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Issued By: \_\_\_\_\_

## **KARACHI WATER & SEWERAGE BOARD**

### **PROJECT:**

**CONSTRUCTION OF NEW 65 MGD PUMP HOUSE  
(EQUIPPED WITH M & E PUMPING MACHINERIES) AT GHARO**

**EPC/ TURNKEY CONTRACT  
ON LUMP-SUM FIXED PRICE BASIS**

### **BIDDING DOCUMENT (VOLUME-I)**

January 2018



**EA Consulting Pvt Ltd**

*(Formerly Engineering Associates)*

**Engineering, Architecture & Project Management**

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**In Association With**



**JERS Engineering Consultant**

# KARACHI WATER & SEWERAGE BOARD

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# **INVITATION TO BIDDERS**



# KARACHI WATER & SEWERAGE BOARD

## NOTICE INVITING TECHNICAL PROPOSALS

### Construction of Additional 65 MGD Water Supply Scheme from Haleji to Pipri, Karachi. Package # 02

1. The Karachi Water & Sewerage Board (KW&SB) has received funds from Government of Sindh under Annual Development Program and sealed Bids are invited on National Competitive Bidding (NCB) under Two Stage Bidding Procedure as per SPP Rules 2010 on EPC / Turnkey / Lump Sum Fixed Price Basis for the following work:-

Name of Work	Estimated Cost (Rs. Millions)	Bid Security	Tender Fee	Time for Completion
Construction of New 65 MGD Pump House (Equipped with M&E Pumping Machineries) at Gharo.	980 (M)	2% of Bid Price	Rs.5,000/-	15 Months

2. Eligibility: PEC Licensed Contractor / Firms / JV's / Consortium having sufficient relevant experience of similar works with valid PEC License in Category C-1 and above with Specialization codes CE-09, CE-10, ME-06, EE-04 & EE-05 (in case JV / Consortium), the lead firm must fulfill the C-1 Category requirement with specialization codes of either CE-10 or ME-06 while other JV/Consortium partners shall have at least Category C-2 covering all remaining specialization codes.
3. Interested National firms are invited for participation fulfilling **Mandatory requirements** and may obtain "TENDER DOCUMENTS" which lists all requirements and the Qualification, Evaluation Criteria, from the office of the Project Director, (Addl. 65 MGD Project) on making payment of Rs.5,000/- (non-refundable) in the shape of Pay Order, in favor of KW&SB.

#### **MANDATORY REQUIREMENTS:**

- a. Local firms with valid registration with Pakistan Engineering Council (PEC) for the year 2017 in category C-1 or above with Specialization codes CE-09, CE-10, ME-06, EE-04 & EE-05.
- b. Valid Registration with Income Tax Govt. & Sales Tax Deptt.
- c. Valid Certificate of Registration with Sindh Revenue Board showing Sindh Sales Tax Number (SSTN).
- d. Affidavit on Stamp Paper of Rs. 100/- (duly notarized) that the applicant firm is not black listed by any procuring Agency, Govt. or Semi-Govt., Autonomous bodies, International organization and any Cantonment Boards in Pakistan.
- e. Affidavit on stamp paper of Rs. 100/- (duly notarized) providing list of any present or past litigation of the Bidding Firm with any organization, Govt. Dept. or private concern. If no litigation, the said affidavit should mention the same.
- f. Submission (Return of) Original Tender Document purchased / issued to the firm from office of the Project Director, (Addl. 65 MGD Project) shall be returned in bounded form duly filled, signed and stamped with one copy.

4. **MINIMUM SUPPORTING DOCUMENTS REQUIRED** (Additional documents, if required are mentioned in Tender Document).
- Name of Firm, its status (date of Incorporation), Address, Telephone number(s) Fax number & years of experience of firm with proof.
  - Experience of general and specific works (for the work category) over last Ten (10) years of Rs.300/= Three Hundred million or above.
  - Detail of Machinery / Equipment with manufacturer name, address and experience.
  - Existing work load / work order with details of work under execution.
  - List of machinery and equipment owned by the firm and intended to be used on the project, proof of ownership and brief description including number, model, make, capacity & location.
  - Financial soundness certificate and bank statement for last 5 years.
  - Annual Turnover for last 5 years.
  - Any other relevant information which the firm intends to submit as its qualification.
  - Authority letter of the firm showing name, designation and CNIC number of the individual for receipt of proposal documents.
  - Bid will be inclusive of all taxes including G.S.T. & Sales Tax on services Sindh.
5. **Method of Procurement:** Two Stage Bidding Procedure on National Competitive Bidding (NCB) basis.
6. Sealed Technical Proposal in original with 1 X copy should be delivered at the office of Project Director (65 MGD Project) as per given schedule. Each page of original copy be signed and stamped by the Bidder.
7. After Technical Bid Evaluation, only qualified bidder will be invited to submit Second Stage Technical bid along with Financial Bid for which schedule will be intimated later.
8. Bid Security will be submitted by the qualified bidder only at the time of submission of Financial Bid at Second Stage.
9. **Bidding / Tender Documents:**
- Documents will be issued on payment of tender fee (non-refundable).
  - Date of Issuance : January 10, 2018
  - Last date of Submission : February 07, 2018
  - Technical Proposal will be opened on : February 08, 2018
  - Date of Submission & Opening of Financial proposal will be intimated later.
  - Place of issuance, submission, inquiries and opening will be:

**Project Director (Addl. 65 MGD Water Supply Scheme from Haleji to Pipri), Karachi**

*Block –C, Room # 4, 9<sup>th</sup> Mile, Karsaz, KW&SB,  
Shahra-e-Faisal Karachi, Pakistan.  
Tel. No: (92 - 21) 99245132*

10. KW&SB reserves the right to accept or reject any or all proposals subject to the relevant provisions of Sindh Public Procurement (SPP) Rules 2010.

**PROJECT DIRECTOR  
(Addl. 65 MGD Water Supply Scheme  
from Haleji to Pipri), Karachi  
Block –C, Room # 4, 9<sup>th</sup> Mile, Karsaz,  
KW&SB,  
Shahra-e-Faisal Karachi, Pakistan.  
Tel. No: (92 - 21) 99245132**

**INSTRUCTIONS TO BIDDERS**  
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## **INSTRUCTIONS TO BIDDERS AND APPENDICES**

### **(A) GENERAL**

#### **IB.1 Scope of Bid and Source of Funds**

##### **1.1 Scope of Bid**

Karachi Water & Sewerage Board (hereinafter called the "Employer") wishes to receive Bids on EPC/Turnkey basis for the scope of work which includes, but shall not be limited to:

#### **CONSTRUCTION OF NEW 65 MGD PUMP HOUSE (EQUIPPED WITH M & E PUMPING MACHINERIES) AT GHARO**

The Works to be executed under this Contract comprise Design, Construct, Manufacture, Supply and Install on EPC/Turnkey basis.

A detailed scope of work has been described in these documents. The successful Bidder will be expected to complete the Works within the stipulated period of 15 Months as specified in these Bidding Documents.

Bidders must quote prices for the complete scope of work. Any Bid covering partial scope of work will be non-responsive, pursuant to Clause IB.24.

##### **1.2 Source of Funds**

The Employer has received funds from the Government of Sindh under Annual Development Program and it is intended that part of the proceeds of the funds will be applied to eligible Payment's under the Contract for which these Bidding Documents are issued.

#### **IB.2 Eligible Bidders**

2.1 Bidding is open to all firms and persons meeting the following requirements:

Having valid licensed by the Pakistan Engineering Council (PEC) in Category C-1 or above.

Valid Registration with Income Tax & Sales Tax. Deptt.

Certificate of Registration with Sindh Revenue Board showing Sindh Sales Tax Number (SSTN).

#### **IB.3 Eligible Goods and Services**

3.1 All Goods & ancillary Services to be supplied under this Contract shall have their origin in eligible countries as per Appendix 'A' to Instructions to Bidders and all expenditures made under the Contract will be limited to such Goods and Services.

3.2 For purpose of this Clause, "origin" means the place where the Goods are mined, grown or produced or from where the ancillary services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembling of components, a commercially recognized product results that is substantially different in basic characteristics or in purpose or utility from its components.

3.3 The origin of Goods and Services is distinct from the nationality of the Bidder.

## **IB.4 BIDDING DOCUMENTS**

The Bidder shall bear all costs associated with the preparation and submission of its Bid and the Employer will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the Bidding process.

### **IB.5 Contents of Bidding Documents**

5.1 In addition to Invitation for Bids, the Bidding Documents are those stated below, and should be read in conjunction with any Addenda issued in accordance with Clause IB.7.

1. Instructions to Bidders (ITB) with Appendices to ITB
2. Letter of Technical Bid & Schedules to Bid  
Schedules to Bid are the following:
  - (i) Schedule A: Specific Works data
  - (ii) Schedule B: Proposed Organization for the Project
  - (iii) Schedule C: Method of Performing Works
  - (iv) Schedule D: Proposed Programme of Works
  - (v) Schedule E: Work to be Performed by Subcontractors
  - (vi) Schedule F: Deviations from Technical & Contractual Provisions
  - (vii) Schedule G: Specific Operation/ Plant and Equipment Details
  - (viii) Schedule H: Specimen JV Agreement
  - (ix) Schedule I: Past Performance and Present Commitments
3. Letter of Price Bid & Schedules to Bid  
Schedules to Bid are the following:
  - (i) Schedule J: Integrity Pact
  - (ii) Schedule K: Estimated Progress Payments
  - (iii) Schedule L: Lump Sum Cost Breakup for Major Cost Items
4. Schedule of Prices
5. Preamble to Conditions of Contract
6. General Conditions of Contract (GCC)
7. Particular Conditions of Contract (PCC)
8. Standard Forms include the following:
  - (i) Form of Bid Security
  - (ii) Form of Contract Agreement
  - (iii) Form of Performance Security
  - (iv) Form of Bank Guarantee for Advance Payment
  - (v) Indemnity Bond for Secured Advance
9. Specifications - Special & Technical Provisions
10. Drawings.

5.2 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.24, Bids which are not substantially responsive to the requirements of the Bidding Documents will be rejected.

### **IB.6 Clarification of Bidding Documents**

6.1 A prospective Bidder requiring any clarification(s) in respect of the Bidding Documents may notify the Employer with a copy to the Project Manager/Engineer in writing or by fax at the address as provided under Sub-Clause 49.2 of GCC. Employer will examine the request for clarification of the Bidding Documents which it receives not later than twenty eight (20) days prior to the deadline for the submission of bids and if needed will issue the clarification/ amendment of the Bidding Documents at least fourteen (14) days before the date of submission of Bids (without identifying the source of enquiry) to all prospective Bidders who have purchased the Bidding Documents.

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

- 7.1 At any time prior to the deadline for submission of bids, the Employer may, for any reason, whether at his own initiative or in response to a clarification requested by a prospective Bidder, modify the Bidding Documents by issuing addendum.
- 7.2 Any addendum thus issued shall be part of the Bidding Documents pursuant to Sub Clause 7.1 hereof, and shall be communicated in writing to all purchasers of the Bidding Documents. Prospective Bidders shall acknowledge receipt of each addendum in writing to the Employer. The Bidder shall also confirm in the Form of Bid that the information contained in such addenda have been considered in preparing his Bid.
- 7.3 To afford prospective Bidders reasonable time in which to take an addendum into account in preparing their Bids, the Employer may at its discretion extend the deadline for submission of Bids in accordance with Clause IB.19.

## **PREPARATION OF BIDS**

### **IB.8 Language of Bid**

8.1 The Bid prepared by the Bidder and all correspondence and documents relating to the Bid, exchanged by the Bidder and the Project Manager/Engineer shall be written in the English language, provided that any printed literature furnished by the Bidder may be written in another language so long as accompanied by an English translation of its pertinent passages in which case, for purposes of interpretation of the Bid, the English translation shall govern.

### **IB.9 Documents Comprising the Bid**

- 9.1 The Bid prepared by the Bidder shall comprise the following components:
  - (a) Covering Letter
  - (b) Letters of Bids duly filled, signed and sealed, in accordance with Clause IB.17.
  - (c) Schedules (A to L) to Bid duly filled and signed, in accordance with the instructions contained therein.
  - (d) Schedule of Prices completed in accordance with Clauses IB.11 and IB.12 in separate sealed envelope.
  - (e) Bid Security furnished in accordance with Clause IB.15.
  - (f) Power of Attorney in accordance with Clause IB 17.5.
  - (g) Joint Venture Agreement (if applicable). A foreign Bidder is entitled to bid only in a joint venture with a Pakistani constructor in accordance with the provisions of relevant PEC bye-laws.
  - (h) Documentary evidence established in accordance with Clause IB.13 that the Bidder is eligible to Bid and is qualified to perform the Contract if its Bid is accepted (past performance and present commitments to be filled in as per schedule I to Bid).
  - (i) Documentary evidence established in accordance with Clause IB.14 that the Plant and ancillary Services to be supplied by the Bidder are eligible Plant and Services and conform to the Bidding Documents.
  - (j) Bidders applying for eligibility for domestic preference in bid evaluation shall supply all information & evidence to establish the claim for domestic preference required to satisfy the criteria for eligibility as described in Clause IB.27. The particulars for domestic Goods prescribed in Appendix-C to these Instructions shall also be filled in to substantiate claim for domestic preference.
  - (k) Any other documents prescribed in Particular Conditions of Contract or Technical Provisions to be submitted with the Bid.

## **IB.10 Letters of Bids and Schedules**

- 10.1 The Bidder shall complete, sign and seal the Letters of Bids, Schedules (A to L, or as modified) to Bid and Schedule of Prices furnished in the Bidding Documents and shall also enclose other information as detailed in Clause IB.9.
- 10.2 For the purpose of granting a margin of domestic preference pursuant to Clause IB.27, the Employer will classify the Bids, when submitted in one of three groups as follows subject to change, if any, as per policy of the Federal Government as applicable on the date of bid opening:
- (a) **Group 'A' Bid.** (i) For Goods for which labour, raw materials and components from within Pakistan account for at least 20% of the ex-factory bid price of the products offered (ii) For Goods for which labour, raw materials and components from within Pakistan account for over 20% and up to 30% of the ex-factory bid price of the products offered (iii) For Goods for which labour, raw materials and components from within Pakistan account for over 30% of the ex-factory bid price of the products offered;
  - (b) **Group 'B' Bid.** For Goods manufactured in Pakistan for which the domestic value added in the manufacturing cost is less than 20% of the ex-factory bid price; and
  - (c) **Group 'C' Bid.** For Goods of foreign origin. In preparing their bids, the Bidders, whether local or foreign, shall enter in the Schedule of Prices, ex-factory price for indigenously manufactured products and CIF price as well as customs duty and sales tax and other import charges for products to be imported from outside Pakistan.

Sub-clause 10.2 is deleted in its entirety.

## **IB.11 Bid Prices**

- 11.1 The Bidder shall fill up the Schedule of Prices attached to these documents indicating the unit rates and prices of the Works to be performed under the Contract. Prices on the Schedule of Prices shall be entered keeping in view the instructions contained in the Preamble to the Schedule of Prices.
- 11.2 The Bidder shall fill in rates and prices for all items of the Works described in the Schedule of Prices. Items against which no rate or price is entered by a Bidder will not be paid for by the Employer when executed and shall be deemed covered by rates and prices for other items in the Schedule of Prices.
- 11.3 The Bidder's breakup of price components in accordance with Sub-Clause 11.1 above will be solely for the purpose of facilitating the comparison of Bids by the Employer and will not in any way limit its right to contract on any of the terms offered.
- 11.4 Unless otherwise stipulated in the Conditions of Contract, prices quoted by the Bidder shall remain fixed during the Bidder's performance of the Contract and not subject to variation on any account. When the Bidders are required to quote only fixed price(s), a Bid submitted with an adjustable price quotation will be treated as non-responsive, pursuant to Clause IB.24.
- 11.5 Any discount offered shall be valid for at least the period of validity of the Bid. A discount valid for lesser period shall be considered null and void.

## **IB.12 Currencies of Bid**

- 12.1 Prices shall be quoted in the following currencies:

- (a) For Plant/Goods and Services which the Bidder will supply from within Pakistan, the prices shall be quoted in the Pak. Rupees.

12.2 The currencies of payment shall be as stated in Particular Conditions of Contract.

### **IB.13 Documents Establishing Bidder's Eligibility and Qualifications**

13.1 Pursuant to Clause IB.9, the Bidder shall furnish, as part of its Bid, documents establishing the Bidder's eligibility to Bid and its qualifications to perform the Contract if its Bid is accepted.

13.2 The documentary evidence of the Bidder's eligibility to Bid shall establish to the Employer's satisfaction that the Bidder, at the time of submission of its Bid is from an eligible source country as defined under Clause IB.2.

13.3 The documentary evidence of the Bidder's qualifications to perform the Contract if its Bid is accepted, shall establish to the Employer's satisfaction:

- (a) that, in the case of a Bidder offering to supply Plant under the Contract which the Bidder did not manufacture or otherwise produce, the Bidder has been duly authorized by the Plant manufacturer or producer to supply the Plant to Pakistan;
- (b) that the Bidder/ Manufacturer has the financial, technical and production capability necessary to perform the Contract; and
- (c) that, in the case of a Bidder not doing business within Pakistan the Bidder is or will be (if successful) represented by an agent in Pakistan equipped and able to carry out the Supplier's maintenance, repair and spare parts stocking obligations prescribed by the Conditions of Contract and / or Technical Provisions.

13.4 (a) Bidder/ Manufacturer must possess and provide evidence of the following experience:

- i. has completed at least one (1) turnkey Contract with a minimum value of Rs.300 Million during the last Ten (10) years.
- ii. has designed, constructed, supplied and installed at least one similar facility during the last ten (10) years of Rs. 300 Million.
- iii. Only those Bidder/Manufacturer are expected to participate who have ownership of the specific equipment/tools/machines specified in the Bidding Documents/NIT for satisfactory performance of any specialized job as required under the Contract.

Documentation regarding the Bidder's experience on previous similar contracts must accompany with each Bid.

Bidder shall also submit proof of their financial capability to undertake the Contract.

In the event that the successful Bidder is a joint venture formed of two or more companies, the Employer requires that the parties to the joint venture accept joint and several liabilities for all obligations under the Contract.

Bidders shall furnish documentary evidence of qualification on the Form "Evidence of Bidder's Capability" (Appendix B to these Instructions).

- (b) The Bidder should have an average annual turnover in the last five years equal to or more than Rs.1000 Million. Alternately, the Bidder should have successfully completed in the last five (5) years any specific project having value equal to or higher than Rs. 1000 Million.

### **13.5 Joint Venture**

In order for a Joint Venture to qualify:

- (a) At least one of the partners of joint venture shall satisfy the relevant experience criteria specified in Sub-Clause 13.4(a).
- (b) All firms comprising the joint venture shall be legally constituted and shall meet the eligibility requirement of Sub-Clause 2.1 hereof.
- (c) All partners of the joint venture shall at all times and under all circumstances be liable jointly and severally to Employer for the execution of the entire Contract in accordance with the Contract terms and conditions and a statement to this effect shall be included in the authorization mentioned under para (f) below as well as in the Form of Bid and Form of Contract Agreement (in case of a successful Bidder).
- (d) The Form of Bid, and in the case of successful Bidder, the Form of Contract Agreement, shall be signed so as to be legally binding on all partners.
- (e) 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.
- (f) The partner-in-charge shall be authorized to incur liabilities, receive payments and receive instructions for and on behalf of any or all partners of the joint venture.
- (g) 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 Employer (Refer Schedule H).

- 13.6 The Bidder shall propose, in order of his priority; plant, equipment or goods of not more than three (3) Manufacturers. Employer at his own jurisdiction will evaluate the plant, equipment or goods of only one of such Manufacturers.

### **IB.14 Documents Establishing Plant's Eligibility and Conformity to Bidding Documents**

- 14.1 Pursuant to Clause IB.9, the Bidder shall furnish, as part of its Bid, documents establishing the eligibility and conformity to the Bidding Documents of all Plant and Services which Bidder proposes to perform under the Contract.
- 14.2 The documentary evidence of the Plant and Services eligibility shall establish to the Employer's satisfaction that they will have their origin in an eligible source country as defined under Clause IB.3. A certificate of origin issued at the time of shipment will satisfy the requirements of the said Clause.
- 14.3 The documentary evidence of the Plant and Services' conformity to the Bidding Documents may be in the form of literature, drawings and data and shall furnish:
- (a) A detailed description of the Plant, essential technical and performance characteristics.
  - (b) Complete set of technical information, description data, literature and drawings as required in accordance with Schedule A to Bid, Specific Works Data. Drawings and data submitted must be in sufficient detail and clarity to permit the

Employer to verify compliance with the provisions of the Bidding Documents. This will include but not be limited to the following:

- (i) A sufficient number of drawings, diagrams, photographs, catalogues, illustrations and such other information as are necessary to illustrate clearly the significant characteristics such as general construction dimensions and other relevant information about the Plant to be furnished.
  - (ii) The approximate weight and dimension of the main components, a brief description of the principal materials and fabrication processes to be used and recommended methods of assembly.
  - (iii) Any other information which is required for evaluation purposes.
- (c) A clause-by-clause commentary on Technical Provisions, provided with the Bidding Documents, demonstrating the Plant's and Service's substantial responsiveness to those Specifications or a statement of deviations and exceptions to the provisions of the Technical Provisions as required in Schedule F to Bid.
- 14.4 For purpose of the commentary to be furnished pursuant to Sub-Clause 14.3(c) above, the Bidder shall note that standards for workmanship, material and equipment, and references to brand names or catalogue numbers, designated by the Project Manager/Engineer in the Technical Provisions are intended to be descriptive only and not restrictive. The Bidder may substitute alternative standards, brand names and/or catalogue numbers in its Bid, provided that it demonstrates to the Project Manager/Engineer's satisfaction that the substitutions are substantially equivalent or superior to those designated in the Technical Provisions. Copies of the standards proposed by the Bidder other than those specified in the Bidding Documents shall be furnished.

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

- 15.1 Each Bidder shall furnish, as part of his Bid, a Bid Security of an amount not less than 2% of Bid amount.
- 15.2 The Bid Security shall be, at the option of the Bidder, in the form of Deposit at Call 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, valid for a period twenty eight (28) days beyond the bid validity date.
- 15.3 The Bid Security is required to protect the Employer against the risk of Bidder's conduct which would warrant the security's forfeiture, pursuant to Sub-Clause 15.7 hereof.
- 15.4 Any Bid not accompanied by an acceptable Bid Security shall be considered by the Employer as non-responsive, pursuant to Clause IB.24.
- 15.5 The Bid securities of unsuccessful Bidders will be returned upon award of contract to the successful Bidder or on the expiry of validity of Bid Security whichever is earlier.
- 15.6 The Bid Security of the successful Bidder will be returned when the Bidder has furnished the required Performance Security, pursuant to Clause IB.34 and signed the Contract Agreement, pursuant to Clause IB.35.
- 15.7 The Bid Security may be forfeited:
- (a) if a Bidder withdraws his Bid during the period of Bid validity;

- (b) if a Bidder does not accept the correction of his Bid Price, pursuant to Sub Clause 24.2 hereof; or
- (c) in the case of a successful Bidder, if he fails to:
  - (i) furnish the required Performance Security in accordance with Clause IB.34, or
  - (ii) sign the Contract Agreement, in accordance with Clause IB.35.

