant to the dispute.

The DB shall not express any opinions during any hearing concerning the merits of any arguments advanced by the Parties. Thereafter, the DB shall make and give its decision in accordance with Sub-Clause 20.4, or as otherwise agreed by the Employer and the Contractor in writing. If the DB comprises three persons:

- (a) it shall convene in private after a hearing, in order to have discussions and prepare its decision;
- (b) it shall endeavour to reach a unanimous decision: if this proves impossible the applicable decision shall be made by a majority of the Members, who may require the minority Member to prepare a written report for submission to the Employer and the Contractor; and
- (c) if a Member fails to attend a meeting or hearing, or to fulfil any required function, the other two Members may nevertheless proceed to make a decision, unless:
  - (i) either the Employer or the Contractor does not agree that they do so, or
  - (ii) the absent Member is the chairman and he/she instructs the other Members not to make a decision.