#### **IB.16 Validity of Bids**

- 16.1 Bids shall remain valid for 90 days after the date of Bid opening as prescribed in Clause IB.19.
- 16.2 In exceptional circumstances prior to expiry of original Bid validity period, the Employer may request the Bidders to extend the period of validity for a specified additional period which shall in no case be more than the original Bid validity period. The request and the responses thereto shall be made in writing. A Bidder may refuse the request without forfeiture of his Bid Security. A Bidder agreeing to the request will be required to extend the validity of his Bid Security for the period of the extension, and in compliance with Clause IB.15 in all respects in which case, the Employer will be obligated to compensate the Bidders, upon substantiation for their increase in costs (if it is a fixed price bid).

#### **IB.17 Format and Signing of Bid**

- 17.1 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.
- 17.2 All Schedules to Bid (A to L) are to be properly completed and signed.
- 17.3 No alteration is to be made in the Form of Bid nor in the Schedules thereto except in filling up the blanks as directed. If any alteration be made or if these instructions be not fully complied with, the Bid may be rejected.
- 17.4 Each Bidder shall submit one (1) Original and one (1) Copy, of the documents comprising the bid as described in Clause IB.9 and clearly mark them "ORIGINAL" and "COPY" as appropriate. In the event of discrepancy between them, the original shall prevail.
- 17.5 The original and all copies of the Bid shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign (in the case of copies, Photostats are also acceptable). This shall be indicated by submitting a written Power of Attorney authorizing the signatory of the Bidder to act for and on behalf of the Bidder. All pages of the Bid and Schedules to Bid shall be initialed and stamped by the person or persons signing the Bid.
- 17.6 The Bid shall contain no alterations, omissions or additions, except to comply with instructions issued by the Employer, or as are necessary to correct errors made by the Bidder, in which case such corrections shall be initialed by the person or persons signing the Bid.
- 17.7 Bidders shall indicate in the space provided in the Form of Bid their full and proper 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.
- 17.8 Bidders should retain a copy of the Bidding Documents as their file copy.

#### **(D) SUBMISSION OF BIDS**

#### **IB.18 Sealing and Marking of Bids**

- 18.1 Each Bidder shall submit his Bid as under:



- (a) ORIGINAL and One COPY of the original Technical Bid and Price Bid shall be put in separate envelope and marked as such.
  - (b) The envelopes containing the ORIGINAL and COPIES of both Technical Bids and Price Bids will be put in one sealed envelope and addressed/identified as given in Sub-Clause 18.2 hereof.
- 18.2 The inner and outer envelopes shall;
- (a) be addressed to the Employer at the address given in Sub-Clause 6.1 heretofore.
  - (b) bear the Project name, Contract No. and Date of opening of Bid.
  - (c) Provide a warning not to open before the time and date for Bid opening.
- 18.3 The Bid shall be delivered in person or sent by registered mail at the address to Employer as mentioned in the Invitation to Bids.
- 18.4 In addition to the identification required in Sub-Clause 18.2 hereof, the inner envelope shall indicate the name and address of the Bidder to enable the Bid to be returned unopened in case it is declared "late" pursuant to Clause IB.20.
- 18.5 If the outer envelope is not sealed and marked as above, the Employer will assume no responsibility for the misplacement or premature opening of the Bid.

#### **IB.19 Deadline for Submission of Bids**

- 19.1
- (a) Bids must be received by the Employer at the address specified in Invitation for Bids not later than the time and date stipulated in the Invitation for Bids.
  - (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.
  - (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.
- 19.2 Bids submitted through telegraph, telex, fax or e-mail shall not be considered.
- 19.3 The Employer may, at his discretion, extend the deadline for submission of Bids by issuing an addendum in accordance with Clause IB.7, in which case all rights and obligations of the Employer and the Bidders previously subject to the original deadline will thereafter be subject to the deadline as extended.

#### **IB.20 Late Bids**

- 20.1
- (a) Any Bid received after the dead line for submission of Bids prescribed in Clause IB.19 will be returned unopened to such Bidder.
  - (b) Delays in the mail, delays of 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 determine the manner in which timely delivery of his Bid will be accomplished either in person, by messenger, courier service or by mail.

#### **IB.21 Modification, Substitution and Withdrawal of Bids**

- 21.1 Any Bidder may modify, substitute or withdraw his Bid after Bid submission provided

that modification, substitution or written notice of the withdrawal is received by the Employer prior to the deadline for submission of Bids.

- 21.2 The modification, substitution or withdrawal of any Bid shall be prepared, sealed, marked and delivered in accordance with the provisions of Clause IB.18 with the outer and inner envelopes additionally marked "MODIFICATION", "SUBSTITUTION" or "WITHDRAWAL", as appropriate.
- 21.3 Withdrawal of a Bid during the interval between the deadline 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 pursuant to Clause IB.15.

## **(E) BID OPENING AND EVALUATION**

### **IB.22 Bid Opening**

- 22.1 A Procurement committee consisting of nominated members by the Employer will open the Bids, including withdrawals, substitution and modifications made pursuant to Clause IB.21, in the presence of Bidders' representatives who choose to attend, at the time, date and location stipulated in the Invitation for Bids. Technical Bids will be opened first. At the end of the evaluation of the Technical Bids, the Employer will invite Bidders who have submitted substantially responsive Technical Bids and who have been determined as being qualified for award to attend opening of the Price Bids.  
The Bidders' representatives who are present shall sign in a register evidencing their attendance.
- 22.2 Envelopes marked "MODIFICATION", "SUBSTITUTION" or "WITHDRAWAL" shall be opened and read out first and the name of the Bidder shall be read out. Bids for which an acceptable notice of withdrawal has been submitted pursuant to Clause IB.21 shall not be opened.
- 22.3 The Bidder's name, Bid Prices, unit rates, any discount offered, Bid modifications, substitutions and withdrawals, the presence or absence of Bid Security, and such other details as the Employer at its discretion may consider appropriate, will be announced by the Employer at the Bid opening. The Employer will record minutes of Bid opening.

Any Bid Price or discount which is not read out and recorded at Bid opening will not be taken into account in the evaluation of Bid. Any discount offered by the Bidder on its quoted prices, shall only be considered if such discount is either shown on the duly filled-in, signed and stamped Form of Bid/Letter of price bid or on the Summary Page of the quoted amount for Lump sum contract/bill of quantities as applicable. In case of any discrepancy or difference in the rate or amount of discount mentioned in the Form of Bid/Letter of price bid (as duly filled-in and signed), and on the Summary Page of the Priced BOQ, the discount shown on the Priced BOQ shall prevail. Discount, if offered, through a separate letter of discount submitted with the Bid, will not be entertained and shall be considered null & void."

- 22.4 Discounts offered for lesser period than the Bid validity shall not be considered in evaluation.

### **IB.23 Clarification of Bids**

- 23.1 To assist in the examination, evaluation and comparison of Bids, the Procurement Committee may, at its discretion, ask the Bidder for a clarification of its Bid. The request for clarification and the response shall be in writing and no change in the price or substance of the Bid shall be sought, offered or permitted.

## **IB.24 Preliminary Examination & Determination of Responsiveness of Bids**

24.1 Prior to detailed evaluation pursuant to Clause IB.26, the Procurement Committee will determine the responsiveness of the Bids as follows:

- (a) the Procurement Committee will examine the Bids to determine whether;
  - (i) the Bid is complete and does not deviate from the scope,
  - (ii) any computational errors have been made,
  - (iii) required sureties have been furnished,
  - (iv) the documents have been properly signed,
  - (v) the Bid is valid till required period,
  - (vi) the Bid prices are firm during currency of contract if it is a fixed price bid,
  - (vii) completion period offered is within specified limits,
  - (viii) the Bidder/Manufacturer is eligible to Bid and possesses the requisite experience,
  - (ix) the Bid does not deviate from basic technical requirements; and
  - (x) the Bids are generally in order.
- (b) A bid is likely not to be considered, if;
  - (i) it is unsigned,
  - (ii) its validity is less than specified,
  - (iii) it is submitted for incomplete scope of work,
  - (iv) it indicates completion period later than specified,
  - (v) it indicates that Works and materials to be supplied do not meet eligibility requirements,
  - (vi) it indicates that Bid prices do not include the amount of income tax, and
  - (vii) Alteration in Form of Bid as per IB.17.3.
- (c) A bid will not be considered, if;
  - (i) it is not accompanied with bid security,
  - (ii) it is submitted by a Bidder who has participated in more than one Bid,
  - (iii) it is received after the deadline for submission of Bids,
  - (iv) it is submitted through fax, telex, telegram or email,
  - (v) it indicates that prices quoted are not firm during currency of the contract whereas the Bidders are required to quote fixed price(s),
  - (vi) the Bidder refuses to accept arithmetic correction,
  - (vii) it is materially and substantially different from the Conditions/ Specifications of the Bidding Documents.

It is after review and determination of the responsiveness as per above that further action on technical evaluation will be taken.

24.2 Arithmetical errors will be rectified on the following basis: If there is a discrepancy between the unit price and total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected. If there is a discrepancy between the words and figures the amount in words shall prevail. If there is a discrepancy between the total Bid price entered in Form of Price Bid and the total shown in Schedule of Prices Summary, the amount stated in the Form of Price Bid will be corrected by the Procurement Committee in accordance with the Corrected Schedule of Prices.

If the Bidder does not accept the corrected amount of Bid, his Bid will be rejected and his Bid Security forfeited.

24.3 Prior to the detailed evaluation, pursuant to Clause IB.26 the Procurement Committee will determine the substantial responsiveness of each Bid to the Bidding Documents. For purpose of these Clauses, a substantially responsive Bid is one which conforms to all the terms and conditions of the Bidding Documents without material deviations.

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 Employer's rights or the Bidder's obligations under the Contract; or
- (iii) whose rectification/adoption would affect unfairly the competitive position of other Bidders presenting substantially responsive Bids.

The Procurement Committee determination of a Bid responsiveness will be based on the contents of the Bid itself without recourse to extrinsic evidence.

24.4 A Bid determined as substantially non-responsive will be rejected and will not subsequently be made responsive by the Bidder by correction of the non-conformity.

24.5 Any minor informality or non-conformity or irregularity in a Bid which does not constitute a material deviation may be waived by /Procurement Committee's, as long as the waiver does not prejudice or affect the relative ranking of any Bidder.

#### **IB.25 Conversion to Single Currency**

25.1 To facilitate evaluation and comparison, the Procurement Committee will convert all Bid Prices, expressed in the amounts in various currencies in which bid Price is quoted, to Pak Rupees at the telegraphic Transfer and Over Draft (TT&OD) composite selling exchange rate published/authorized by the State Bank of Pakistan and applicable to similar transaction, on the date of bid opening.

(Clause 25.1 is deleted in its entirety)

#### **IB.26 Detailed Evaluation of Bids**

26.1 Only the Bids previously determined to be substantially responsive pursuant to Clause IB.24 will be evaluated and compared in detail by the Procurement Committee as per the requirements given hereunder:

26.2 Evaluation and Comparison of Bids

- a. Bids will be evaluated for each item and/or complete scope of work.
- b. Basis of Price Comparison.

The prices will be compared on the basis of the Evaluated Bid Price pursuant to Para (e) herein below.

c. Technical Evaluation

- I. It will be examined in detail whether the Plant/facility offered by the Bidder comply with the Technical Provisions of the Bidding Documents. For this purpose, design offered by the Bidder will be reviewed for which the Bidder's data submitted with the Bid under Schedule A to Bid (Specific Works Data) will be compared with the technical features/criteria of the Plant/facility detailed and prescribed by the Employer in these documents. Other technical information submitted with the Bid regarding the Scope of Work will also be reviewed including importations, if any, required.

II. The criteria for evaluation of technical bid shall be as per following details:

Sr. No.	General Screening of Technical Evaluation of various parameters		Minimum threshold details as per project type*	Pass/fail
i	Experience	General Experience of the firm as per schedule I		
		Particular Experience of the firm as per schedule I		
ii	Competence	Design capacity as per IB 13.4 (a) (ii)		
		Construction Schedule / Work methodology / Resource scheduling plan as per schedule B,C and D		
		Available Resources of the firm i.e. Equipment and Manpower as per schedule G		
iii	Performance	Past performance as per schedule I		
		Current work commitments as per schedule I		
iv	Financial	Financial soundness as per IB 13.4 (b)		

A: Pass; B: Fail;

(>60%-Pass, <60%-Fail)

To be specified by the Employer based on the project specific requirements.

(d) Commercial Evaluation.

It will be examined in detail whether the Bids comply with the commercial/contractual conditions of the Bidding Documents. It is expected that no major deviation/stipulation shall be taken by the Bidders.

(e) Evaluated Bid Price

In evaluating the Bids, the Employer will determine for each Bid in addition to the Bid Price, the following factors (adjustments) in the manner and to the extent indicated below to determine the Evaluated Bid Price:

- (i) making any correction for errors pursuant to Sub-Clause 24.2 hereof.
- (ii) excluding Provisional Sums, if any, but including priced Daywork.
- (iii) making an appropriate adjustment for any other acceptable variation or deviation.

26.3 Evaluation Methods

Pursuant to Sub-Clause 26.2, Para (e)(iii) following evaluation methods for price adjustments will be followed in the financial evaluation:

- (a) Price Adjustment for Completeness in Scope of Work
- (b) Price Adjustment for Technical Compliance
- (c) Price Adjustment for Commercial Compliance
- (d) Price Adjustment for Deviations in Terms of Payment
- (e) Price Adjustment for Completion Schedule.
- (i) Price Adjustment for Completeness in Scope of Work

In case of omission in the scope of work of a quoted item, no price adjustment for the omitted item(s) shall be applied provided that the Bidder has mentioned in his Bid that the same is covered in any other item. The price adjustment shall not justify any additional payment by the Employer. The price(s) of omitted item(s) shall be deemed covered by other prices of the Schedule of Prices.

- (ii) **Price Adjustment for Technical Compliance.**  
The cost of making good any deficiency resulting from technical non-compliance will be added to the Corrected Total Bid Price for comparison purposes only. The adjustments will be applied taking the average price quoted by other Bidders being evaluated in detail in their original Bids for corresponding item. In case of non availability of price from other Bidders, the price will be estimated by the Procurement Committee.
  - (iii) **Price Adjustment for Commercial Compliance.**  
The cost of making good any deficiency resulting from any quantifiable acceptable variations and deviations from the Bid Schedules and Conditions of Contract, as determined by the Procurement Committee will be added to the Corrected Total Bid Price for comparison purpose only. Adjustment for commercial compliance will be based on Corrected Total Bid Prices.
  - (iv) **Price Adjustment for Deviation in Terms of Payment**  
If a Bid deviates from the terms of payment/payment conditions as specified in the Conditions of Contract and if such deviation is considered acceptable to the Employer, mark-up earned for any earlier payments involved in the terms outlined in the Bid as compared to those stipulated in the Conditions of Contract shall be calculated at the mark-up rate of .....% per annum and shall be added to the Corrected Total Bid Price for comparison purposes only.
  - (v) **Price Adjustment for Completion Schedule.** Bids indicating completion in advance of the dates stated in Preamble to Conditions of Contract, no credit will be given in this evaluation. Bids indicating completion period later than the period set out in Preamble to Conditions of Contract shall be adjusted in the evaluation by adding a factor of 0.05% of the Corrected Total Bid Price for each calendar day of completion later than specified period of the completion. Bids indicating completion beyond ..... days later than the dates set out in Preamble to Conditions of Contract shall not be considered and rejected as non- responsive.
- 26.4 If the Bid of the successful Bidder is seriously unbalanced in relation to the Employer's estimate of the cost of work to be performed under the Contract, the Employer may require the Bidder to produce detailed price analyses for any or all items of the Schedule of Prices to demonstrate the internal consistency of those prices with the construction methods and schedule proposed. After evaluation of the price analyses, the Employer may require that the amount of the Performance Security set forth in Clause IB.34 be increased at the expense of the successful Bidder to a level sufficient to protect the Employer against financial loss in the event of default of the successful Bidder under the Contract.

#### **IB.27. Domestic Preference**

- 27.1 In the comparison of evaluated Bids, the Goods manufactured in Pakistan, will be granted a margin of preference in accordance with the following procedures, provided the Bidder shall have established to the satisfaction of Employer that the manufacturing cost of such Goods includes a domestic value addition equal to at least 20% of the ex-factory Bid price of such Goods. Bidders applying for domestic preference shall fill in Appendix C to these Instructions to substantiate their claim.
- 27.2 The Procurement Committee will first review the Bids to determine, the Bid group classification in accordance with Sub-Clause 10.2 hereof.
- 27.3 The comparison shall be ex-factory price of the Goods to be offered from within Pakistan (such prices to include all costs as well as custom duties and taxes paid or payable on raw materials and components incorporated or to be incorporated in the

Goods) and the DDP (CIF + Customs duty, sales tax and other import charges) Pakistan seaport price of the Goods to be offered from outside Pakistan.

- 27.4 The lowest evaluated Bid of each Group shall first be determined by comparing all evaluated Bids in each Group among themselves taking into account:
- (a) In the case of Goods manufactured in Pakistan, sales tax, local body charges and other similar taxes which will be payable on the furnished Goods in Pakistan.
  - (b) In the case of Goods of foreign origin offered from abroad, customs duties, sales tax and other import charges which will be payable on furnished Goods in Pakistan.
  - (c) In the case of Goods of foreign origin already located in Pakistan, customs duty, sales tax and import charges on CIF price as applicable for Sub-Clause 27.4(b) here above.
- 27.5 The price preference to Group A bids will be:
- (i) 15% of the ex-factory bid price, if the value addition through indigenous manufacturing is at least 20%;
  - (ii) 20% of the ex-factory bid price, if the value addition through indigenous manufacturing is over 20% and up to 30%; and
  - (iii) 25% of the ex-factory bid price, if the value addition through indigenous manufacturing is over 30%.
- 27.6 The applicable price preference i.e., as per Sub-Clause 27.5 here above will be applied to Group A Bid by reducing the ex-factory bid price.
- 27.7 The computation for the purpose of domestic preference under Sub-Clause IB 10.2 and clause IB 27 and award of contract shall subject to change, if any, as per policy of the Federal Government as applicable on the date of bid opening.

#### **IB. 28 Process to be Confidential**

- 28.1 Subject to Clause 23 heretofore, no Bidder shall contact Employer or Procurement Committee on any matter relating to its Bid from the time of the Bid opening to the time the Bid evaluation result is announced by the Employer. The evaluation result shall be announced at least three (3) days prior to 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.
- 28.2 Any effort by a Bidder to influence Employer or Procurement Committee in the Bid evaluation, Bid comparison or Contract Award decisions may result in the rejection of his Bid. Whereas any Bidder feeling aggrieved may lodge a written complaint not later than seven (07) days after the announcement of the Bid evaluation result; however, mere fact of lodging a complaint shall not warrant suspension of the procurement process.

#### **(F) AWARD OF CONTRACT**

#### **IB. 29. Post-Qualification**

- 29.1 The Employer, at any stage of the bid evaluation, having credible reasons for or *prima facie* evidence of any defect in supplier's or contractor's capacities, may require the

suppliers or contractors to provide information concerning their professional, technical, financial, legal or managerial competence whether already pre-qualified or not:

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

- 29.2 The determination will take into account the Bidder's financial, technical and production capabilities. It will be based upon an examination of the documentary evidence of the Bidder's qualification submitted under Appendix B to Instructions to Bidders "Evidence of Bidder's Capability" by the Bidder pursuant to Clause IB.13, as well as such other information as required under the Bidding Documents.
- 29.3 An affirmative determination will be a pre-requisite for award of the Contract to the lowest evaluated Bidder. A negative determination will result in rejection of that Bidder's Bid in which event, Employer will proceed to undertake a similar determination of the next lowest evaluated Bidder's capabilities to perform the Contract satisfactorily.

#### **IB. 30 Award Criteria**

- 30.1 Subject to Clause IB.32, the Employer will 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 Price, provided that such Bidder has been determined to be qualified to satisfactorily perform the Contract in accordance with the provisions of Clause IB.29.

#### **IB. 31 Employer's Right to Vary Quantities**

- 31.1 Employer reserves the right at the time of award of Contract to increase or decrease by up to 15% the quantity of Plant and Services contained in the Schedule of Prices without any change in the unit price or other terms and conditions.

#### **IB. 32 Employer's Right to Accept any Bid and to Reject any or all Bids**

- 32.1 Notwithstanding Clause IB.30, the Employer reserves the right to accept or reject any Bid, and to annul the bidding process and reject all Bids, at any time prior to award of Contract, without thereby incurring any liability to the affected Bidders or any obligation to inform the affected Bidders of the grounds for the Employer's action except that the grounds for its rejection shall upon request be communicated, to any Bidder who submitted a Bid, without justification of grounds. Rejection of all Bids shall be notified to all Bidders promptly.
- 32.2 No negotiation with the Bidder having been evaluated as lowest responsive or any other Bidder shall be permitted. However, the Employer may have clarification meeting(s) to get clarified any item(s) in the Bid evaluation report.

#### **IB. 33 Notification of Award**

- 33.1 Prior to expiration of the period of Bid validity prescribed by the Employer, the Employer will notify the successful Bidder in writing ("Letter of Acceptance") that his Bid has been accepted. This letter shall name the sum which the Employer will pay the Contractor in consideration of the design, execution and completion of the Works/facility by the Contractor as prescribed by the Contract (hereinafter and in the Conditions of Contract called the "Contract Price").
- 33.2 The Letter of Acceptance and its acceptance by the Bidder will constitute the formation of the Contract, binding the Employer and the Bidder till signing of the formal Contract Agreement.
- 33.3 Upon furnishing by the successful Bidder of a Performance Security, the Employer will promptly notify the other Bidders that their Bids have been unsuccessful and return their Bid securities.



**IB. 34 Performance Security**

- 34.1 The successful Bidder shall furnish to the Employer a Performance Security in the form and the amount stipulated in the Conditions of Contract within a period of twenty eight (28) days after the receipt of Letter of Acceptance.
- 34.2 Failure of the successful Bidder to comply with the requirements of Sub-Clauses IB.34.1, IB.35 or Clause IB.44 shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security.

**IB. 35 Signing of Contract Agreement**

- 35.1 Within fourteen (14) days from the date of furnishing of acceptable Performance Security under the Conditions of Contract, the Employer will send to the successful Bidder the Form of Contract Agreement provided in the Bidding Documents, duly filled in and incorporating all agreements between the parties for signing and return it to the Employer.
- 35.2 The formal Agreement between the Employer and the successful Bidder shall be executed within fourteen (14) days of the receipt of such Form of Contract Agreement by the successful Bidder from the Employer.

**(G) ADDITIONAL INSTRUCTIONS****IB. 36 Instructions not Part of Contract**

- 36.1 Bids shall be prepared and submitted in accordance with the above Instructions to Bidders including Additional 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 Contract Documents**

- 37.1 The Documents which will be included in the Contract are listed in the Form of Contract Agreement set out in these Bidding Documents.

**IB. 38 Sufficiency of Bid**

- 38.1 Each Bidder shall satisfy himself before bidding as to the correctness and sufficiency of his Bid and of the rates and prices entered in the Schedule of Prices. Except insofar as it is otherwise expressly provided in the Contract, the rates and prices entered in the Schedule of Price shall cover all his obligations under the Contract and all matters and things necessary for the proper completion of the Works/facility.

**IB. 39 One Bid per Bidder**

- 39.1 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 will be disqualified and Bids submitted by him shall not be considered for evaluation and award.

**IB. 40 Bidder to inform himself**

- 40.1 The Bidder is advised to obtain for himself at his own cost and responsibility all information that may be necessary for preparing the Bid and entering into a Contract for execution of the Works/facility. This shall include but not be limited to the following:
- (a) inquiries on Pakistani Income Tax to the Commissioner of the Income Tax and Sales Tax, .....
  - (b) inquiries on customs duties and other import taxes, to the concerned authorities of Customs and Excise Department.
  - (c) information regarding port clearance facilities, loading and unloading facilities, storage facilities, transportation facilities and congestion at Pakistan seaports.
  - (d) investigations regarding transport conditions and the probable conditions which will exist at the time the Plant will be actually transported.

**IB. 41 Alternate Proposals by Bidder**

- 41.1 Should any Bidder consider that he can offer any advantage to the Employer by a modification to the designs, specifications or other conditions, he may, in addition to his Bid to be submitted in strict compliance with the Bidding Documents, submit any Alternate Proposal(s) containing (a) relevant design calculations; (b) technical specifications; (c) proposed construction methodology; and (d) any other relevant details / conditions, provided always that the total sum entered on the Form of Bid shall be that which represents complete compliance with the Bidding Documents.
- 41.2 Alternate Proposal(s), if any, of the lowest evaluated responsive Bidder only may be considered by the Employer as the basis for the award of Contract to such Bidder.

**IB. 42 Local Conditions**

- 42.1 Bidder must verify and supplement by his own investigations the information about site and local conditions. However, Employer will assist the Bidder wherever practicable and possible.
- 42.2 All Bidders are required to visit the site at their own expense to review the areas allocated for the Plant and the interfacing facilities, if any. Bidders may also wish to study local conditions, available facilities, communications, craft wages, roads and other transport facilities. Bidders shall also acquaint themselves with the relevant laws, rules, and regulations of Pakistan.
- 42.3 The Bidders and any of their personnel or agents will be granted permission by the Employer 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 Employer, 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.

**IB. 43 Pre-Bid Meeting**

- 43.1 The Employer may, at his own or at the request of any prospective Bidder(s), 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 intimated through letter for invitation.  
All prospective Bidders or their authorized representatives shall be invited to attend such a Pre-Bid meeting.

**IB. 44 Integrity Pact**

- 44.1 The Bidder shall sign and stamp the Integrity Pact provided in Schedule-J to Bid in the Bidding Documents for all Federal Government procurement contracts exceeding Rupees ten million. Failure to provide such Integrity Pact shall make the Bid nonresponsive.

**IB. 45 General Performance of the Bidders**

- 45.1 The Employer reserves the right to obtain information regarding performance of the Bidders on their previously awarded contracts/works (Schedule-I to bid). The Employer may in case of consistent poor performance of any Bidder as reported by the employers of the previously awarded contracts, inter alia, reject his bid and/or refer the case to the Pakistan Engineering Council. Upon such reference, PEC in accordance with its rules, procedures and relevant laws of the land take such action as may be deemed appropriate under the circumstances of the case including black listing of such Bidder and debarring him from participation in future bidding for similar works.

**(H) APPENDICES**

The Appendices to ITB are as given below:

- Appendix-A: Name of Eligible Countries
- Appendix-B: Evidence of Bidder's Capabilities
- Appendix-C: Domestic Goods (value added in Pakistan)

Appendices are given here below:

**NAME OF ELIGIBLE COUNTRIES**

All pumping equipment including motors, valves, pressure reducing valves, flow meters, actuators, surge control equipment & overhead crane, shall be from the world renowned manufacturers of North America, South America, European, Australia, UK or Japanese origin, and manufactured and shipped only from these origins. The manufacturer proposed by the Contractor, from these regions will be subject to approval of the Employer/Engineer.

**EVIDENCE OF BIDDER'S CAPABILITY**

Note: Bidders to provide the following information with the Bid separately and indicate herein its references where this information is available.

<b>Sr. No.</b>	<b>Information to be Supplied</b>	<b>Bid References</b>
1.	Name of Bidder, business address and country of incorporation.	
2.	Type of firm whether individually owned, partnership, corporation or joint venture and the names of its owners or partners.	
3.	(a) The annual reports giving general description of the firm, sort of business carried out, balance sheets, profit and loss statements, turn over and business done by the firm, duly authenticated, for the last five (5) years. Audited Balance Sheets for the preceding Five (5) years and projected assets and liabilities for the next two (2) years shall be provided.	
	i. Total value of works in hand on bid opening/preparation date.	
	ii. Total value of works completed in last three years.	
4.	(a) Has completed at least one (1) EPC/Turnkey Contract with a min. value of Rs. 300 hundred million during the last five years.(Schedule-I to bid)	
	(b) Has designed, supplied and installed atleast one similar facility during the last ten (10) years of Rs 300 hundred million (Schedule-I to bid).	
5.	Location and address of manufacturing facilities as applicable.	
6.	Full description of factories owned and the annual manufacturing capacities of various items made therein.	

7. Details of the facilities where the offered equipment is proposed to be manufactured. This description should include the facilities and capacities of the particular factories

Sr.No.	Information to be Supplied	Bid References
	including testing facilities and the processes used in manufacturing and testing. Where parts or components are purchased from outside, the details of equipment purchased and the names and experience record of the suppliers.	
8.	Detailed description of the quality control testing and research facilities. If the equipment is manufactured under license, the name of the licensee and details of the licensing arrangements, such as the duration of the license, the facilities provided to the Bidder by the licensee and whether future improvements are available or not etc. A copy of the license agreement may be attached. Quality Control/ Quality assurance plan must also be submitted.	
9.	(a) Names, qualifications and experience of the key technical personnel along with Resumes.	
	(b) (i) Nos. of total permanent Staff on roll of the company.	
	(ii) Nos. of total qualified Engineers on roll of the company.	
10.	The time since the manufacturer has been in this business and the time since he has been doing work of similar nature.	
11.	The time since the particular equipment offered has been manufactured and the time for which it has been in service. The manufacturer shall have the experience stated in Sub-Clause IB 13.4(a).	
12.	Reference lists of similar works done by the Bidder in its country and abroad indicating the name of customer, description and quantity of product, year of supply and the approximate value. This is an important consideration and should be filled in with full details (attach separate sheet if needed)	

Sr.No.	Information to be Supplied	Bid References
13.	Details of projects under execution and future contractual commitments (for each partner, in case of a joint venture).	
14.	(a) Banking reference, names of banks and addresses may be given to whom reference regarding financial capability of the Bidder may be made, with authority to make inquiries from the Bidder's bankers and clients regarding any financial and technical aspects (for each partner, in case of a joint venture).	
(b)	Detail of OD limit allowed to the firm by the bank for the business including amount and its validity period.	
15.	Health, Safety and emergency plan as well as Risk Management plan for the project.	
16.	Detailed/ Integrated work plan along with methodology to complete the assignment.	
17.	Training and Employment plan of local work force for which contractor is to have a budget of Rs.....for incurring expenditure on arranging such trainings for Consultants / Employer staff comprising of 10 persons for a period of one (01) month, who are to maintain and operate the facility after construction. This is not reimbursable and contractor has to consider this amount included in his overheads.	
18.	Information on any litigation or arbitration resulting from contracts completed or under execution by the Bidder over the last ten (10) years. The information shall indicate the parties concerned, the matter of dispute, the disputed amounts and the result thereof (for each partner, in case of a joint venture). Details of projects under execution and future contractual commitments (for each partner, in case of a joint venture).	

## Appendix C to Instructions to Bidders

### Domestic Goods (Value added in Pakistan)

[Bidders claiming eligibility for domestic preference should fill in for supply items only, all columns hereunder and provide necessary documentation to substantiate their claim].

Sr. No.	Description of Indigenous Goods	Unit	Qty	Total Price of Goods Ex-Factory (Pak Rs.)	Domestic value added in the manufacturing cost as percentage of Ex-Factory Price	Amount of value addition (Pak Rs.)
1	2	3	4	5	6	7
Total in columns 5 & 7						



## **BIDDING DATA**

## **BIDDING DATA**

In general Project Manager/ the Engineer where ever in this document is replaced with "The Procurement Committee" unless specified otherwise.

### **IB 2 Eligible Bidders**

Existing text 2.1(a) is replaced with the following para:

PEC Licensed Contractor/ Firms / JVs / Consortium having sufficient relevant experience of similar works with valid PEC License in Category C-1 and above with specialization codes of CE-09, CE-10, ME-06, EE-04 & EE-05 (in case of JV/ Consortium, the lead firm must fulfill the C-1 Category requirement with specialization codes of either CE-10 or ME-06 while other JV/ Consortium partners shall have atleast Category C-2 covering all remaining specialization codes).

2.1 (c) Not applicable

### **IB 10.2 Not applicable**

### **IB 12 Currencies of Bid**

12.1(b) Existing text is replaced with the following para:

For Plant/Goods and Services which the Bidder will supply from outside Pakistan, the prices shall be quoted in Pak Rs.

12.2 Further, a Bidder expecting to incur a portion of its expenditure in the performance of the Contract should be in Pak. Rs.

### **IB.13 Documents Establishing Bidder's Eligibility and Qualifications**

13.3(c) Existing text is replaced with the following para:

that, in the case of a Bidder not doing business within Pakistan the Bidder is or will be (if successful) represented by an agent in Pakistan and shall establish necessary facility for subsequent post operation maintenance, repair and spare parts stocking obligations which will be inspected by employer before award of work.

13.4(b) Existing text is replaced with the following para:

The Bidder should have an average annual turnover in the last Five (05) years equal to or more than Rs.1000 Million and the Bidder should have successfully completed in the last five (5) years any specific projects having value equal to or higher than Rs. 1000 Million.

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

15.1 Existing is replaced with the following para:

Each Bidder shall furnish, as part of his financial Bid, a Bid Security of an amount equal to 2% of his Bid.

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

Employer valid for a period of twenty eight (28) days beyond the bid validity date i.e. 118 days beyond the Bid submitted date.

#### **IB.17 Format and Signing of Bid**

17.4 Existing text is replaced with the following para:

Each Bidder shall submit one (1) Original and One (1) Copy, of the documents comprising the Technical bid as described in Clause IB.9 and clearly mark them "ORIGINAL" and 'COPY" as appropriate. In the event of discrepancy between them, the original shall prevail. The Financial Bid along with Bid Security shall be submitted duly by the bidders who are found successful after Technical Bid Evaluation.

#### **IB.18 Sealing and Marking of Bids**

18.1 Existing sub-clause 18.1 is replaced with the following para:

Each bidder shall submit his bid as under:

##### **(a) TECHNICAL BID**

1. ORIGINAL and TWO copies of the Technical Bids submitted.
2. The envelopes containing the ORIGINAL and copies will be put in one sealed envelope and addressed / identified.
3. The bid prepared by the bidder shall comprise Technical Bid with following documents:-

**The Bidder shall submit with its Technical Bid the following documents. Technical Bid will not be considered if following mandatory documents are not attached**

- Letter of Technical Bid duly filled, signed and sealed.
- PEC Licensed in Category C-1 and above with specialization codes of CE-09, CE-10, ME-06, EE-04 & EE-05 (in case of JV/ Consortium, the lead firm must fulfill the C-1 Category requirement with specialization codes of either CE-10 or ME-06 while other JV/ Consortium partners shall have at-least Category C-2 covering all remaining specialization codes).
- Valid Registration with Income Tax & Sales Tax Deptt.
- Valid Registration with Sindh Revenue Board showing Sindh sales Tax number (SSTN)
- Schedules (A to I) to Bid duly filled and signed, in accordance with the instructions contained therein
- Documentary evidence of the year of establishment of the bidding firm.

- Affidavit on the stamp paper (duly notarized) that the bidding firm is not black listed by any Procuring Agency, Govt. or Semi-Govt. Departments, Autonomous bodies, International organizations and any Client/ Employer, DHA or Cantonment in Pakistan.
- Affidavit on stamp paper of Rs 100/- (duly notarized), providing list of any present or past litigation of the Bidding Firm with any procuring Agency, Govt. or Semi-Govt. Departments, Autonomous bodies, International organizations and any Cantonment Boards in Pakistan. If no litigation, the said affidavit should mention the same. Litigation statement shall be provided in the following format:

Sr. No.	Name of person/ Entity	Litigation Nature	Name of Project	Litigation date	Litigation result In progress/ concluded	If concluded, mention result

- A firm undertaking on Stamp Paper of Rs.100/- by the Bidder that his Lump-Sum Fixed Price Bid is inclusive of all user requirements, irrespective of any major or minor item being missed in his Technical Proposal all works shall be completed under the contract in his quoted lump-sum fixed price and no additional payment over and above the lump-sum fixed price quoted by him shall be claimed or admissible under any circumstances.
  - Valid workable design conforming to minimum design parameters/ guide lines attached with bidding documents.
4. After Technical Evaluation, only qualified bidder shall be asked to submit Financial Bid.

**(b) FINANCIAL BID**

**The Bidder shall submit Financial Bid after receipt of information and schedule from the client.**

- Letter of Price Bid duly filled, signed and sealed.
- Schedules (K to L) to Bid duly filled and signed, in accordance with the instructions contained therein.
- Schedule of Prices completed.
- Bid Security as mentioned in Instruction to Bidders Clause IB-15

**However, the following documents shall be submitted along with Technical Bid.**

- Balance Sheet of last 5 years duly Audited with Chartered Accountant.
- Financial Soundness Certificate from at least AA Rated bank.
- Income Tax Return for last 5 years.

#### **IB.19 Deadline for submission of Bid**

19.3: In line 2 “addendum ” replace with “corrigendum”

#### **IB.23 Clarification of Bids**

In line 1 and 2 the text “The Project Manager / Engineer” is replaced with Procurement Committee”

#### **IB 24 Preliminary Examination & Determination of Responsiveness of Bids**

24.1 Existing is replaced with the following para:

Prior to detailed evaluation pursuant to Clause IB.26, the Procurement Committee will determine the responsiveness of the Bids. The Procurement Committee shall determine whether a Bid is a Conforming Bid. A Conforming Bid is a bid that conforms in full, both in Engineering and Operational terms with the Employer’s Conforming Scheme and in financial, organizational and obligation terms with the General Conditions of Contract, except for minor departures that do not materially affect the design, construction method or operational characteristics of the Project or the financial, organizational or obligation regime under which the Concession will be conducted.

However, the Employer’s decision may be reviewed and bidder’s grievances / complaints, that may occur prior to the entry into force of the procurement contract, shall be addressed by the committee constituted by the Employer comprising odd number of persons with proper powers and authorizations.

24.1(a) Existing text is replaced with the following para:

The text “Project Manager/ Engineer” is replaced with “Procurement Committee”.

24.2 Existing text is replaced with the following para:

Arithmetic errors will be rectified as under:-

The Bids are on lump-Sum fixed price basis and as such, the amount extended in Letter of Price Bid shall be considered as the Bid Price irrespective of any arithmetical or any other errors in the Schedule of Prices. As such, if there is a discrepancy between the unit price and total price that is obtained by multiplying the unit price and quantity, the total price shall prevail and the unit price shall be corrected within the segment on pro-rata basis. Total price shall be considered final as quoted. If there is a discrepancy between the words and figures the amount in words shall prevail. If there is a discrepancy between the total Bid price entered in Form of Price Bid and the total shown in Schedule of Prices Summary, the amount stated in the Bid shall be considered as final and Schedule of Prices will be corrected/ adjusted preferably in the same segment of the work.

**IB.25 Conversion to Single Currency**

25.1 Not applicable.

**IB.26 Detailed Evaluation of Bids**

26.1 Existing clause is replaced with the following para:

Only the Bids previously determined to be substantially responsive pursuant to Clause IB.24 and fulfilling following Mandatory requirements will be evaluated and compared in detail by the Procurement Committee to be nominated by the Employer.

26.2 Existing clause is replaced with the following para:

The Technical Proposals are opened at the date and time specified in the NIT. Further evaluation of only those bidders will be carried out who have cleared all the Mandatory requirements mentioned 18.1-(a) above. The Technical Proposals shall be evaluated. Qualified bidders shall be informed accordingly.

After the evaluation of Technical Proposals as above, the second stage is to invite Bidders to submit Financial Proposals and Revised Technical Proposals in compliance with the acceptable technical standard. The Financial Proposals are opened in public at date and time informed by the Employer.

**26.3 Evaluation Criteria:**

Existing clause is replaced with the following para:

The Bids will be evaluated on the basis of points as detailed below. Financial proposal of only those bidders shall be opened whose Technical Proposal gets 50% in each of the five categories mentioned below and overall 60 qualifying points out of 100 maximum points. The following information shall be presented in an orderly manner and no extra/ additional information is required so as to facilitate efficient evaluation.

**a. EXPERIENCE****Max. Point 30**

Max. Point 10

(1). List of overall experience of the firm as lead contractor with details of satisfactorily completed works in past Ten years (02 point for each project of Rs. 300 million or above upto a maximum of 05 projects). Documentary proof (i.e. work order & completion certificate) be attached. The projects should be presented strictly in the following format and no additional information should be given:

Sr. No.	Name of Work	Employer/ Client	Amount (Rs.)	Date		Documents enclosed (Y/N)	
				Start	Completion	Work orders	Completion
1							
2							
3							
4							
5							

Max. Point 20

- (2). Experience of similar works (works related to pumps & construction of pump house) as lead contractor (10 points for each facility / project essentially comprising of Civil, Mechanical and Electrical works, satisfactorily completed in last 10 years of at least Rs. 300 million or above min of 02 projects. Documentary proof (i.e. work order & completion certificate) be attached. The projects should be presented strictly in the following format and no additional information should be given:

Sr. No.	Name of Work	Employer/ Client	Amount (Rs.)	Date		Documents enclosed (Y/N)	
				Start	Completion	W-order	Completion
1							
2							

**b. SUBMISSION OF DESIGN**

Max. Point 20

(Max. Point 15)

- (1). Satisfactory/ Workable Design in accordance with laid down/ guideline parameters indicated in bidding documents duly stamped and signed.

(Max. Point 05)

- (2). Proposed Detailed Construction Schedule (inter-relating all the sub-heads of the works) along with monthly progress schedule as per Clause 12.1 and 12.4 of PCC

**c. PERSONNEL CAPABILITIES**

Max. Point 25

**(1). Execution Team**

Max. Point 08

- (a) Project Manager - Professional Engineer registered with PEC with at-least 20 years overall experience and 10 years of experience in related works having completed at least two Pumping Stations worth more than Rs. 300 million. Detailed CV along with PEC registration, to be submitted.

Max. Point 03

- (b) List of employed Graduate Engineers with qualification and at least 10 years of experience working on Pumping Station Project along with documentary proof and PEC Registration Number (01 Point for each Engineer (02 Civil, 2 Mechanical and 1 Electrical).

Max. Point 05

**(2). Design Team**

Max. Point 17

The Bidder shall submit the details of proposed Design Team / Consultant along with a firm commitment from the Design Team / Consultant that they will submit the complete design to KW&SB along with softcopy / design calculations, the Design Team / Consultant shall provide complete Design Services to the Bidder and shall take its design liability for the project if the project is awarded to the bidder. Design Team / Consultant shall be considered only if a valid PEC License as Consulting Engineer is provided having Specialization Codes of 1204 and above mentioned undertaking. The required details / evaluation criteria is:-

- (a) Previous Design Experience  
4.5 for each Engineer (Mechanical) who has overall 15 yrs. experience with at least 2 projects of Pumping Station design experience.  
Max. Point 09
- (b) Proposed Principal Design Engineer (Civil) Structure Engineer (ME-Structure) with 15 Years of experience and design experience of at least 2 Pump Houses (02 point per each engineer)  
Max. Point 04
- (c) Design Engineer (Electrical)  
Electrical Engineer (ME-Electrical) with 15 Years of experience and design experience of at least 2 Pump Houses (02 point per each engineer)  
Max. Point 04

#### d. EQUIPMENT CAPABILITIES

Max. Point 05

- (1). List of machinery and equipment intended to be used on the project with proof of ownership

Sr. No.	Description	Marks Assigned	Distribution of Marks
(a)	Excavator equipped with Jack hammer and bucket (2 Nos.) Owned or Leased	1	o 0.5 mark for each equipment
(b)	Crane with long boom 60 feet or more (02 Nos.) Owned or Leased	1	o 0.5 mark for each equipment
(c)	Welding Plant with mounted wheels with high amperage (2 nos.)	1	o 0.5 mark for each equipment
(d)	Transit mixer (2 Nos.) Owned or Leased	1	o 0.5 mark for each equipment
(e)	Concrete Batching Plant	1	o 1 mark for equipment



**NOTE:**        **Ownership of the equipment would carry full marks based on the list of equipment and machinery provided with the ownership documents, otherwise the equipment / machinery would be considered as hired / rented.**  
**Rented equipment / machinery will carry 50% marks.**

**e. DOCUMENTARY EVIDENCE OF FINANCIAL SOUNDNESS        Max. Point 20**

- |  |               |
|--|---------------|
| (1). Income Tax Return duly accepted by CBR of 5 years.  | Max. Point 03 |
| (2). Comprehensive Balance Sheet duly audited from Chartered Accountant for last 5 years.  | Max. Point 06 |
| (3). Financial Soundness Certificate at least from AA rated bank   | Max. Point 01 |
| (4). Working Capital of last 5 years to be ascertained from Balance Sheet duly Audited by Chartered Accountant and Income Tax Return duly accepted by CBR. | Max. Point 10 |
| Less than Rs. 300 M  | - 0 Points    |
| Upto Rs. 450 M   | - 03 Points   |
| Upto Rs. 600 M   | - 06 Points   |
| Above Rs. 600 M  | - 10 Points   |

**Total Max. Point 100**

*Note:*

*"KW & SB" will verify the validity of submitted documents from the respective Employers / Clients / Banks/ Auditors, etc. and if it is found out that any fake / misleading / un-verifiable document and / or information has been provided by the Bidder than take action regarding disqualification or black-listing of the bidder as per relevant SPPRA Rules.*

**26.4 Commercial Evaluation**

Existing Clause is replaced with the following para:

If the Bid of the successful Bidder is seriously unbalanced in relation to the Employer's estimate of the cost of work to be performed under the Contract, the Employer may require the Bidder to produce detailed price analyses for any or all items of the Schedule of Prices to demonstrate the internal consistency of those prices with the construction methods and schedule proposed.

**IB. 27 Domestic Preference**

27.2 The text "The Project Manager/ Engineer" is replaced with "Procurement Committee".

27.3 Not Applicable.

27.4 Not Applicable.

27.5 Not Applicable.

27.6 Not Applicable.

27.7 Not Applicable.

**IB. 34 Performance Security**

34.1 Existing Clause is replaced with the following para:

The Contractor shall provide Performance Security to the Employer in the prescribed form. The said Security shall be furnished by the Contractor within 28 days after the receipt of the Letter of Acceptance. The Performance Security shall be of an amount equal to 5% of the Contract Price stated in the Letter of Acceptance in accordance to SPPRA 2010 with latest amendments. Such Security shall, at the option of the bidder, be in the form of either (a) bank guarantee from any Scheduled Bank in Pakistan or (b) bank guarantee from a bank located outside Pakistan duly counter-guaranteed by a Scheduled Bank in Pakistan. The cost of complying with requirements of this Sub-Clause shall be borne by the Contractor.

## LETTER OF TECHNICAL BID

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

**Package No.** : \_\_\_\_\_

### **CONSTRUCTION OF NEW 65 MGD PUMP HOUSE (EQUIPPED WITH M & E PUMPING MACHINERIES) AT GHARO.**

To:

.....  
 .....  
 .....

Gentlemen,

1. Having examined the Bidding Documents including Instructions to Bidders, Conditions of Contract, Specifications, Drawings, Schedule to Bid, Schedule of Prices and Addenda Nos. .... for the execution of the above-named Works, we, the undersigned, being a company doing business under the name of and address .....

.....  
 ..... and being duly incorporated under the laws of ..... hereby offer to execute and complete such Works and remedy any defects therein in conformity with the said documents including Addenda thereto.

2. We understand that all the Schedules attached hereto form part of this Bid.
3. As security for due performance of the undertakings and obligations of this Bid, we submit herewith a Bid Security in the amount of ..... drawn in the favor of, or made payable to the Employer, ..... and valid for a period ..... days beyond the period of validity of Bid.
4. We undertake, if our Bid is accepted, to commence the Works and to deliver and complete the whole of the Works comprised in the Contract within the time(s) stated in Preamble to the Conditions of Contract.
5. We agree to abide by this Bid for the period of ..... days from the date fixed for receiving 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.
6. We undertake, if our Bid is accepted to execute the Performance Security referred to in Clause 10 of Conditions of Contract for the due performance of the Contract.

7. We do hereby declare that the Bid is made without any collusion, comparison of figures or arrangement with any other person or persons making a Bid for the Works.
8. We do hereby declare that our firm, including any subcontractors or suppliers for any part of the Contract, have nationalities from eligible countries *[insert the nationality of the Bidder, including that of all parties that comprise the Bidder if the Bidder is a consortium or association, and the nationality of each Subcontractor and Supplier]*.
9. We, including any subcontractors or suppliers for any part of the Contract, do not have any conflict of interest.
10. We are not participating, as a Bidder or as a subcontractor, in more than one bid in this bidding process.
11. 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 Employer. (Please delete in case of Bid from a single firm).

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2018

Signature: \_\_\_\_\_ in the capacity of \_\_\_\_\_ duly authorized to sign Bids for and on behalf of \_\_\_\_\_ (Name of Bidder in Block Capitals)

(Seal)

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

Witness:

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

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

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

Occupation \_\_\_\_\_

**SCHEDULE - A TO BID**

**SPECIFIC WORKS DATA**

The main technical data is prescribed in the relevant sections of the Technical Provisions. However, the Bidder may supplement the main technical data by providing hereunder other salient parameters including main plant make, capacity and suitability for the equipment and works under consideration to enable the Employer/Procurement Committee to assess technical conformance of the proposed process and the means available with the contractor to do it.

Initials of Signatory to Bid:.....

**SCHEDULE - B TO BID****PROPOSED ORGANIZATION FOR THE PROJECT**

The Bidder shall provide in this Schedule Organization chart indicating the key personnel he will employ for Head office and for Site office involved in management, supervision and Project Manager/ Engineering of the Works to be done under the Contract to direct and execute the Works, together with their names, qualifications, experience, positions held and their nationalities.

<b>Designation</b>	<b>Name of Person</b>	<b>Summary of Qualifications, Experience, Present Position and Nationality</b>
--------------------	-----------------------	--

- Head Office:

- Site Office:

Contractor's Representative

Site Superintendent

Supervising engineers

Plant Erectors

Construction Supervisors

Other Key Staff

Initials of Signatory to Bid:.....

**SCHEDULE - C TO BID**  
**Sheet 1 of 2****METHOD OF PERFORMING THE WORKS**

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

- The sequence and methods in which he proposes to carry out the Works, including the number of shifts per day and hours per shift, he expects to work.
- A list of all major items of constructional and erection plant, tools and vehicles proposed to be used in carrying out the Works at Site, including number of each kind, make, type, capacity of all equipment, working condition, which shall be deployed by him for Civil Work and Erection, Testing and Commissioning of the Works, in sufficient detail to demonstrate fully that the equipment will meet all the requirements of the Specifications.
- The procedure for installation/erection of equipment and transportation of equipment and materials to the site.
- Details regarding mobilization in Pakistan, the type of facilities including personnel accommodation, office accommodation, provision for maintenance and for storage, communications, security and other services to be used.
- The Contractor 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 and staff housing facilities. 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.).

**SCHEDULE - C TO BID**  
**Sheet 2 of 2**

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.).

Initials of Signatory to Bid:.....



**SCHEDULE - D TO BID**

**PROPOSED PROGRAMME OF WORKS**

Bidder shall provide a programme based on Primavera Level-3 showing the sequence of work items by which he proposes to complete the Work of the entire Contract. The programme should indicate the sequences of work items and the period of time during which he proposes to complete the Works including the activities like designing, schedule of submittal of drawings, ordering/procurement of materials, manufacturing, delivering, design & construction of associated civil works, installation/erection, testing and commissioning of Works to be executed under the Contract. The Bidder should also submit procurement schedule for all local/ imported items.

Initials of Signatory to Bid:.....

## SCHEDULE - E TO BID

### WORK TO BE PERFORMED BY SUBCONTRACTORS

The Bidder will do the work with his own forces except the part (s) of the Works listed below which he intends to sub-contract.

<u>Items of Works to be Sub-Contracted</u>	<u>Name and address of Sub-Contractor</u>	<u>Statement of similar works previously Executed (attach evidence)</u>
--	---	---

**Note:**

1. The sub-Contractor will be employed with the approval of Employer.
2. The truthfulness and accuracy of the statement as to the experience of Subcontractors is guaranteed by the Bidder. The Employer's judgment shall be final as to the evaluation of the experience of Subcontractors submitted by the Bidder.
3. Statement of similar works shall include description, location & value of work, year completed and name & address of the clients.
4. This may include manufacturer(s) who are proposed here and their relevant details to be provided accordingly including make, capacity and salient features to make it particularly suitable for the works. The technology used should also be detailed adequately.
5. The Sub-Contractor will be replaced on the direction of Employer, whenever replaced Contractor should be of equal experience and capability.
6. Complete profile of Sub-Contractor should be provided.

Initials of Signatory to Bid:.....

**SCHEDULE - F-1 TO BID****DEVIATIONS  
FROM TECHNICAL PROVISIONS**

It is presumed that the Bidder shall not take any deviation. However, if he intends to take deviations to the specified technical provisions, those must be listed in the space provided below:

<b>Sr. No.</b>	<b>Clause No. / Section No.</b>	<b>Deviations/Clarifications</b>
----------------	---------------------------------	----------------------------------

Note; attach additional sheet, if necessary

Initials of Signatory to Bid:.....

**SCHEDULE - F-2 TO BID**

**DEVIATIONS  
FROM CONTRACTUAL CONDITIONS**

It is presumed that the Bidder shall not take any deviation. However, if he intends to take deviations to the specified Contractual/Commercial Conditions, those must be listed in the space provided below:

Sr. No.	Clause No. / Section No.	Deviations/Clarifications
---------	--------------------------	---------------------------

Note; attach additional sheet, if necessary

Initials of Signatory to Bid:.....

**SCHEDULE - G TO BID**

**SPECIFIC OPERATION/PLANT AND EQUIPMENT DETAIL**

Note: Attach additional sheets, if necessary

Initials of Signatory to Bid .....

## **SCHEDULE - H TO BID**

### **JV AGREEMENT**

*[Employer to provide the standard form of Joint Venture Agreement]*

*Standard Form of PEC of JV/Consortium Agreement the same can be down loaded from  
[www.pec.org.pk](http://www.pec.org.pk)*

(In the event that the successful Bidder is a joint venture formed of two or more companies, the Employer requires that the parties to the joint venture accept joint and several liabilities for all obligations under the Contract.)

**SCHEDULE - I TO BID****SCHEDULE - I TO BID PAST PERFORMANCE AND PRESENT COMMITMENTS****Past Performance**

<b>Sr. No.</b>	<b>Name of project(s)</b>	<b>Name of employer</b>	<b>completed cost</b>	<b>Start date</b>	<b>Planned completion date</b>	<b>Actual completion date</b>	<b>Satisfactory performance certificate from employer / Remarks regarding delays if applicable</b>
1.							
2.							
3.							
4.							
5.							
6.							
7.							

**Present Commitments**

<b>Sr. No.</b>	<b>Name of ongoing project(s)</b>	<b>Name of employer</b>	<b>Total cost</b>	<b>Start date</b>	<b>Planned completion date</b>	<b>%age of works completed</b>	<b>Award letter / Remarks regarding delays if applicable</b>
1.							
2.							
3.							
4.							
5.							
6.							
7.							

Any Bidder showing projects outside Pakistan, the information provided on the project needs to be substantiated by certification of concerned country's embassy in Pakistan.

**LETTER OF TECHNICAL BID &**  
**SCHEDULE TO BID**



**LETTER OF PRICE BID**

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

**Package No. :** \_\_\_\_\_

**CONSTRUCTION OF NEW 65 MGD PUMP HOUSE  
(EQUIPPED WITH M & E PUMPING MACHINERIES) AT GHARO**

To:

.....

.....

.....

Gentlemen,

1. Having examined the Bidding Documents including Instructions to Bidders, Conditions of Contract, Specifications, Drawings, Schedules to Bid, Schedule of Prices and Addenda Nos. .... for the execution of the above-named Works, we, the undersigned, being a company doing business under the name of and address  
.....  
..... and being duly incorporated under the laws of  
..... hereby offer to execute and complete such Works and remedy any defects therein in conformity with the said Documents including Addenda thereto for the Total Bid Price comprising of Local Currency Component of Lump-Sum Fixed Price of Pak Rupees..... (Rs. ....).
2. We understand that all the Schedules attached hereto form part of this Bid.
3. We undertake, if our Bid is accepted, to commence the Works and to deliver and complete the whole of the Works comprised in the Contract within the time(s) stated in Preamble to the Conditions of Contract.
4. We agree to abide by this Bid for the period of 90 days from the date fixed for receiving the same and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
5. 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.
6. We undertake, if our Bid is accepted to execute the Performance Security referred to in Clause 10 of Conditions of Contract for the due performance of the Contract.
7. We understand that you are not bound to accept the lowest or any Bid you may receive.
8. We do hereby declare that the Bid is made without any collusion, comparison of figures or arrangement with any other person or persons making a Bid for the Works.

9. 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 Employer. (Please delete in case of Bid from a single firm).

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2018

Signature: \_\_\_\_\_ in the capacity of \_\_\_\_\_ duly authorized to  
sign Bids for and on behalf of \_\_\_\_\_ (Name of Bidder in Block  
Capitals) (Seal)

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

Witness:

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

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

Address:

Occupation\_\_\_\_\_

**SCHEDULE - J TO BID****Integrity Pact***[To be filled and signed by the Bidder]*

**DECLARATION OF FEES, COMMISSION AND BROKERAGE ETC.  
PAYABLE BY THE SUPPLIERS OF GOODS, SERVICES & WORKS IN  
CONTRACTS WORTH RS. 10.00 MILLION OR MORE**

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

Dated \_\_\_\_\_

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

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

..... [Name of Supplier] hereby declares that it has not obtained or induced the procurement of any contract, right, interest, privilege or other obligation or benefit from KW&SB / Govt. of Sindh (GoS) or any administrative subdivision or agency thereof or any other entity owned or controlled by KW&SB / Govt. of Sindh (GoS) through any corrupt business practice.

Without limiting the generality of the foregoing, [name of Supplier] 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 KW&SB / Govt. of Sindh (GoS), except that which has been expressly declared pursuant hereto.

[name of Supplier] certifies 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 KW&SB / Govt. of Sindh (GoS) and has not taken any action or will not take any action to circumvent the above declaration, representation or warranty.

[name of Supplier] 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 KW&SB / Govt. of Sindh (GoS) under any law, contract or other instrument, be voidable at the option of KW&SB / Govt. of Sindh (GoS).

Notwithstanding any rights and remedies exercised by KW&SB / Govt. of Sindh (GoS) in this regard, [name of Supplier] agrees to indemnify KW&SB / Govt. of Sindh (GoS) for any loss or damage incurred by it on account of its corrupt business practices and further pay compensation to KW&SB / Govt. of Sindh (GoS) in an amount equivalent to ten times the sum of any commission, gratification, bribe, finder's fee or kickback given by [name of Supplier] 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 KW&SB / Govt. of Sindh (GoS).

Name of Buyer: .....

Signature: .....

[Seal]

Name of Seller/Supplier: .....

Signature: .....

[Seal]

**SCHEDULE - K TO BID****ESTIMATED PROGRESS PAYMENTS**

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 Works and the Rates in the Schedule of Prices, expressed in foreign and local currency of payments:

<b>Period</b>	<b>Amounts</b>	
	<b>LCC (Rs.)</b>	<b>FCC</b>
1 <sup>st</sup> Month		
2 <sup>nd</sup> Month		
‘		
‘		
‘		
‘		
‘		
‘		
15 <sup>th</sup> Month		
<b>Total Bid Price</b>		

Initials of Signatory to Bid: .....

**SCHEDULE - L TO BID**

**LUMP SUM COST BREAKUP FOR MAJOR COST ITEMS**

The Bidder is to provide a detailed breakup of his Lump sum costs in a manner that the overall picture for the quoted price can be understood. It should include major heading wise cost breakup including rate analyses for at least 6 major cost items as required to analyze it.

## **SCHEDULE OF PRICES**

## **PREAMBLE TO SCHEDULE OF PRICES**

### **1. General**

- 1.1 The Schedule of Prices shall be read in conjunction with the Conditions of Contract together with the Specifications and Bid Drawings.
- 1.2 The Bidder shall quote for all items of the Works executed on EPC/ Turnkey basis and the prices shall be quoted for the complete scope of Work as described or implied from these Bidding Documents in Schedule-L to bid.

### **2. Description & Quantities**

- 2.1 Price given in the Schedule of Prices against each item shall be for the scope covered by that item as detailed in the Specifications, Bid Drawings or elsewhere in the Bidding Documents. The general directions and descriptions of work and materials are not necessarily repeated nor summarized in the Schedule of Prices and do not generally give a full description of the Plant and equipment to be supplied and the services to be performed under each item. References to the relevant sections of the Bidding Documents shall be made to ascertain the full scope of the requirements included in each item prior to filling in the rates and prices against each item in Schedule of Prices.

The Schedule of Prices only identifies major components of the structure and it does not restrict the responsibility of the Contractor to furnish all equipment, materials and services as deemed necessary by the Employer/Procurement Committee for making the structure operationally complete and satisfactory as specified and/or implied in the Bidding Documents and subsequent revisions thereto.

- 2.2 The quantities as shown in the Schedule of Prices are estimated quantities and provisional only being given as an indication of the Scope of Work to enable the Bidder to bid for different items of the Works in accordance with his estimate of costs. The estimated quantities shall be used for comparing the Bids. It is, however, be noted that the basis of payment will be the actual quantities of work executed and measured by the Contractor and verified by the Procurement Committee.
- 2.3 The sizes & dimensions mentioned and/or specified in the various technical descriptions and specifications including Bid Drawings are tentative and not final as the responsibility for detailed design rests with the Contractor under the Contract. If, in the opinion of the Procurement Committee, at the time of review of Contractor's drawings/designs for approval, certain sizes & dimensions of some items have to be increased for proper completion and/or operation of the Works, then revised sizes & dimensions shall be supplied by the Contractor at no extra cost to the Employer.

### 3. Units & Abbreviations

- 3.1 Units of measurement, symbols and abbreviations expressed in the Bidding Documents shall comply both with FPS & MKS System.

The following abbreviations shall be used in the Schedule of Prices:

	<b><u>Abbreviation</u></b>
Local Currency Component	LCC
Pakistani Rupees	PKR/Pak Rs.
Ex Works	EXW
Quantity	Qty
Square Meter	Sqm.
Running Meter	Rm.

### 4. Rates and Prices

- 4.1 Except as otherwise expressly provided under the Conditions of Contract, the unit rates and lump sum amounts entered in the Schedule of Prices will be the rates at which the Contractor will be paid, and shall be deemed to include for the full scope and all costs incurred by the Contractor in the performance of the Works, the provision of services including his overheads, income tax, super tax, other indirect costs, customs & other duties, profits and costs of accepting the general risks, liabilities and obligations set forth or implied in the Contract, except for such costs which are specified as reimbursable under the Contract.

The unit rates shall be extended to show the total amount for each item. The total of the Schedule of Prices is the Total Bid Price and shall be entered in Paragraph 1 of the Form of Price Bid. Where a discrepancy exists between the unit rate and the extended total amount, the unit rate shall be taken as correct and the total amount adjusted accordingly.

- 4.2 Unless otherwise stipulated in the Conditions of Contract, the rates and prices entered by the Bidder shall be fixed and firm and shall not be subject to adjustment during the performance of the Contract.
- 4.3 All duties, taxes and other levies payable by the Contractor under the Contract, or for any other cause, as on the date twenty eight (28) days prior to the deadline for submission of Bids shall be included in the rates and prices and the total Bid Price submitted by a Bidder.



Additional/reduced duties, taxes and levies due to subsequent additions or changes in legislation shall be reimbursed/ deducted as per provisions of the Conditions of Contract.

- 4.4 The whole cost of complying with the provisions of the Contract shall be included in the items provided in the priced Schedule of Prices, and where no items are provided in the Schedule of Prices for any work required to be executed by the Contractor on EPC/Turnkey basis under single responsibility for the completion of the Works and to make the structure operationally complete, the cost of such item(s) shall be deemed to be distributed among the rates and prices entered for the related items of the Works and no separate payment will be made by the Employer for those items executed by the Contractor.

The rates, prices and amounts shall be entered against each item in the Schedule of Prices. Where a Bidder fails to quote a price of any item of the Schedule of Prices, the Employer will consider that the price of that item is included among other items and the Contractor will be obligated to furnish that item at no extra cost to the Employer, if awarded the Contract.

- 4.5 The Bidder shall be deemed to have obtained all information as to port clearance facilities and charges, loading and unloading facilities and charges, storage facilities and charges, transportation facilities and charges, congestion and/or other conditions to be expected at Karachi Port and or any other seaport of Pakistan and all requirements related thereto.

The Contractor shall be responsible to make complete arrangements for the transportation of the Plant to the Site. The Bidder shall be deemed to have included all clearing, forwarding and other incidental costs in this regard in his Bid. The Contractor will have the option to use either Karachi Port or any other seaport of Pakistan.

- 4.6 The Contractor shall provide all parts of the Works to be completed in every respect for commercial operation. Notwithstanding that any details, accessories, etc. required for the complete installation and satisfactory operation of the Plant, are not specifically mentioned in the Schedule of Prices, Specifications including Bid Drawings, such details shall be considered as included in the Contract Price. All charges for the supply of goods, materials, accessories or work not specifically mentioned herein but necessary for the completion and operation of the Works shall be deemed to have been included in the quoted prices.
- 4.7 All costs in connection with inspection and witnessing of Factory Acceptance Tests within and outside Pakistan as per provisions of Sub-Clause 20.6 of Particular Conditions of Contract shall be borne by the Contractor and shall be deemed to have been included in the quoted prices.

All costs in connection with the holding of meetings shall be borne by the Contractor.

The rates in the Schedule of Prices shall also include Contractor's cost for providing Performance Security and other Bank Guarantees required for performance of the Contract.

## **5. Bid Prices**

### **5.1 Break-up of Bid Prices**

The various elements of Bid Prices shall be quoted as detailed below:

#### **a) Shipping & Insurance**

##### **i) Shipping**

The Bidder shall quote prices including for shipping from port of shipment to the port of entry in Pakistan (Pakistan seaport) for the sub-totals of the Plant, Erection Equipment, Spare Parts, Workshop Equipment and other materials to be imported in Pakistan for the Contract. Such prices shall include all marine transportation costs including ocean freight, heavy lift charges, fees and other charges, etc.

All Cost of shipment(s) affected by the bidder shall be deemed to be included in the Total Bid Price.

##### **ii) Insurance**

The Bidder shall include prices for insurance cover from ex-factory/ex-works to the Site (warehouse to warehouse) for the sub-totals of the Plant, Erection Equipment, Spare Parts, Workshop Equipment and other materials to be imported in Pakistan for the Contract. Such prices shall include all insurance costs covering the responsibility for all loss or damages while loading, unloading, storing and trimming on board the vessel at the port of shipment or on inland carrier and transportation to Site.

The prices for transportation/marine insurance cover shall also be included in the total Bid Price.

#### **b) Unit Price for Supply of Goods**

The Bidder shall quote prices for Local Goods, materials (other than materials required for civil works such as concrete and reinforcement etc. cost of which will be included in the price of civil works) and equipment in the relevant column of Ex-Factory of "Schedule of Prices". Such prices shall include:

- i) Design documentation, drawings, drafting, planning services, manufacturing, testing and packing of finished goods ready for delivery to

Site including loading, unloading, transportation, storing and insurance costs,

- ii) All custom duties, sales tax and other taxes already paid or payable on the components and raw materials used in the manufacture or assembly of Local Goods, materials and equipment.

**c) Local Transport**

Inland transportation for the Plant, Erection Equipment, Spare Parts and Workshop Equipment shall be the Contractor's responsibility in respect of:

- i) the Plant, Erection Equipment, Spare Parts, Workshop Equipment and other materials offered from outside Pakistan; from the port of entry in Pakistan to the storage area at the Site, and indigenous Plant, Erection Equipment, Spare Parts, Workshop Equipment and other materials if any, offered from within Pakistan; from the factory in Pakistan to the storage area at the Site. The cost shall also include all insurance costs of Local Goods and other materials from factory to Site covering the responsibility of all losses or damages, while loading, unloading, storing, trimming on the carrier and transporting to Site. The cost of insurance of Local Goods shall be quoted on the basis of insurance through any insurance company listed in Clause 5.1 a) ii) here above, acceptable to the Employer.

All charges occurring therefrom including octroi, zila tax, fees etc. and charges for loading, forwarding and unloading expenses shall be borne by the Contractor. Unloading at the Site, handling of the Plant, Erection Equipment, Spare Parts, Workshop Equipment and other materials to the designated point of Site storage, checking and verifying all shipments received against shipping documents, issue of all receiving reports and issues of damage reports (when applicable) shall be the Contractor's responsibility.

The Bidder shall recognize such elements of the costs which he expects to incur in the performance of the Works and shall include all such costs in the rates and amounts entered in the Schedule of Prices.

**d) Erection & Other Work**

The Bidder shall quote prices for Erection & Other Work for the sub-totals of the Plant at the Site. Such prices shall include the costs of handling of the Plant and other materials from Site storage to point of final installation, erection, installation, testing, commissioning including all inspection, performance tests, reliability tests and responsibility for operation & maintenance of the Plant until issuance of the Taking-Over Certificate, the cost of foreign and local erection staff and labour, tools and equipment etc. It shall also cover the services of qualified representative(s) of the supplier(s) of Plant or adviser(s) to assure proper erection and commissioning of the Plant.

The price shall also include cost of arranging insurances in respect of Contractor's operations in Pakistan which insurances shall be effected by the Contractor with any insurance company listed in Clause 5.1 a) ii) hereabove, acceptable to the Employer.

**e) Civil Works**

The Bidder shall quote prices for Civil Works separately. Such prices shall include all costs of materials used for civil building and other construction works, construction for civil works, supervision including all costs of construction staff and labour, Contractor's Equipment, tools and equipment, etc.

**f) Other Services**

In the Schedule of Prices, under the relevant items, the Bidders shall quote prices for all costs to be incurred in connection with inspections and witnessing of tests at manufacturers' works within or outside Pakistan by the Employer/ Project Manager/ Engineer's staff.

**5.2 Total Bid Price**

The total of Bid prices in the Schedule of Prices shall be entered in the Summary of Bid Prices.

**6. Erection & Testing Equipment and Maintenance Tools**

- 6.1 The Bidder shall be responsible to provide all Erection and Testing Equipment & Maintenance Tools at the Site, at his own expenses.

**7. Provisional Sums**

- 7.1 Provisional Sums included and so designated in the Schedule of Prices if any, shall be expended in whole or in part at the direction and discretion of the Employer/Procurement Committee. The Contractor will only receive payment in respect of Provisional Sums if he has been instructed by the Employer/Project Manager/Engineer to utilize such sums.

Provisional Sums shall be expended for reimbursement of Contractor's invoices for any additional site protection works, relocation of services or any other work / payments as instructed by the Employer/Project Manager/Engineer through Variation Order.

It also includes K Electric charges for Providing, Laying & Fixing of Electric cables with associated works & supply of equipments spare parts, special tools & test equipments by the contractor which will be listed by employer at a later stage as per requirement.

## SUMMARY

CLIENT/OWNER : KARACHI WATER & SEWERAGE BOARD

NAME OF PROJECT : CONSTRUCTION OF NEW 65 MGD PUMP HOUSE (EQUIPPED WITH M & E PUMPING MACHINERIES) AT GHARO

LOCATION : EXISTING PUMPING STATION AT GHARO

Sub-Head	Name of Work	Amount (Rs.)
1	CIVIL WORKS	
2	ELECTRICAL & MECHANICAL WORKS	
3	PROVISIONAL SUM FOR DAY WORKS	Rs. 5,000,000/-
	<b>TOTAL AMOUNT RS.</b>	
	Add: Provisional Sum (Not to be included in the bid price for evaluation but may be included in the item of days works such as diversion/ repair of utility services or any other item required to complete the work not provided in the item of BOQ.) List of Spare parts, Equipment & Tools shall be provided by the employer at later stage, this sum also includes K-Electric charges.	Rs.100,000,000/-
<b>GRAND TOTAL AMOUNT RS.</b>		

(Rupees \_\_\_\_\_)

(In Words)

\_\_\_\_\_  
For Contractor

\_\_\_\_\_  
For KW & SB

## A - SCHEDULE OF PRICES (CIVIL WORKS)

ITEM NO.	DESCRIPTION	AMOUNT	
		IN FIGURES	IN WORDS
1	<b>DESIGN AND DRAWINGS</b>		
	Confirmatory Soil Investigation, Topographic Survey, Site investigation, Submission of detailed Design, Drawings, Specifications, Final Construction Drawings, Specifications, Design, other documents and Submission of As Built Drawings.		
2	<b>KESC SUB-STATION BUILDING</b>		
3	<b>INLET CHAMBER, SCREEN CHAMBER AND SUCTION WELL</b>		
4	<b>VALVE and VALVE CHAMBERS</b>		
5	<b>ROAD WORK, PAVEMENT AND OFFICE ACCOMMODATION INCLUDING FURNITURE &amp; EQUIPMENT FOR SITE OFFICE AS MENTION IN VOLUME I OF TENDER DOCUMENT.</b>		
6	<b>EXTERNAL DEVELOPMENT &amp; DRAINAGE</b>		
7	<b>All other works not covered in above items but essential and required for the completion of works</b>		
	<b>TOTAL CARRIED</b>		

## B - SCHEDULE OF PRICES (E/M WORKS)

S. NO	CLAUSE NO.	WORK ITEM NO.	ITEMS	AMOUNT Rs.	
				IN FIGURES	IN WORDS
1	2	3	4	5	
(PART-A) CONSTRUCTION OF NEW 65 MGD PUMP HOUSE (EQUIPPED WITH M & E PUMPING MACHINERIES AT GHARO)					
1		WORK ITEM NO. 1	Pump intake sump model test		
2		WORK ITEM NO. 2	Manual coarse screen		
		Sub Work ITEM NO. 2-1	01 No. Manual Coarse screen		
		Sub Work ITEM NO. 2-2	02 Nos. Hand rakes		
3		WORK ITEM NO. 3	Chain Hauled Raking Bar Screens		
		Sub Work ITEM NO. 3-1	02 Nos. Chain hauled raking bar screens		
		Sub Work ITEM NO. 3-2	02 Nos. Rakes		
4		WORK ITEM NO. 4	Central flow band screen		
		Sub Work ITEM NO. 4-1	02 Nos. Central flow band screens		
5		WORK ITEM NO. 5	Penstocks		
		Sub Work ITEM NO. 5-1	04 Nos. Rectangular faced penstocks		
6		WORK ITEM NO. 6	Pumps		
		Sub Work ITEM NO. 6-1	06 Nos. (4w+2sb) Nos. Centrifugal Pumps Single stage of vertical spindle, Split casing type with capacity 4026 m <sup>3</sup> /h		
7		WORK ITEM NO. 7	Suction branches		
		Sub Work ITEM NO. 7-1	06 Nos. length suction branch each 750 mm dia. 10mm thick.		
		Sub Work ITEM NO. 7-2	06 Nos. Ductile Iron Bellmouth		
		Sub Work ITEM NO. 7-3	06 Nos. Gate Valves 750 mm dia.		
		Sub Work ITEM NO. 7-4	06 Nos. flexible Slip out joints 750mm dia.		
		Sub Work ITEM NO. 7-5	06 Nos. flanged MS Conical pipes 10 mm thick.		
		Sub Work ITEM NO. 7-6	06 Nos. Compound pressure gauge.		
8		WORK ITEM NO. 8	Discharge branches		
		Sub Work ITEM NO. 8-1	06 Nos. Length discharge branches each of 600mm dia. 10 mm thick.		
		Sub Work ITEM NO. 8-2	06 Nos. Flanged MS conical pipes 10 mm thick.		
		Sub Work ITEM NO. 8-3	06 Nos. flanged 45 <sup>0</sup> bend 750 mm dia.		
		Sub Work ITEM NO. 8-4 - 5	06 Nos. Flanged MS pipe piece 750 mm dia. to connect one end of upper 45 <sup>0</sup> bend with flanged pipe course welded on the delivery manifold.		
		Sub Work ITEM NO. 8-6	06 Nos. Flexible Slip out joints 750mm dia.		
		Sub Work ITEM NO. 8-7	06 Nos. Butterfly Valve 750mm dia.		
		Sub Work ITEM NO. 8-8	06 Nos. Non return Valve 750mm dia.		
		Sub Work ITEM NO. 8-9	06 Nos. Compound pressure gauges with Flow meters		
		Sub Work ITEM NO. 8-10	Surge computations by computer programming based on actual site conditions.		

## B - SCHEDULE OF PRICES (E/M WORKS)

S. NO	CLAUSE NO.	WORK ITEM NO.	ITEMS	AMOUNT Rs.	
				IN FIGURES	IN WORDS
1	2	3	4	5	
9		<b>WORK ITEM NO. 9</b>	<b>Delivery manifold</b>		
		Sub Work ITEM NO. 9-1	Length Delivery manifold of telescopic type having small end 1200mm dia. & larger end of 1800mm dia. 15mm thick.		
		Sub Work ITEM NO. 9-2	02 Nos. Compound pressure gauges glycerin type		
		Sub Work ITEM NO. 9 – 3	02 Nos. Butterfly valves 450mm dia. for isolating PRV		
		Sub Work ITEM NO. 9-4	02 Nos. Pressure relive valves 450mm dia.		
		Sub Work ITEM NO. 9-5	02 Nos. Flexible slip out joint 1800mm dia.		
		Sub Work ITEM NO. 9-4	01 No. Butterfly valves of 1800mm dia.		
10		<b>WORK ITEM NO. 10</b>	<b>Delivery main</b>		
		Sub Work ITEM NO. 10-1	Length Delivery main of 1800mm dia. 15mm thick.		
		Sub Work ITEM NO. 10-2	02 Nos. flexible Slip out joints 1800mm dia.		
		Sub Work ITEM NO. 10-3	01 No. Butterfly valve 1800mm dia.		
		Sub Work ITEM NO. 10-4	01 No. Electromagnetic flowmeter 1800mm dia.		
		Sub Work ITEM NO. 10-5	02 Nos. MS flanged bend 1800mm dia.		
		Sub Work ITEM NO. 10-6	01 No. Double acting air release valve with 100mm gate valve.		
11		<b>WORK ITEM NO. 11</b>	<b>Drain pipe</b>		
		Sub Work ITEM NO. 11-1	01 No. Butterfly valve 600mm dia.		
		Sub Work ITEM NO. 11-2	01 No. flexible Slip out joints 600mm dia.		
		Sub Work ITEM NO. 11-3	Length 10 meter MS pipe 600mm dia. 8mm thick.		
12		<b>WORK ITEM NO. 12</b>	<b>Electric overhead gantry crane</b>		
13		<b>WORK ITEM NO. 13</b>	<b>Dewatering pumps</b>		
14		<b>WORK ITEM NO. 14</b>	<b>Access ladders, platforms and plate flooring</b>		
		Sub Work ITEM NO. 14-1	Steel plate flooring covers on all openings and cable ducts in motor room		
		Sub Work ITEM NO. 14-2	Hand railing consisting of double bar forged steel standards with tubular rails hot dip galvanized in accordance with BS code.		
		Sub Work ITEM NO. 14-3 & 4	Access ladders and platforms.		
15		<b>WORK ITEM NO. 16</b>	<b>11 kV switchboard</b>		
16		<b>WORK ITEM NO. 17</b>	<b>Capacitors</b>		
17		<b>WORK ITEM NO. 18</b>	<b>LV switch board</b>		
18		<b>WORK ITEM NO. 19</b>	<b>Instrumentation panel</b>		
19		<b>WORK ITEM NO. 20</b>	<b>11 kV motors</b>		
20		<b>WORK ITEM NO. 21</b>	<b>11 kV/415V transformers</b>		
21		<b>WORK ITEM NO. 22</b>	<b>Exhaust fans</b>		
22		<b>WORK ITEM NO. 23</b>	<b>PLC/SCADA system with MIS</b>		
23		<b>WORK ITEM NO. 24</b>	<b>cables</b>		



## B - SCHEDULE OF PRICES (E/M WORKS)

S. NO	CLAUSE NO.	WORK ITEM NO.	ITEMS	AMOUNT Rs.	
				IN FIGURES	IN WORDS
1	2	3	4	5	
24		WORK ITEM NO. 24	Earthing system		
25		WORK ITEM NO. 25	Lightning protecting system		
26		WORK ITEM NO. 26	110V dc system		
27		WORK ITEM NO. 27	Light fittings and auxiliary AC supply system		
28		WORK ITEM NO. 28	Emergency lighting		
29		WORK ITEM NO. 29	Telephone system		
30		WORK ITEM NO. 30	Training of employer's O&M personnel		
31		WORK ITEM NO. 31	As built Drawings		
32		WORK ITEM NO. 32	Operating and maintenance manuals		
33		WORK ITEM NO. 33	CCTV Cameras complete set		
34		WORK ITEM NO. 34	Submersible pumps		
35		WORK ITEM NO. 35	Security system		
36		WORK ITEM NO. 36	Lighting arrangement on boundary wall		
TOTAL E & M WORKS:					

## SCHEDULE OF PAYMENT - CIVIL WORKS

ITEM NO.	DESCRIPTION	PERCENTAGE OF ITEM COST PAYABLE FOR INTERIM PAYMENT
<b>1</b>	<b>Design and Drawings</b>	
	(a) Confirmatory Soil Investigation Report	10
	(b) Preparation & Submission of Design criteria, Detailed Design Drawings, specifications, Design and other Documents.	80
	(c) As- Built Drawings	10
		-----
-	<b>Pro- rata on Progressive submission</b>	100
		-----
<b>2</b>	<b>PUMPING STATION BUILDING</b>	
2.1	Foundation & Sub Structure	35
2.2	Super Structure including Roof	35
2.3	Internal and External Finishes	20
2.4	Internal Water Supply and Sanitary Installation	10
		-----
		100

## SCHEDULE OF PAYMENT - CIVIL WORKS

ITEM NO.	DESCRIPTION	PERCENTAGE OF ITEM COST PAYABLE FOR INTERIM PAYMENT
<b>3</b>	<b>KESC SUB-STATION BUILDING</b>	
3.1	Foundation and Sub-Structure	40
3.2	Superstructure including RCC roof	40
		20
3.3	Internal and External Finishes	100
		-----
<b>4</b>	<b>INLET CHAMBER, SCREEN CHAMBER AND SUCTION WELL</b>	
	(a) On completion of Civil Works	80
		20
	(b) On Installation of E/M Works	100
		-----
<b>5</b>	<b>VALVE &amp; VALVE CHAMBERS (No.....)</b>	
	(a) On completion of Civil Works	80
		20
	(b) On Installation of E/M Works	100
		-----
<b>6</b>	<b>ROAD WORK AND PAVEMENT WORKS AND OFFICE ACCOMMODATION</b> (Proportionally on the basis of Area completed)	100
		-----
<b>7</b>	<b>EXTERNAL DEVELOPMENT &amp; DRAINAGE</b>	
	(a) On Installation	85
		15
	(b) On Completion of testing and finishing	100
		-----

## SCHEDULE OF PAYMENT - E/M WORKS

ITEM NO.	DESCRIPTION	PERCENTAGE OF ITEM COST PAYABLE FOR INTERIM PAYMENT
<b>1 – 29</b>	<b>ELECTRICAL AND MECHANICAL EQUIPMENT</b>	
	(i) Delivery of Equipment on Site	70
	(ii) Erection and Installation	15
		15
	(iii) Testing and Commissioning	100
		-----
		100
<b>30</b>	<b>TRAINING OF EMPLOYER'S O&amp;M PERSONNEL</b>	
<b>31</b>	<b>DRAWINGS SUBMISSION &amp; ACCEPTANCE BY THE EMPLOYER</b>	
	(a) Erection, Installation & Fabrication Shop drawings	90
		10
	(b) As Built Drawings	100
		-----
<b>32 – 33</b>	<b>MANUALS, CCTV Cameras &amp; MISC. SUPPLIES</b>	
	On Delivery, Installation and acceptance by Employer	100
<b>34 – 36</b>	<b>ELECTRICAL AND MECHANICAL EQUIPMENT</b>	
	(i) Delivery of Equipment on Site	70
	(ii) Erection and Installation	15
		15
	(iii) Testing and Commissioning	100
		-----
<b>37 - 38</b>	<b>SPARE EQUIPMENT AND SPECIAL TOOLS</b>	
	On Delivery and acceptance by Employer	100

# **PREAMBLE TO CONDITIONS OF CONTRACT**

## PREAMBLE TO CONDITIONS OF CONTRACT

In general Project Manager/ the Engineer where ever in this document is replaced with "The Engineer" unless specified otherwise

<b>Commencement Date</b>	Sub-Clause 1.1.1.(i) The date for commencement of the Works is the date of issuance of the Engineer's Written Order to Commence which shall be issued within 14 days of signing of Contract Agreement and also site possession has been delivered.
<b>Defect Liability Period</b>	Sub-Clause 1.1.11 The Defect Liability Period is 365 days after the date certified in the Taking-Over Certificate but subject to extension as provided under SubClause 30.4.  The defects at site considering structural stability, physical appearance and precautionary measures shall be identified by the Employer's Representative.
<b>The Employer</b>	Sub-Clause 1.1.12. The Employer is <b>Project Director (Addl. 65 MGD Project), KW&amp;SB, Block-E, 9<sup>th</sup> Mile, Shahra-e-Faisal, Karachi, Pakistan.</b>
<b>The Project Manager/ Engineer</b>	Sub-Clause 1.1.15. The Engineer wherever appears will be read as The Engineer unless specified otherwise. The Engineer is :  <b>M/s. EA Consulting (Pvt.) Ltd.</b> Al-9, 15 <sup>th</sup> Lane, Khayaban-e-Hilal, DHA, phase VIII Karachi-75500
<b>Time for Completion</b>	Sub-Clause 1.1.35. The Time for Completion for whole of the Works is <b>15 Months</b> (excluding stage II & III of Operation & Running maintenance as per Employers requirement of M&E works) reckoned from the Commencement Date for the project.
<b>Warranty Period</b>	Sub-Clause 1.1.40. The Warranty Period is 02 years for (goods/equipment) The contractor should provide extended manufacturer warranty of 01 years after taking over plant / material by the Employer, additional changes in this regard by the contractor.
<b>Project Manager/ Engineer's Duties &amp; Authorities</b>	Sub-Clause 2.1 The duties & authorities of the Engineer are specified in Particular Conditions of Contract.

<b>Confirmation in Writing</b>	Sub-Clause 2.6
	(i) The Contractor shall notify to the Project Manager/Engineer within ten (10) days, if he requires any confirmation.
	(ii) The Engineer shall confirm the decision/instruction within ten (10) days of the requirement.
<b>Ruling Language</b>	Sub-Clause 5.1. The version in English language (ruling language) shall prevail.
<b>Day to Day Communications</b>	Sub-Clause 5.2. The language for day to day communication is English.
<b>As Built-Drawings</b>	Sub-Clause 6.10 As-Built drawings shall be provided to the Engineer within thirty (30) days from the date of issue of Taking-Over Certificate.
<b>Programme to be Furnished</b>	Sub-Clause 12.1. The Programme must be submitted in the form of Bar-Chart with critical path/activities for individual activities and overall Project.
<b>Employer's Equipment</b>	Sub-Clause 14.4. There will be no Employer's Equipment available for use by the Contractor.
<b>Working Hours</b>	Sub-Clause 18.3. The normal working hours on the Site are to conform to the applicable labour laws and the existing customs of Pakistan.
<b>Time for Completion</b>	Sub-Clause 25.1 Period of Completion is as stated under Sub-Clause 1.1.35 hereof.
<b>Earlier Completion</b>	Sub-Clause 26.3 Not applicable
<b>Delay in Completion</b>	Sub-Clause 27.1. Failure of the Contractor to meet the Time for Completion entitles the Employer to deduct from the Contract Price, the liquidated damages @ 0.05 % percent of the Contract Price as stated in Letter of Acceptance, excluding Provisional Sums for each and every day, including holidays, of delay or part thereof; but to a maximum limit of 10% of the Contract Price as stated in Letter of Acceptance, excluding Provisional Sums.
<b>Prolonged Delay</b>	Sub-Clause 27.2. Maximum amount recoverable from the Contractor by the Employer shall be 10% of Contract Price as stated in the Letter of Acceptance, excluding Provisional Sum.

<b>Terms of Payment</b>	Sub-Clause 33.1. In addition to the provisions under Clause 33, the terms of payment shall be as stated in Sub-Clause 33.1 of Particular Conditions of Contract.
<b>Retention Money</b>	Sub-Clause 33.1.3 Retention money percentage shall be 10% of interim / running payment certificate. However limit of Retention Money shall be 5% of Contract price.
<b>Payment in Foreign Currencies</b>	Sub-Clause 35.1. Payment will only be made in local currency.
<b>Insurance of Works</b>	Sub-Clause 43.1. The amount of insurance shall be for full replacement value of the Works + 15%. For the deductibles, if any, the Contractor shall submit an undertaking that he shall indemnify and keep indemnified the Employer for the amount of deductibles provided in the insurance policy.  Sub-Clause 43.1.(a)  The additional risks to be insured are as stated in Sub-Clause 43.1(a) of the Particular Conditions of Contract.
<b>Third Party Liability</b>	Sub-Clause 43.3. The amount of insurance against third party liability taken out by the Contractor shall not be less than Pak Rs.1,000,000/- per occurrence with number of occurrences unlimited.
<b>Payment on Termination for Employer's Default</b>	Sub-Clause 46.3. The additional amount payable by the Employer on termination shall not exceed the actual cost of work executed.
<b>Labour, Materials and Transport</b>	Sub-Clause 47.1. The Contract shall be subject to price adjustment only beyond the specified period of contract (15 months) with no default of contractor. The method of calculating adjustments for change in costs shall be: <i>[The user may extract the formula:</i> <ul style="list-style-type: none"> <li><i>i. from Sub-Clause 70.1 of PCC of PEC Civil Works Bidding Documents.</i></li> <li><i>ii. with reference to PEC Documents "Standard Guidelines and Formula for Price Adjustment".</i></li> <li><i>iii. from Sub-Clause 15.2 of GCC of PEC Bidding Documents for Supply of Goods.]</i></li> </ul>
<b>Notices to Project Manager/ Engineer</b>	Sub-Clause 49.2. The address of the Employer for notices is the same as given in Sub Clause 1.1.12 here above.  The address of the Engineer for notices is the same as given in Sub Clause 1.1.15 here above.



- Applicable Law** Sub-Clause 51.1.  
The Contract in all respects be read and construed and shall operate as a Pakistani Contract in conformity with the Laws of Islamic Republic of Pakistan.
- Procedural Law for Arbitration** Sub-Clause 51.2.  
The procedural law for arbitration shall be the Rules of Pakistan Arbitration Act 1940 as amended.
- Language and Place of Arbitration** Sub-Clause 51.3.  
The language of arbitration is English.  
The place of arbitration is **Karachi**, Islamic Republic of Pakistan.

# **PART I –** **GENERAL CONDITIONS OF CONTRACT**

## **[Notes on the Conditions of Contract]**

The Conditions of Contract comprise two parts:

- (a) General Conditions of Contract**
- (b) Particular 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 1987 edition, reprinted in 1988 with editorial amendments.)

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

The standard text of the General Conditions of Contract chosen must be retained intact to facilitate its reading and interpretation by Bidders and its review by the Employer. 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 electrical/mechanical Works will ensure comprehensiveness of coverage, better balance of rights or obligations between Employer 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.\*

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

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

FIDIC Secretariat

P.O. Box 86

1000 Lausanne 12

Switzerland

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

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## **PART-I: GENERAL CONDITIONS OF CONTRACT**

### **Definitions and Interpretations**

#### **1.1 Definitions**

In the Contract (as hereinafter defined) the following words and expressions shall have the meanings hereby assigned to them:

**1.1.1** "Commencement Date" means whichever the latest is of:

- i) the date specified in the Preamble as the date for commencement of the Works or the date when the Contractor receives,
- ii) such payment in advance of the commencement of the Works as may be specified in the terms of payment, or
- iii) notice of the issue of any import license necessary for commencing performance of the Contract, or
- iv) notice that any legal requirements necessary for the Contract to enter into force have been fulfilled, or
- v) notice that any necessary financial or administrative requirements specified in Part II as conditions precedent to commencement have been fulfilled.

**1.1.2** "Conditions" means the Preamble to and these Conditions of Contract, Parts I and II.

**1.1.3** "Contract" means the agreement between the Employer and the Contractor for the execution of the Works incorporating the Conditions, Specification, Employer's Drawings and Contractor's Drawings, priced and completed Schedules, Tender, Letter of Acceptance and such further documents as may be expressly incorporated by the Letter of Acceptance.

**1.1.4** "Contract Agreement" means the documents recording the terms of the contract between the Employer and the Contractor.

**1.1.5** "Contract Price" means the sum stated in the Letter of Acceptance as payable to the Contractor for the execution of the Works.

**1.1.6** "Contractor" means the person whose tender has been accepted by the Employer and the legal successors in title to the Contractor but not (except with the consent of the Employer) any assignee of the Contractor.

**1.1.7** "Contractor's Drawings" means all drawings, samples, patterns, models and operation and maintenance manuals to be submitted by the Contractor in accordance with Clause 6.

**1.1.8** "Contractor's Equipment" means all appliances or things of whatsoever nature

required for the purposes of the Works but does not include Plant.

**1.1.9** "Contractor's Risks" means the risks defined in Sub-Clause 37.3.

**1.1.10** "Defects Liability Certificate" means the certificate to be issued by the Engineer to the Contractor in accordance with Sub-Clause 30.11.

**1.1.11** "Defects Liability Period" means one year or the period stated in Part II following taking over, during which the Contractor is responsible for making good defects and damage in accordance with Clause 30.

**1.1.12** "Employer" means the person named as such in the Preamble and the legal successors in title to the Employer but not (except with the consent of the Contractor) any assignee of the Employer.

**1.1.13** "Employer's Drawings" means all the drawings and information provided by the Employer or the Engineer to the Contractor under the Contract.

**1.1.14** "Employer's Risks" means those risks defined in Sub-Clause 37.2.

**1.1.15** "Engineer" means the person appointed by the Employer to act as Engineer for the purposes of the Contract and designated as such in the Preamble.

**1.1.16** "Engineer's Representative" means any representative of the Engineer appointed from time to time by the Engineer under Sub-Clause 2.2.

**1.1.17** "Final Certificate of Payment", means the certificate to be issued by the Engineer to the Employer in accordance with Sub-Clause 33.10.

**1.1.18** "Force Majeure" has the meaning assigned to it under Sub-Clause 44.1.

**1.1.19** "Foreign Currency" means a currency of a country other than that in which Plant is to be installed.

**1.1.20** "Gross Misconduct" means any act or omission of the Contractor in violation of the most elementary rules of diligence which a conscientious contractor in the same position and under the same circumstances would have followed.

**1.1.21** "Letter of Acceptance" means the formal acceptance by the Employer of the Tender incorporating any adjustments or variations to the Tender agreed between the Employer and the Contractor.

**1.1.22** "Performance Security" means the security to be provided by the Contractor in accordance with Sub-clause 10.1. for the due performance of the Contract.

**1.1.23** "Plant" means machinery, apparatus, materials and all things to be provided under the Contract for incorporation in the Works.

**1.1.24** "Programme" means the Programme to be submitted by the Contractor in

accordance with Sub-Clause 12.1 and any approved revision thereto.

- 1.1.25** "Provisional Sum" means a sum, described as such for the execution of work or for the supply of goods or services, to be used in accordance with Sub-Clause 36.1.
- 1.1.26** "Risks Transfer Date" means the date when the risk of loss of or damage to the Works passes from the Contractor to the Employer in accordance with Sub-Clause 39.1.
- 1.1.27** "Schedule of Prices" means the completed and priced Schedule of Prices, or any part or individual schedule thereof, submitted by the Contractor with his Tender and forming a part of the Contract documents.
- 1.1.28** "Section" means a part of the Works specifically identified as such as in the Contract.
- 1.1.29** "Site" means the place or places, provided or made available by the Employer where work is to be done by the Contractor or to which Plant is to be delivered, together with so much of the area surrounding the same as the Contractor shall with the consent of the Employer use in connection with the Works otherwise than merely for the purposes of access.
- 1.1.30** "Specification" means the specification of the Works included in the Contract and any modification thereof made in accordance with Clause 31.
- 1.1.31** "Subcontractor" means any person (other than the Contractor) named in the Contract for any part of the Works, or any person to whom any part of the Contract has been subcontracted with the consent of the Engineer, and the Subcontractor's legal successors in title but not any assignee of the Subcontractor.
- 1.1.32** "Taking-Over Certificate" means the certificate to be given by the Engineer to the Contractor in accordance with Clause 29.
- 1.1.33** "Tender" means the Contractor's priced offer to the Employer for the Execution of the Works.
- 1.1.34** "Tests on Completion" means the tests specified in the Contract or otherwise agreed by the Engineer and the Contractor to be performed before the Works are taken over by the Employer.
- 1.1.35** "Time for Completion" means the time stated in the Preamble for completing the Works or any Section thereof and passing the Tests on Completion calculated from the Commencement Date unless extended in accordance with Clause 26.
- 1.1.36** "Variation Order" means any written order, identified as such, issued to the Contractor by the Engineer under Sub-Clause 31.1.
- 1.1.37** "Works" means all Plant to be provided and work to be done by the Contractor under the Contract.

## **1.2 Headings and Titles**

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

## **1.3 Interpretation**

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

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

## **1.4 Written Communications**

Wherever in the contract provision is made for a communication to be "written" or "in writing" this means any hand-written, type-written or printed communication, including telex, cable and facsimile transmission.

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

Wherever in the Contract provision is made for the giving of notice, consent or approval by any person, such consent or approval shall not be unreasonably withheld. Unless otherwise specified, such notice, consent or approval shall be in writing and the word "notify" shall be construed accordingly.

## **1.6 Costs, Overhead Charges and Profit**

Whenever by these Conditions the Contractor is entitled to be paid cost, such cost shall be properly incurred and shall include any overhead charges properly allocable thereto but not profit unless so stated. Any profit entitlement shall be added to cost at the percentage stated in the Preamble.

## **1.7 Periods**

In these Conditions "days" means calendar day and "year" means 365 days.

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

### **2.1 Engineer's Duties**

The Engineer shall carry out the duties specified in the Contract.

If the Engineer is required, under the terms of his appointment by the Employer, to obtain the specific approval of the Employer before carrying out any of these duties, full particulars of such requirements shall be set out in Part II.

Except as expressly stated in the Contract the Engineer shall have no authority to relieve the Contractor of any of his obligations under the Contract.

## **2.2 Engineer's Representative**

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

## **2.3 Engineer's Power to Delegate**

The Engineer may from time to time delegate to the Engineer's Representative any of the duties vested in the Engineer and may at any time revoke such delegation.

Any such delegation or revocation shall be in writing and shall not take effect until a copy thereof has been delivered to the Contractor and the Employer.

Any decision, instruction or approval given by the Engineer's Representative to the Contractor in accordance with such delegation shall have the same effect as though it had been given by the Engineer. However:

- (a) any failure of the Engineer's Representative to disapprove any Plant or workmanship shall not prejudice the right of the Engineer to disapprove such Plant or workmanship and to give instructions for the rectification thereof.
- (b) if the Contractor questions any decision or instruction of the Engineer's Representative he may refer the matter to the Engineer who shall confirm, reverse or vary such decision or instruction.

## **2.4 Engineer to Act Impartially**

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

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

he shall exercise such discretion impartially within the terms of the Contract and having regard to all the circumstances.

## **2.5 Engineer's Decisions and Instructions**

The Contractor shall proceed with the decisions and instructions given by the Engineer in accordance with these Conditions.

## **2.6 Confirmation in Writing**

The Contractor may require the Engineer to confirm in writing any decision or instruction of the Engineer which is not in writing. The Contractor shall notify the Engineer of such requirement without undue delay. Such a decision or instruction shall not be effective until written confirmation thereof has been received by the Contractor.

## **2.7 Disputing Engineer's Decisions and Instructions**

If the Contractor disputes or questions any decision or instruction under SubClause 2.5 or a written confirmation under Sub-Clause 2.6, he shall give notice to the Engineer within twenty eight (28) days after receipt thereof, giving his reasons.

The Engineer shall within a further period of twenty eight (28) days by notice to the Contractor and the Employer with reasons, confirm, reverse or vary such decision or instruction.

If either party disagrees with the action taken by the Engineer, or if the Engineer fails to reply to the Contractor's notice within the stipulated twenty eight (28) days, and the matter cannot be settled amicably that party shall be at liberty, subject to Sub-Clause 50.1, to refer the matter to arbitration in accordance with the Contract.

## **2.8 Replacement of Engineer**

The Employer shall not appoint any person to act in replacement of the Engineer without the consent of the Contractor.

## **Assignment and Subcontracting**

### **3.1 Assignment**

The Contractor shall not assign the Contract or any part of his obligations under the Contract. A charge in favour of the Contractor's bankers of any monies due under the Contract shall not be considered an assignment.

### **4.1 Subcontracting**

The Contractor shall not subcontract the whole of the Works.

Except where otherwise provided by the Contract, the Contractor shall not subcontract any part of the Works without the prior consent of the Engineer.

The Contractor shall however, not require such consent for purchases of materials or to place contracts for minor details or for any part of the Works of which the manufacturer or supplier is named in the Contract.

The Contractor shall be responsible for the acts, defaults and neglects of any Subcontractor, his agents or employees as fully as if they were the acts, defaults or neglects of the Contractor, his agents or employees.

## **Contract Documents**

### **5.1 Ruling Language**

Where versions of the Contract are prepared in different languages, the version which is to prevail shall be specified in the Preamble. The language of such version is referred to as the ruling language.

### **5.2 Day to Day Communications**

The language for day to day communications is stated in the Preamble.

### **5.3 Priority of Contract Documents**

Unless otherwise provided in the Contract, the priority of the Contract documents shall be as follows:

1. The Letter of Acceptance
2. The Preamble
3. The Conditions of Contract, Part II
4. The Conditions of Contract, Part I
5. Any other documents forming part of the Contract.

### **5.4 Documents Mutually Explanatory**

Subject to Sub-Clause 5.3. the Contract documents shall be taken as mutually explanatory. Any ambiguities or discrepancies shall be resolved by the Engineer, who shall then instruct the Contractor thereon.

If the Contractor considers that compliance with such instructions will result in any cost which the Contractor could not reasonably have anticipated, he shall forthwith inform the Engineer with full supporting details. The Engineer shall then, if he approves, certify such costs as may be reasonable, together with profit where appropriate, which shall be added to the Contract Price.

If on the other hand compliance with such instructions results in lower costs for the Contractor then he had reason to anticipate, the Engineer shall certify a deduction from the Contract Price allowing for profit where appropriate.

### **6.1 Contractor's Drawings**

The Contractor shall submit to the Engineer for approval:

- (a) within the time given in the Contract or in the Programme such drawings samples, models or information as may be called for therein, and in the numbers therein required, and
- (b) during the progress of the Works, such drawings of the general arrangement and details of the Works as specified in the Contract or as the Engineer may require.



The Engineer shall signify his approval or disapproval thereof. If he fails to do so within the time given in the Contract or the Programme or if no time limit is specified, within twenty eight (28) days of receipt, they shall be deemed to be approved.

Approved drawings, samples and models shall be signed or otherwise identified by the Engineer.

The Contractor shall supply additional copies of approved drawings in the form and numbers stated in the Contract.

## **6.2 Consequences of Disapproval of Contractor's Drawings**

Any Contractor's Drawings which the Engineer disapprove shall be forthwith modified to meet the requirements of the Engineer and shall be re-submitted.

## **6.3 Approved Contractor's Drawings**

Approved Contractor's Drawings shall not be departed from except as provided in Clause 31.

## **6.4 Inspection of Contractor's Drawings**

The Engineer shall have the right at all reasonable times to inspect, at Contractor's premises, all Contractor's Drawings of any part of the Works.

## **6.5 Erection Information**

The Contractor shall provide, within the times stated in the Contract or in the Programme, drawings showing how the Plant is to be affixed and any other information required for:

- (a) preparing suitable foundations or other means of support;
- (b) providing suitable access on the Site for the Plant and any necessary equipment to the place where the Plant is to be erected; and
- (c) making necessary connections to the Plant.

## **6.6 Operation and Maintenance Manuals**

Before the Works are taken over in accordance with Clause 29 the Contractor shall supply operation and maintenance manuals together with drawings of the Works as built. These shall be in such detail as will enable the Employer to operate, maintain, adjust and repair all parts of the Works.

Unless otherwise stated in Part II the manuals and drawings shall be in the ruling language, and in such form and numbers as stated in the Contract.

Unless otherwise agreed, the Works shall not be considered to be completed for the purposes of taking over until such manuals and drawings have been supplied to the Employer.

## **6.7 Employer's Use of Contractor's Drawings**

Contractor's Drawings may be used by the Employer for no other purpose than completing, operating, maintaining, adjusting and repairing the Works.

## **6.8 Contractor's Use of Employer's Drawings**

The Employer's Drawings, Specification and other information submitted by the Employer or the Engineer to the Contractor shall remain the property of the Employer. These shall not, without the consent of the Employer, be used, copied or communicated to a third party by the Contractor unless necessary for the purposes of the Contract.

## **6.9 Manufacturing Drawings**

Unless otherwise specified in Part II, the Contractor shall not be required to disclose to the Employer or the Engineer the Contractor's confidential manufacturing drawings, designs, know-how or manufacturing practices, processes or operations.

## **7.1 Errors in Contractor's Drawings**

The Contractor shall be responsible for any errors or omissions in the Contractor's Drawings unless they are due to incorrect Employer's Drawings or other written information supplied by the Employer or the Engineer. Approval by the Engineer of the Contractor's Drawings shall not relieve the Contractor from any responsibility under this Sub-Clause.

The Contractor shall bear any costs he may incur as a result of delay in providing Contractor's Drawings and other information or as a result of errors or omissions therein, for which the Contractor is responsible.

The Contractor shall at his own cost carry out any alterations or remedial work necessitated by such errors or omissions for which he is responsible and modify the Contractor's Drawings and such other information accordingly.

The performance of his obligations under this Clause shall be in full satisfaction of the Contractor's liability under this Clause but shall not relieve him of his liability under Sub-Clause 27.1.

## **7.2 Errors by Employer or Engineer**

The Employer shall be responsible for the Employer's Drawings and for other written information supplied by the Employer or the Engineer and for the details of special work specified by either of them. If such Employer's Drawings, information or details are incorrect and necessitate alterations of the work, the Employer shall pay the Contractor the cost of the alterations together with profit as certified by the Engineer.

## **Obligations of the Contractor**

### **8.1 General Obligations**

The Contractor shall, in accordance with the Contract, with due care and diligence, design, manufacture, deliver to Site, erect, test and commission the Plant and carry out the Works within the Time for Completion. The Contractor shall also provide all necessary Contractor's Equipment, superintendence, labour and, except as stated in Part II, all necessary facilities therefor.

### **8.2 Setting Out**

The Contractor shall set out the Works in relation to original points, lines and levels of reference given by the Engineer in writing and provide all necessary instruments, appliances and labour for such purposes.

If, at any time during the execution of the Works, any error appears in the positions, levels, dimensions or alignment of the Works, the Contractor shall rectify the error.

The Contractor shall bear the cost of rectifying the error, unless the error results from incorrect information supplied in writing by the Employer, the Engineer or from default by another contractor, in which case the cost together with profit shall be borne by the Employer.

The checking of any setting-out by the Engineer shall not relieve the Contractor of his responsibility for the accuracy thereof.

### **9.1 Contract Agreement**

The Contractor shall, if called upon so to do, execute a Contract Agreement recording all the terms of the Contract, to be prepared by and completed at the cost of the Employer in the form annexed hereto.

### **10.1 Performance Security**

If Part II requires the Contractor to obtain a Performance Security, he shall obtain the same in the sum required, within fourteen (14) days after the receipt of the Letter of Acceptance. The Performance Security shall be provided by a person and in a form approved by the PA (procuring Agency). The cost of complying with the requirements of this Clause shall be borne by the Contractor.

### **10.2 Period of Validity**

The Performance Security shall be valid until the Contractor has executed, completed and remedied defects in the Works in accordance with the Contract. No claim shall be made against the Performance Security after the issue of the Defects Liability Certificate and the Performance Security shall be returned to the Contractor within fourteen (14) days of the issue of the Defects Liability Certificate.

### **10.3 Claims under Performance Security**

Whether or not the Performance Security is stated by its terms to be payable on the demand of the Employer the Employer shall not make a claim under the Performance Security unless one of the following conditions is satisfied:

- (a) the Contractor is in breach of the Contract and fails to remedy the breach within forty two (42) days after receiving written notice from the Employer requiring him so to do. The notice shall state the intention to claim under the Performance Security, the amount claimed and the breach relied upon, or
- (b) the Employer and the Contractor have agreed in writing that the amount demanded is payable to the Employer, and the amount has not been paid within forty two (42) days thereafter, or
- (c) the Employer has obtained an award in arbitration under Clause 50 and the amount awarded has not been paid within forty two (42) days after the award, or
- (d) the Contractor has gone into liquidation or is bankrupt.

In every case the Employer shall, when making the claim, send a copy to the Contractor.

### **11.1 Site Data**

The Tender shall be deemed to have been based on such data on climatic, hydrological and general conditions on the Site and for the operation of the Works as the Employer or the Engineer has made available to the Contractor for the purposes of the Tender. The Contractor shall be responsible for his own interpretation of such data.

### **11.2 Sufficiency of Contract Price**

The Contractor shall be deemed to have satisfied himself on and taken account of in his Tender:

- (a) all the conditions and circumstances affecting the Contract Price,
- (b) the possibility of carrying out the Works as described in the Contract,
- (c) the general circumstances at the Site (if access has been made available to him) and
- (d) the general labour position at the Site.

The Contractor shall not be responsible for the accuracy of information given in writing by the Employer or the Engineer but shall be responsible for his Interpretation of information received from whatever source.

### **11.3 Physical Obstructions and Conditions**

If during the execution of the Works on Site the Contractor encounters physical obstructions or conditions of the kind stipulated in Sub-Clause 26.1.c) the Contractor shall be entitled to recover the additional cost incurred in Consequence.

The Engineer shall certify and there shall be added to the Contract Price the additional cost of:

- (a) complying with any instruction which the Engineer, after due consultation with the Employer and the Contractor, issues to the Contractor in connection therewith, and
- (b) any necessary measures which the Contractor may take in the absence of specific instructions from the Engineer.

### **12.1 Programme to be Furnished**

The Contractor shall submit to the Engineer for his approval the Programme shall contain the following:

- (a) the order in which the Contractor proposes to carry out the Works (including design, manufacture, delivery to Site, erection, testing and commissioning),
- (b) the times when submission and approval of the Contractor's Drawing are required,
- (c) the times by which the Contractor requires the Employer:
  - (i) to furnish any Employer's Drawings,
  - (ii) to provide access to the Site,
  - (iii) to have completed the necessary civil engineering work (including foundations for the Plant) and
  - (iv) to have obtained any import licenses, consents, wayleaves and approvals necessary for the purpose of the Works.

The Contractor shall submit the Programme in the form stated in the Preamble within twenty eight (28) days after the Commencement Date.

The approval by the Engineer of the Programme shall not relieve the Contractor or the Employer from any obligation under the Contract.

### **12.2 Alteration to Programme**

No material alteration to the Programme shall be made without the approval of the Engineer.

### **12.3 Revision of Programme**

If the progress of the Works does not conform to the Programme, the Engineer may instruct the Contractor to revise the Programme.

If such modifications are required for reasons for which the Contractor is not responsible, the cost of preparing the revised Programme shall be certified by the Engineer and added to the Contract Price.

### **13.1 Contractor's Representative**

The Contractor shall employ one or more competent representatives to superintend the carrying out of the Works on Site. They shall be fluent in the language for day to day communications. Their names shall be communicated in writing to the Engineer before work on Site begins.

Any instruction or notice which the Engineer gives to the Contractor's representative shall be deemed to have been given to the Contractor.

### **13.2 Objection to Contractor's Employees**

The Contractor shall, upon the Engineer's written instruction, remove from the Works any person employed by him in the execution of the Works, who misconducts himself or is incompetent or negligent.

### **14.1 Contractor's Equipment**

Except to the extent specified in Part II, the Contractor shall provide all Contractor's Equipment necessary to complete the Works.

All Contractor's Equipment shall, when brought on to the Site, be deemed to be exclusively intended for the execution of the Works. The Contractor shall not remove from the Site any such equipment, except:

- (a) when it is no longer required for the completion of the Works, or
- (b) when the Engineer has given his consent.

### **14.2 Safety Precautions**

The Contractor shall observe all applicable regulations regarding safety on the Site.

Unless otherwise agreed, the Contractor shall, from the commencement of work on Site until taking over provide:

- (a) fencing, lighting, guarding and watching of the Works, and
- (b) temporary roadways, footways, guards and fences which may be necessary for the accommodation and protection of owners and occupiers of adjacent property, the public and others.

### **14.3 Electricity Water and Gas**

The Contractor shall be entitled to use for the purposes of the Works such supplies of electricity, water, gas and other services as may be available on the Site and of which details are given in the Preamble. The Contractor shall pay the Employer a fair price for such use. The Contractor shall at his own cost provide any apparatus necessary for such use.

### **14.4 Employer's Equipment**

The Employer shall, if the Contractor so requests for the execution of the Works, operate any available equipment of which details are given in the Preamble. The Contractor shall pay the Employer a fair price for such use.

The Employer shall during such operation retain control of and be responsible for the safe working of the equipment.

#### **14.5 Clearance of Site**

The Contractor shall from time to time during the progress of the Works clear away and remove all surplus materials and rubbish. On completion of the Works the Contractor shall remove all Contractor's Equipment and leave the whole of the Site and the Works clean and in a workmanlike condition, to the satisfaction of the Engineer.

#### **14.6 Opportunities for Other Contractors**

The Contractor shall, in accordance with the Engineer's instructions, afford to other contractors engaged by the Employer to work on the Site and persons lawfully upon the Site all reasonable opportunities for carrying out their work provided that the same shall not obstruct or disturb the progress of the Works. The Contractor shall also afford such opportunities to the employees of the Employer.

If the Contractor, on the written request of the Engineer, makes available any Contractor's Equipment or provides any other service, the Employer shall pay the Contractor accordingly. The amount to be paid shall be certified by the Engineer and added to the Contract Price.

#### **14.7 Authority for Access**

No persons other than the employees of the Contractor and his Subcontractors shall be allowed on the Site except with the consent of the Engineer.

Facilities to inspect the Works shall at all times be afforded by the Contractor to the Engineer and his representative, the Employer's representatives, authorities and officials.

#### **14.8 Information for Import Permits and Licenses**

The Contractor shall submit to the Employer in good time such details of all Plant and Contractor's Equipment as will enable the Employer to obtain all necessary import permits or licenses.

#### **15.1 Compliance with Statutes, Regulations**

The Contractor shall, in all matters arising in the performance of the Contract, comply in all respects with, give all notices and pay all fees required by the provisions of any national or state statute, ordinance or other law or any regulation or bye-law of any duly constituted authority.

## **15.2 Compliance with Laws**

The Contractor shall comply with the laws of the country of manufacture concerning the manufacture of the Plant, and the laws of the country where the Plant is to be erected so far as such laws concern the manufacture, erection and operation of the Works.

## **16.1 Patent Rights**

The Contractor shall indemnify the Employer against all claims of infringement of any patent, registered design, copyright, trade mark or trade name or other intellectual property right provided that all of following conditions are satisfied:

- (a) The claim or proceedings arise out of the design, construction, manufacture or use of Works or any Plant supplied by the Contractor.
- (b) The right was protected at the date of the Contract in the Contractor's country or the country in which the Plant is to be manufactured or erected.
- (c) The infringement or allegation of infringement was not caused by any use of the Works otherwise than for purpose indicated by or reasonably to be inferred from date Specification.
- (d) The infringement or allegation of infringement was not caused by the use of any Plant in association or combination with any plant not supplied by the Contractor, unless such association or combination was disclosed to the Contractor prior to the due of the Tender.
- (e) The infringement of or allegation of infringement was not caused by the Contractor following the design or instructions of the Employer or the Engineer.

## **16.2 Claims in respect of Patent Right**

The Contractor shall be promptly notified of any claim under this Clause made against the Employer. The Contractor may at his own cost conduct negotiations for the settlement of such claim, and any litigation that may arise there from.

The Employer shall not make any admission which might be prejudicial to the Contractor unless the Contractor has failed to take over the conduct of the negotiations or litigation within a reasonable time after having been so requested.

The Contractor may not, however, conduct such negotiations or litigation before he has given the Employer such reasonable security as the Employer may require. The security shall be for an amount which is an assessment of the compensation, damages, expenses and costs for which the Employer may become liable and which are the subject of the indemnity under SubClause 16.1.

The Employer shall, at the request of the Contractor, provide all available assistance for the purpose of contesting any such claim or action, and shall be repaid all reasonable costs incurred in so doing.



### **16.3 Employer's Warranty for Patent Rights**

If any matter for which the Contractor is not liable to indemnify the Employer under Sub-Clause 16.1 causes the infringement or allegation of infringement by the Contractor of any patent, registered design, trade mark, copyright or other intellectual property right, the Employer shall indemnify the Contractor against all claims damages, expenses and costs which the Contractor may incur in relation thereto. The provisions of Sub-Clause 16.2 shall apply mutatis mutandis.

## **Obligations of the Employer**

### **17.1 Access to and Possession of the Site**

The Employer shall in reasonable time grant the Contractor access to and possession of the Site, which may, however, not be exclusive to the Contractor.

The Employer shall to the extent stated in the Specification provide means of access for the delivery of all Plant and Contractor's Equipment to the Site.

### **17.2 Assistance with Local Regulations**

The Employer shall assist the Contractor in ascertaining the nature and extent of any laws, regulations, orders or bye-laws, and customs in the country where the Plant is to be erected, which may affect the Contractor in the performance of his obligations under the Contract. The Employer shall if so requested procure for the Contractor copies thereof and information relating thereto at the Contractor's cost.

### **17.3 Civil Works on Site**

Any building, structure, foundation or means of access on the Site to be provided by the Employer shall be in a condition suitable for the reception, movement, installation and maintenance of the Works within the time or times indicated in the Programme.

### **17.4 Consents and Wayleaves**

The Employer shall in due time obtain or grant all consents including permits to-work, wayleaves and approvals required for the Works.

### **17.5 Import Permits and Licenses**

The Employer shall obtain all import permits or licenses required for any part of the Plant or Works in reasonable time having regard to the time for delivery of the Plant and completion of the Works.

## **Labour**

### **18.1 Engagement of Labour**

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

## **18.2 Returns of Labour**

The Contractor shall submit detailed returns showing the supervisory staff and the numbers of the several classes of labour from time to time employed by the Contractor and Subcontractors on the Site. The returns shall be submitted in such form and at such intervals as the Engineer may prescribe.

## **18.3 Working Hours**

On the Site, the Contractor shall observe the normal working hours stated in the Preamble. The Employer shall allow the Contractor to carry out work on the Site continuously during such working hours.

The Engineer may after consulting the Employer and the Contractor, direct that work shall be done at other times. The extra cost, together with profit, shall be added to the Contract Price unless it has become necessary for the completion of the Works within the Time for Completion, and this is due to the default of the Contractor.

## **18.4 Restriction on Working Hours**

No work shall be carried out on the Site outside normal working hours or on the locally recognized days of rest, unless:

- (a) the Contract so provides, or
- (b) the work is unavoidable or necessary for the saving of life or property or for the safety of the Works, in which case the Contractor shall immediately advise the Engineer, or
- (c) the Engineer gives his consent.

## **Workmanship and Materials**

### **19.1 Manner of Execution**

All Plant to be supplied shall be manufactured and all work to be done shall be executed in the manner set out in the Contract.

Where the manner of manufacture and execution is not set out in the Contract, the work shall be executed in a proper and workmanlike manner in accordance with recognized good practice.

### **19.2 Covering up Work**

The Contractor shall give the Engineer full opportunity to examine, measure and test any work on Site which is about to be covered up or put out of view.

The Contractor shall give due notice to the Engineer whenever such work is ready for examination, measurement or testing.

The Engineer shall then, unless he notifies the Contractor that he considers it unnecessary, without unreasonable delay carry out the examination, measurement or testing.

### **19.3 Uncovering Work**

If so instructed by the Engineer, the Contractor shall expose any parts of the Works. The Contractor shall reinstate and make good such parts to the Engineer's satisfaction.

If any parts of the Works have been covered up or put out of view by the Contractor after complying with Sub-Clause 19.2 and are found to be in accordance with the Contract the cost incurred by the Contractor in complying with the Engineer's instructions including profit shall be certified by the Engineer and added to the Contract Price.

### **20.1 Independent Inspection**

The Engineer may, if so provided in the Contract or with the Contractor's consent, delegate inspection and testing of Plant to an independent inspector. Any such delegation shall be effected in the manner required by Sub-Clause 2.3 and for this purpose such independent inspector shall be considered as an Engineer's Representative. Notice of such appointment (being not less than 14 days) shall be given by the Engineer to the Contractor.

### **20.2 Inspection and Testing During Manufacture**

The Engineer shall be entitled during manufacture to inspect, examine and test the materials and workmanship and check the progress of manufacture of all Plant to be supplied under the Contract. This shall take place on the Contractor's premises during working hours. If Plant is being manufactured on other premises, the Contractor shall obtain permission for the Engineer to carry out such inspection, examination and testing on those premises.

No such inspection, examination or testing shall release the Contractor from any obligation under the Contract.

### **20.3 Dates for Inspection and Testing**

The Contractor shall agree with the Engineer the time and place for the testing of any Plant as provided in the Contract. The Engineer shall give the Contractor 24 hours notice of his intention to attend the tests.

If the Engineer does not attend on the date agreed, the Contractor may, unless the Engineer instructs the Contractor not to do so, proceed with the tests, which shall be deemed to have been made in the Engineer's presence.

The Contractor shall forthwith forward to the Engineer duly certified copies of the test results. If the Engineer has not attended the test, he shall accept the validity of the test readings.

### **20.4 Facilities for Testing**

Where the Contract provides for tests on the premises of the Contractor or of any Sub-Contractor, the Contractor shall provide such assistance, labour materials, electricity, fuel, stores, apparatus and instruments as may be necessary to carry out the test efficiently.

## **20.5 Certificate of Testing**

When Plant has passed the tests referred to in this Clause, the Engineer shall furnish to the Contractor a certificate or endorse the Contractor's test certificate to that effect.

## **21.1 Rejection**

If, as a result of the inspection, examination or testing referred to in Clause 20, the Engineer decides that any Plant is defective or otherwise not in accordance with the Contract, he may reject such Plant and shall notify the Contractor thereof immediately. The notice shall state the Engineer's objections with reasons. The Engineer shall not reject any Plant for minor defects which do not affect the commercial operation of such Plant.

The Contractor shall then with all speed make good the defect or ensure that any rejected Plant complies with the Contract.

If the Engineer requires such Plant to be retested, the tests shall be repeated under the same terms and conditions. All costs incurred by the Employer by the repetition of the tests shall be deducted from the Contract Price.

## **22.1 Permission to Deliver**

The Contractor shall apply in writing to the Engineer for permission to deliver any Plant or Contractor's equipment to the Site. No Plant or Contractor's Equipment may be delivered to the Site without the Engineer's written permission.

The Contractor shall be responsible for the reception on Site of the Plant and Contractor's Equipment.

## **Suspension of Works, Delivery or Erection**

## **23.1 Order to Suspend**

The Engineer may at any time instruct the Contractor to:

- (a) suspend progress of the Works, or
- (b) suspend delivery of Plant or Contractor's Equipment which is ready for delivery to the Site at the time for delivery specified in the Programme, or if no time is specified, at the time appropriate for it to be delivered, or
- (c) suspend the erection of Plant which has been delivered to the Site.

When the Contractor is prevented from delivering or erecting Plant in accordance with the Programme the Engineer shall be deemed to have instructed a suspension except when such prevention is caused by the Contractor's default.

The Contractor shall during suspension protect and secure the Works or Plant affected at the Contractor's works or elsewhere or at the Site, as the case may be, against any deterioration, loss or damage.

#### **24.1 Cost of Suspension**

The additional cost incurred by the Contractor in protection, securing and insuring the Works or Plant and in following the Engineer's instructions under Sub-Clause 23.1 and in resumption of the work, shall be added to the Contract Price.

The Contractor shall not be entitled to be paid any additional costs if such suspension is necessary by reason of a default on the part of the Contractor.

The Contractor shall not be entitled to additional costs unless he notifies the Engineer of his intention to make such claim, within twenty eight (28) days after receipt of the order to suspend progress or delivery or of the date of deemed suspension under Sub-Clause 23.1.

#### **24.2 Payment in Event of Suspension**

The Contractor shall be entitled to payment for Plant which has not been delivered to Site if the work on Plant or delivery of Plant has been suspended for more than twenty eight (28) days. After twenty eight (28) days of suspension, the Contractor shall be entitled to payment of the value of such Plant as at the date of suspension.

A certificate of payment shall be issued on condition that:

- (a) the Contractor has marked the Plant as the Employer's property in accordance with the Engineer's instructions, and
- (b) the suspension is not due to the Contractor's default.

#### **24.3 Prolonged Suspension**

If suspension under Sub-Clause 23.1. has continued for more than eighty four (84) days, and the suspension is not due to the Contractor's default, the Contractor may by notice to the Engineer require permission to proceed within twenty eight (28) days.

If permission is not granted within that time, the Contractor may treat the suspension as an omission under Clause 31 of the Section it affects, or if the suspension affects the whole of the Works, terminate the Contract and the provisions of Clause 46 shall apply.

#### **24.4 Resumption of Work**

If the Contractor chooses not to treat prolonged suspension as an omission or termination under Sub-Clause 24.3, the Employer shall upon the request of the Contractor, take over the responsibility for protection, storage, security and insurance of the suspended Works and the risk of loss or damage thereto shall thereupon pass to the Employer.

After receipt of permission or an order to proceed, the Contractor, shall after due notice to the Engineer, examine the Works and the Plant affected by the suspension. The Contractor shall make good any deterioration or defect in or loss of the Works or

Plant that may have occurred during the suspension. Cost properly incurred by the Contractor which would not have been incurred but for the suspension shall be added to the Contract Price together with profit.

The Contractor shall not be entitled to payment for costs incurred in making good any deterioration, defect or loss caused by faulty workmanship or materials or by the Contractor's failure to take the measures specified in Sub-Clause 23.1.

If the Employer has taken over risk and responsibility for the suspended Works under this Sub-Clause, risk and responsibility shall revert to the Contractor fourteen (14) days after receipt of the permission or order to proceed.

## **Completion**

### **25.1 Time for Completion**

The Works shall be completed and shall have passed the Tests on Completion within the Time for Completion

### **26.1 Extension of Time for Completion**

The Contractor may claim an extension of the Time for Completion if he is or will be delayed in completing the Works by any of the following causes:

- (a) extra or additional work ordered in writing under Clause 31,
- (b) exceptional adverse weather conditions,
- (c) physical obstructions or conditions which could not reasonably have been foreseen by the Contractor,
- (d) Employer's or Engineer's instructions, otherwise than by reason of the Contractor's default,
- (e) the failure of the Employer to fulfil any of his obligations under the Contract,
- (f) delay by any other contractor engaged by the Employer,
- (g) any suspension of the Works under Clause 23, except when due to the Contractor's default,
- (h) any industrial dispute,
- (i) the Employer's Risks, or
- (j) Force Majeure.

The Contractor shall give to the Engineer notice of his intention to make a claim for an extension of time within fourteen (14) days of the circumstances for such a claim becoming known to the Contractor. The notice shall be followed as soon as possible by the claim with full supporting details.

The Engineer shall, after due consultation with the Employer and the Contractor, grant the Contractor from time to time, either prospectively or retrospectively, such extension of Time for Completions as may be justified. The Engineer shall notify the Employer and the Contractor accordingly.

The Contractor shall be entitled to such extension whether the delay occurs before or after the Time for Completion.

## **26.2 Delays by Subcontractors**

The Contractor shall be entitled to claim an extension of time if delay on the part of a Subcontractor is due to a cause mentioned in Clause 26.1 and such delay prevents the Contractor from meeting the Time for Completion.

## **26.3 Earlier Completion**

The Employer may require completion of the Works or part thereof earlier than the Time for Completion, on the following conditions:

- (a) The Employer and the Contractor shall first agree the extra sum to be paid for each day by which the Contractor completes the Works or part thereof earlier than the Time for Completion.
- (b) The Contractor shall not become liable under Sub-Clause 27.1 for any failure to complete the Works or the part thereof by the earlier time.

## **27.1 Delay in Completion**

If the Contractor fails to complete the Works within the Time for Completion, the Employer shall be entitled to a reduction in the Contract Price unless it can be reasonably concluded from circumstance that the Employer will suffer no loss.

The Employer shall within a reasonable time give the Contractor notice of his intention to claim a reduction.

The reduction shall be the percentage per day stated in the Preamble of that part of the Contract Price which is attributable to such part of the Works as cannot in consequence of the failure be put to the intended use. The reduction shall be computed for each day between the Time for Completion and the actual date of completion.

The reduction shall in no case exceed the maximum percentage of the Contract Price of such part stated in the Preamble.

Except as provided in Sub-Clause 27.2, such reduction shall be to the exclusion of any other remedy of the Employer in respect of the Contractor's failure to complete within the Time for Completion.

## **27.2 Prolonged Delay**

If the Employer has become entitled to the maximum reduction under Sub Clause 27.1 for any part of the Works, he may by notice require the Contractor to complete. Such notice shall fix a final time for completion which shall be reasonable.

If the Contractor fails to complete within such time, and this is not due to a cause for which the Employer or some other contractor employed by him is responsible, the Employer may by further notice to the Contractor either:

- (a) require the Contractor to complete, or
- (b) may himself complete at the Contractor's cost provided that he does so in a reasonable manner, or
- (c) terminate the Contract.

If the Employer terminates the Contract, he shall be entitled to recover from the Contractor any loss he has suffered up to the maximum amount stated in the Preamble. If no maximum amount is stated, the Employer shall not be entitled to recover more than that part of the Contract Price which is attributable to that part of the Works which cannot by reason of the Contractor's failure be put to the intended use.

The Employer shall give credit for the value of any part of the Works which he retains.

### **Tests on Completion**

#### **28.1 Notice of Tests**

The Employer shall give to the Engineer twenty one (21) day's notice of the date after which he will be ready to make the Tests on Completion (the Tests). Unless otherwise agreed, the Tests shall take place within fourteen (14) days after the said date on such day or days as the Engineer shall notify the Contractor.

#### **28.2 Time for Tests**

If the Engineer fails to appoint a time after having been asked to do so, or does not attend at the time and place appointed, the Contractor shall be entitled to proceed with the Test in his absence. The Tests shall then be deemed to have been made in the presence of the Engineer and the results of the Tests shall be accepted as accurate.

#### **28.3 Delayed Tests**

If the Tests are being unduly delayed by the Contractor the Engineer may by notice require the Contractor to make the Tests within twenty one (21) days after the receipt of such notice. The Contractor shall make the Tests on such days within that period as the Contractor may fix and of which he shall give notice to the Engineer.

If the Contractor fails to make the Tests within twenty one (21) days the Engineer may himself proceed with the Tests. All Tests so made by the Engineer shall be at the risk and cost of the Contractor and the cost thereof shall be deducted from the Contract Price. The tests shall then be deemed to have been made in the presence of the Contractor and the results of the Tests shall be accepted as accurate.

#### **28.4 Facilities for Tests on Completion**

Except where otherwise specified, the Employer shall provide free of charge such labour, materials, electricity, fuel, water, stores, apparatus and feedstock as may be reasonably required by the Contractor to carry out the Tests.



## **28.5 Retesting**

If the Works or any Section fails to pass the Tests, the Engineer or the Contractor may require such Tests to be repeated on the same terms and conditions. All costs to which the Employer may be put by the repetition of the Tests under this Sub-Clause or under Sub-Clause 30.7 shall be deducted from the Contract Price.

## **28.6 Disagreement as to Result of Tests**

If the Engineer and the Contractor disagree on the interpretation of the Test results, each shall give a statement of his views to the other within fourteen (14) days after such disagreement arises. The statement shall be accompanied by all relevant evidence.

## **28.7 Consequences of Failure to Pass Tests on Completion**

If the Works or any Section fails to pass the Tests on the repetition thereof under Sub-Clause 28.5, the Engineer, after due consultation with the Employer and the Contractor, shall be entitled to:

- (a) order one further repetition of the Tests under the conditions of Sub-Clause 28.5, or
- (b) reject the Works or Section in which event the Employer shall have the same remedies against the Contractor as are provided under SubClause 30.5 (c), or
- (c) issue a Taking-Over Certificate, if the Employer so wishes, notwithstanding that the Works are not complete. The Contract Price shall then be reduced by such amount as may be agreed by the Employer and the Contractor or, failing agreement, as may be determined by arbitration.

## **28.8 Use by the Employer**

In considering the results of Tests carried out under Sub-Clauses 29.3, 29.4 and 30.7, the Engineer shall make allowances for the effect of any use of the Works by the Employer on the Certificate to the performance or other characteristics of the Works.

## **28.9 Test Certificate**

As soon as the Works or any Section thereof has passed the Tests, the Engineer shall issue a Certificate to the Contractor and the Employer to that effect.

## **Taking Over**

### **29.1 Taking Over**

The Works shall be taken over by the Employer when they have been completed in accordance with the Contract, except in minor respects that do not affect the use of the Works for their intended purpose, have passed the Tests on Completion and a Taking-Over Certificate has been issued or deemed to have been issued in accordance with Sub-Clause 29.2.

## **29.2 Taking-Over Certificate**

The Contractor may apply by notice to the Engineer for a Taking-Over Certificate not earlier than fourteen (14) days before the Works will in the Contractor's opinion be complete and ready for taking over under Sub-Clause 29.1.

The Engineer shall within twenty eight (28) days after the receipt of the Contractor's application either:

- (a) issue the Taking-Over Certificate to the Contractor with a copy to the Employer stating the date on which the Works were complete and ready for taking over, or
- (b) reject the application giving his reasons and specifying the work required to be done by the Contractor to enable the Taking-Over Certificate to be issued.

If the Engineer fails either to issue the Taking-Over Certificate or to reject the Contractor's application within the period of twenty eight (28) days he shall be deemed to have issued the Taking-Over Certificate on the last day of that period.

If the Works are divided by the Contract into Sections the Contractor shall be entitled to apply for separate Taking-Over Certificate for each such Section

## **29.3 Use before Taking Over**

The Employer shall not use any part of the Works unless a Taking-Over Certificate has been issued in respect thereof.

If nevertheless the Employer uses any part of the Works, that part which is used shall be deemed to have been taken over at the date of such use. The Engineer shall on request of the Contractor issue a Taking-Over Certificate accordingly. If the Employer uses any part of the Works before taking over the Contractor shall be given the earliest opportunity of taking such steps as may be necessary to carry out the Tests on Completion.

The provisions of Sub-Clause 27.1 shall not apply to any part of the Works while being so used by the Employer. Clause 30 shall apply as if the part had been taken over on the date it was taken into use.

## **29.4 Interference with Tests on Completion**

If the Contractor is prevented from carrying out the Tests on Completion by a cause for which the Employer or the Engineer or other contractors employed by the Employer are responsible, the Employer shall be deemed to have taken over the Works on the date when the Tests on Completion would have been completed but for such prevention. The Engineer shall issue a Taking Over Certificate accordingly.

The Works shall not be deemed to have been taken over if they are not substantially in accordance with the Contract.

If the Works are taken over under this Clause the Contractor shall nevertheless carry out the Tests on Completion during the Defects Liability Period. The Engineer shall require the Tests on Completion to be carried out by fourteen (14) day notice and in accordance with the relevant provisions of Clause 28.

Any additional costs to which the Contractor may be put in making the Tests on Completion during the Defects Liability Period, shall be added to the Contract Price.

### **Defects after Taking Over**

#### **30.1 Defects Liability Period**

Where any part of the Works is taken over separately from the Works the Defects Liability Period for that part shall commence on the date it was taken over.

#### **30.2 Making Good Defects**

The Contractor shall, subject to Sub-Clause 30.9, be responsible of making good any defect in or damage to any part of the Works which may appear or occur during the Defects Liability Period and which arises from, either:

- (a) any defective materials, workmanship or design, or
  - (b) any act or omission of the Contractor during the Defects Liability Period.
- The Contractor shall make good the Defects or damage as soon as practicable and at his own cost.

#### **30.3 Notice of Defects**

If any such defect appears or damage occurs, the Employer or the Engineer shall forthwith notify the Contractor thereof.

#### **30.4 Extension of Defects Liability Period**

The provision of this Clause shall apply to all replacements or renewals carried out by the Contractor as if the replacements and renewals had been taken over on the date they were completed.

The Defects Liability Period for the Works shall be extended by a period equal to the period during which the Works cannot be used by reason of a defect or damage. If only part of the Works cannot be used by reason of a defect, the Defect Liability Period shall be extended only for that part.

In neither case shall the Defects Liability Period be extended by more than one year.

When erection or delivery of Plant has been suspended under Sub-Clause 23.1, the Contractor's obligations under this Clause shall not apply to any defects occurring more than three years after it would have been delivered but for the suspension or such period as may be stated in Part II.

### **30.5 Failure to Remedy Defects**

If the Contractor fails to remedy a defect or damage within a reasonable time, the Employer may fix a final time for remedying the defect or damage.

If the Contractor fails to do so, the Employer may:

- (a) carry out the work himself or by others at the Contractor's risk and cost, provided that he does so in a reasonable manner. The costs properly incurred by the Employer in remedying the defect or damage shall be deducted from the Contract Price, but the Contractor shall have no responsibility for such work, or
- (b) require the Contractor to grant the Employer a reasonable reduction in the Contract Price to be agreed or fixed by arbitration under Clause 50, or
- (c) if the defect or damage is such that the Employer has been deprived of substantially the whole of the benefit of the Works or a part thereof, he may terminate the Contract in respect of such parts of the Works as cannot be put to the intended use. The Employer shall to the exclusion of any remedy under Clause 45 be entitled to recover all sums paid in respect of such parts of the Works together with the cost of dismantling the same, clearing the Site and returning Plant to the Contractor or otherwise disposing of it in accordance with the Contractor's instructions.

### **30.6 Removal of Defective Work**

If the defect or damage is such that repairs cannot be expeditiously carried out on the Site, the Contractor may with the consent of the Engineer or the Employer remove from the Site for the purposes of repair any part of the Works which is defective or damaged.

### **30.7 Further Tests on Completion**

If the replacements or renewals are such that they may affect the performance of the Works the Employer may request that Tests on Completion be repeated to the extent necessary. The request shall be made by notice within twenty eight (28) days after the replacement or renewal. The Tests shall be carried out in accordance with Clause 28.

### **30.8 Right of Access**

Until the Final Certificate of Payment has been issued, the Contractor shall have the right of access to all parts of the Works and to records of the working and performance of the Works.

Such right of access shall be during the Employer's normal working hours at the Contractor's risk and cost. Access shall also be granted to any duly authorized representative of the Contractor whose name has been communicated in writing to the Engineer.

Subject to the Engineer's approval, the Contractor may also at his own risk and cost make any tests which he considers desirable.

### **30.9 Defects in Employer's and Engineer's Designs**

The Contractor shall not be liable for any defects resulting from designs furnished or specified by the Employer or the Engineer.

### **30.10 Contractor to Search**

The Contractor shall, if required by the Engineer in writing, search for the cause of any defect, under the direction of the Engineer. Unless the defect is one for which the Contractor is liable under this Clause, the cost of the work carried out by the Contractor in searching for the cause of the defect shall be added to the Contract Price.

### **30.11 Defects Liability Certificate**

When the Defects Liability Period for the Works or any part thereof has expired and the Contractor has fulfilled all his obligations under the Contract for defects in the Works or that part, the Engineer shall issue within twenty eight (28) days to the Employer and the Contractor a Defects Liability Certificate to that effect.

### **30.12 Exclusive Remedies**

Except in the case of Gross Misconduct, the Employer's remedies under this Clause shall be in place of and to the exclusion of any other remedy in relation to defects whatsoever.

## **Variations**

### **31.1 Engineer's Right to Vary**

The Engineer may by Variation Order to the Contractor at any time before the Works are taken over, instruct the Contractor to alter, amend, omit, add to or otherwise vary any part of the Works.

The Contractor shall not vary or alter any of the Works, except in accordance with a Variation Order from the Engineer. The Contractor may, however, at any time propose variations of the Works to the Engineer.

### **31.2 Variation Order Procedure**

Prior to any Variation Order under Sub-Clause 31.1 the Engineer shall notify the Contractor of the nature and form of such variation.

As soon as possible after having received such notice, the Contractor shall submit to the Engineer:

- (a) a description of work, if any, to be performed and a programme for its execution, and
- (b) the Contractor's proposals for any necessary modifications to the Programme according to Sub-Clause 26.1 or to any of the Contractor's obligations under the Contract, and
- (c) the Contractor's proposals for adjustment to the Contract Price.

Following the receipt of the Contractor's submission the Engineer shall, after due consultation with the Employer and the Contractor, decide as soon as possible whether or not the variation shall be carried out.

If the Engineer decides that the variation shall be carried out, he shall issue a Variation Order clearly identified as such in accordance with the Contractor's submission or as modified by agreement. If the Engineer and the Contractor are unable to agree the adjustment of the Contract Price, the provisions of Sub-Clause 31.3 shall apply.

### **31.3 Disagreement on Adjustment of the Contract Price**

If the Contractor and the Engineer are unable to agree on the adjustment of the Contract Price, the adjustment shall be determined in accordance with the rates specified in the Schedule of Prices.

If the rates contained in the Schedule of Price are not directly applicable to the specific work in question, suitable rates shall be established by the Engineer reflecting the level of pricing in the Schedule of Prices.

Where rates are not contained in the said Schedule, the amount shall be such as is in all the circumstances reasonable. Due account shall be taken of any over-or under-recovery of overheads by the Contractor in consequence of the variation.

The Contractor shall also be entitled to be paid:

- (a) the cost of any partial execution of the Works rendered useless by any such variation,
- (b) the cost of making necessary alterations to Plant already manufactured or in the course of manufacture or of any work done that has to be altered in consequence of such a variation,
- (c) any additional costs incurred by the Contractor by the disruption of the progress of the Works as detailed in the Programme, and
- (d) the net effect of the Contractor's finance costs, including interest, caused by the variation.

The Engineer shall on this basis determine the rates or prices to enable on account payment to be included in certificates of payment.

#### **31.4 Contractor to Proceed**

On receipt of a Variation Order, the Contractor shall forthwith proceed to carry out the variation and be bound to these Conditions in so doing as if such variation was stated in the Contract.

The work shall not be delayed pending the granting of an extension of the Time for Completion or an adjustment to the Contract Price under Sub Clause 31.3.

#### **31.5 Records of Costs**

In any case where the Contractor is instructed to proceed with variation prior to the determination of the adjustment to the Contract Price in respect thereof the Contractor shall keep records of the cost of undertaking the variation and of time expended thereon. Such records shall be open to inspection by the Engineer at all reasonable times.

### **Ownership of Plant**

#### **32.1 Ownership of Plant**

Plant to be supplied pursuant to the Contract shall become the property of the Employer at whichever is the earlier of the following times:

- (a) when Plant is delivered to Site, or
- (b) when by virtue of Sub-Clause 24.2 the Contractor becomes entitled to payment of the value of the Plant.

### **Certificates and Payment**

#### **33.1 Terms of Payment**

The terms of payment shall be as stated in the Preamble.

#### **33.2 Method of Application**

Unless otherwise specified in Part II applications by the Contractor for payment shall be made to the Engineer as follows:

- (a) in respect of the progress of the Works accompanied by such evidence of the value of the work done as the Engineer may require, and
- (b) in respect of Plant shipped and on-route to the Site identifying the Plant concerned and accompanied by such evidence of shipment and of payment of freight and insurance and by such other documents as the Engineer may require, and
- (c) for additional payment in accordance with Clause 34.

Any other application for payment shall state the amounts claimed and the detailed particulars in respect of which the application is made.

### **33.3 Issue of Certificate of Payment**

Within fourteen (14) days after receiving an application for payment which the Contractor was entitled to make the Engineer shall issue a Certificate of Payment to the Employer showing the amount due, with a copy to the Contractor.

A certificate of payment, other than the Final Certificate of Payment, shall not be withheld on account of:

- (a) defects of a minor character which are not such as to affect the use of the Works, or
- (b) any part of the payment applied for being disputed. In such case a certificate of payment for the undisputed amount shall be issued.

### **33.4 Corrections to Certificates of Payment**

The Engineer may in any certificate of payment make any correction or modification that should properly be made in respect of any previous certificate.

### **33.5 Payment**

Unless otherwise specified in Part II, the Employer shall pay the amount certified within twenty eight (28) days from the date of issue of each certificate of payment to the Contractor at his principal place of business.

### **33.6 Delayed Payment**

If payment of any sum payable under Sub-Clause 33.5 is delayed, the Contractor shall be entitled to receive interest on the amount unpaid during the period of delay. Unless otherwise stated in Part II the interest shall be at the annual rate three percentage points above the discount rate of the central bank in the Contractor's country. The Contractor shall be entitled to such payment without formal notice and without prejudice to any other right or remedy.

### **33.7 Remedies on Failure to Certify or Make Payment**

The Contractor shall be entitled to stop the Works by giving fourteen (14) days notice to the Engineer and the Employer, if either:

- (a) the Engineer fails to issue a certificate of payment upon proper application by the Contractor, or
- (b) the Employer fails to make any payment as provided in this Clause.

The cost to the Contractor together with profit occasioned by the stoppage and the subsequent resumption of work, shall be added to the Contract Price.

The Contractor shall also be entitled to terminate the Contract by giving twenty eight (28) days notice to the Engineer and the Employer in any case where the Engineer has failed to issue a certificate of payment upon proper application by the Contractor.



### **33.8 Payment by Measurement**

For any part of the Works which is to be paid according to quantity supplied or work done, the provisions for measurement shall be stated in Part II.

### **33.9 Application for Final Certificate of Payment**

The Contractor shall make application to the Engineer for the Final Certificate of Payment within twenty eight (28) days after the issue of the Defect Liability Certificate, or if more than one, the last Defect Liability Certificate.

The application for the Final Certificate of Payment shall be accompanied by a final account prepared by the Contractor. The final account shall give full details of the value of all Plant supplied and work done under the Contract together with:

- (a) such additions to or deductions from the Contract Price as have been agreed, and
- (b) all claims for additional payment to which the Contractor may consider himself entitled.

### **33.10 Issue of Final Certificate of Payment**

The Engineer shall issue to the Employer with a copy to the Contractor, the Final Certificate of Payment within 28 days after receiving an application in accordance with Sub-Clause 33.9.

If the Contractor has not applied for a Final Certificate of Payment within the time specified in Sub-Clause 33.9 the Engineer shall request the Contractor to do so within a further period of 28 days. If the Contractor fails to make such an application, the Engineer shall issue the Final Certificate of Payment for such amount as he deems correct.

### **33.11 Final Certificate of Payment Conclusive**

A Final Certificate of Payment shall be conclusive evidence of the value of the Works, that the Works are in accordance with the Contract and that the Contractor has performed all his obligations under the Contract.

Payment of the amount certified in the Final Certificate of Payment shall be conclusive evidence that the Employer has performed all his obligations under the Contract.

A Final Certificate of Payment or payment shall not be conclusive:

- (a) to the extent that fraud or dishonesty relates to or affects any matter dealt with in the certificate, or
- (b) if any arbitration or court proceedings under the Contract have been commenced by either party before the expiry of 84 days after the issue of the Final Certificate of Payment.

## **Claims**

### **34.1 Procedure**

In any case where under these Conditions there are circumstances which the Contractor considers entitle him to claim additional payment, the Contractor shall:

- (a) if he intends to make any claim for additional payment give to the Engineer notice of his intention to make such claim within twenty eight (28) days after the said circumstances became known to the Contractor stating the reasons for his claim, and
- (b) as soon as reasonably practical after the date of such notice submit to the Engineer full and detailed particulars of his claim but not later than one hundred and eighty two (182) days after such notice unless otherwise agreed by the Engineer. In any event such particulars shall be submitted no later than the application for the Final Certificate of Payment. The Contractor shall thereafter promptly submit such further particulars as the Engineer may reasonably require to assess the validity of the claim.

### **34.2 Assessment**

When the Engineer has received full and detailed particulars of the Contractor's claim in accordance with Sub-Clause 34.1 and such further particulars as he may reasonably have required he shall after due consultation with the Employer and the Contractor determine whether the Contractor is entitled to additional payment and notify the parties accordingly.

The Engineer may reject any claim for additional payment which does not comply with the requirements of Sub-Clause 34.1.

## **Foreign Currency and Rates of Exchange**

### **35.1 Payment in Foreign Currencies**

Arrangements for payment in foreign currencies shall be as stated in the Preamble.

### **35.2 Currency Restrictions**

The Employer shall reimburse the Contractor for any loss arising from:

- (a) currency restrictions, and
- (b) restrictions on the transfer of currency in which the Contractor is to be paid which are imposed by the government or authorized agency of the government of the country from which any payments under the Contract are to be made.

This Sub-Clause only applies to restrictions imposed after the date 28 days prior to the latest date for submission of tenders for the Works.

### **35.3 Rates of Exchange**

Where the Contract provides for payment in Foreign Currency the rates of exchange between the currencies shall be fixed for the purpose of the Contract and shall be as stated in the Preamble.

If such rates of exchange are not stated in the Preamble the rates to be used shall be those quoted by the central bank of the country whose currency is to be sold 28 days or the nearest day thereto prior to the latest date for submission of tenders for the Works.

## **Provisional Sums**

### **36.1 Use of Provisional Sums**

A Provisional Sum shall only be used, in whole or in part in accordance with the Engineer's instructions.

The total sum paid to the Contractor shall include only such amounts in respect of work, supplies or services to which such Provisional Sums relate as the Engineer shall have instructed.

### **36.2 Ordering Work against Provisional Sums**

In respect of every Provisional Sum the Engineer may after due consultation with the Employer and the Contractor order:

- (a) work to be executed, including goods, materials or services to be supplied by the Contractor. The value of such work executed, determined in accordance with Clause 31, shall be paid to the Contractor in accordance with Clause 33, and
- (b) goods and materials to be purchased by the Contractor, for which payment will be made in accordance with Sub-Clause 36.4.

### **36.3 Invoices and Receipts**

The Contractor shall, when required by the Engineer, produce quotations, invoices, vouchers and accounts or receipts in connection with expenditure in respect of Provisional Sums.

### **36.4 Payment against Provisional Sums**

For all work executed or goods, materials or services supplied or purchased by the Contractor under Sub-Clause 36.2(b), there shall be included in the sums paid to the Contractor:

- (a) the actual price paid or due to be paid by the Contractor, and
- (b) in respect of all other charges and profit, a percentage of the actual price paid or due to be paid. Such percentage shall be as stated in the Preamble.

## **Risk and Responsibility**

### **37.1 Allocation of Risk and Responsibility**

The Risks of loss of or damage to physical property and of death and personal injury which arise in consequence of the performance of the Contract shall be allocated between the Employer and the Contractor as follows:

- (a) the Employer: the Employer's Risks as specified in Sub-Clause 37.2
- (b) the Contractor: the Contractor's Risks as specified in Sub-Clause 37.3.

### **37.2 Employer's Risks**

The Employer's Risks are:

- (a) war and hostilities (whether war be declared or not), invasion, act of foreign enemies,
- (b) rebellion, revolution, insurrection, military or usurped power or civil war insofar as it relates to the country in which the Works are located or countries through which plant must be transported,
- (c) ionizing radiation or contamination by radio-activity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radio-active toxic explosives or other hazardous properties of any explosive nuclear assembly or nuclear components thereof,
- (d) pressure waves caused by aircraft travelling at sonic or supersonic speed,
- (e) riot, commotion or disorder, unless solely restricted to the employees of the Contractor or of his Subcontractors,
- (f) use or occupation of the Works or any part thereof by the Employer,
- (g) fault, error, defect or omission in the design of any part of the Works by the Engineer, Employer or those for whom the Employer is responsible,
- (h) the use or occupation of the Site by the Works or any part thereof, or for the purposes of the Contract; or interference, whether temporary or permanent with any right of way, light, air or water or with any easement, way leaves or right of a similar nature which is the inevitable result of the construction of the Works in accordance with the Contract,
- (i) the right of the Employer to construct the Works or any part thereof on, over, under, in or through any land,
- (j) damage (other than that resulting from the Contractor's method of construction) which is the inevitable result of the construction of the Works in accordance with the Contract,
- (k) the act, neglect or omission or breach of contract or of statutory duty of the Engineer, the Employer or other contractors engaged by the Employer or of their respective employees or agents,

and all risks which an experienced contractor could not have foreseen or, if re-seeable, against which measures to prevent loss, damage or injury from occurring could not reasonably have been taken by such contractor.

### **37.3 Contractor's Risks**

The Contractor's Risks are all risks other than those identified as the Employer's Risks.

Care of the Works and Passing of Risk

### **38.1 Contractor's Responsibility for the Care of the Works**

The Contractor shall be responsible for the care of the Works or any Section thereof from the Commencement until the Risk Transfer Date applicable thereto under Sub-Clause 38.2.

The Contractor shall also be responsible for the care of any part of the Works upon which any outstanding work is being performed by the Contractor during the Defects Liability Period until completion of such outstanding work.

### **38.2 Risk Transfer Date**

The Risk Transfer Date in relation to the Works or a Section thereof is the earliest of either:

- (a) the date of issue of the Taking-Over Certificate, or
- (b) the date when the Engineer is deemed to have issued the Taking Certificate or the Works are deemed to have been taken over in accordance with Clause 29, or
- (c) the date of expiry of the notice of termination when the Contract is terminated by the Employer or the Contractor in accordance with these Conditions.

### **39.1 Passing of Risk of Loss of or Damage to the Works**

The risk of loss of or damage to the Works or any Section thereof shall pass from the Contractor to the Employer on the Risk Transfer Date applicable thereto.

### **39.2 Loss or Damage Before Risk Transfer Date**

Loss of or damage to the Works or any Section thereof occurring before the Risk Transfer Date shall:

- (a) to the extent caused by any of the Contractor's Risks, be made good forthwith by the Contractor at his own cost, and

- (b) to the extent caused by any of the Employer's Risks, be made good by the Contractor at the Employer's expense if so required by the Engineer within twenty eight (28) days after the occurrence of the loss or damage. The price for making good such loss and damage shall be in all circumstances reasonable and shall be agreed by the Employer and the Contractor, or in the absence of agreement, shall be fixed by arbitration under Clause 50.

### **39.3 Loss or Damage After Risk Transfer Date**

After the Risk Transfer Date, the Contractor's liability in respect of loss of or damage to any part of the Works shall, except in the case of Gross Misconduct, be limited:

- (a) to the fulfillment of the Contractor's obligations under Clause 30 in respect of defects therein, and
- (b) to making good forthwith loss or damage caused by the Contractor during the Defects Liability Period.

### **Damage to Property and Injury to Persons**

#### **40.1 Contractor's Liability**

Except as provided under Sub-Clause 41.1, the Contractor shall be liable for and shall indemnify the Employer against all losses, expenses and claims in respect of any loss of or damage to physical property (other than the Works), death or personal injury occurring before the issue of the last Defects Liability Certificate to the extent caused by:

- (a) defective design, material or workmanship of the Contractor, or
- (b) negligence or breach of statutory duty of the Contractor, his Subcontractors or their respective employees and agents.

#### **40.2 Employer's Liability**

The Employer shall be liable for and shall indemnify the Contractor against all losses, expenses or claims in respect of loss of or damage to any physical property or of death or personal injury whenever occurring, to the extent caused by any of the Employer's Risks.

#### **41.1 Accidents**

The Contractor shall be liable for and shall indemnify the Employer against all losses, expenses or claims arising in connection with the death of or injury to any person employed by the Contractor or his Subcontractors for the purposes of the Works, unless caused by any acts or defaults of the Engineer, the Employer, or other contractors engaged by the Employer or by their respective employees or

agents. In the latter cases the Employer shall be liable for and shall indemnify the Contractor against all losses, expenses and claims arising in connection therewith.

## **Limitations of Liability**

### **42.1 Liability for Indirect or Consequential Damage**

Neither party shall be liable to the other for any loss of profit, loss of use, loss of production, loss of contracts or for any other indirect or consequential damage that may be suffered by the other, except:

- (a) as expressly provided in Clause 27, and
- (b) those provisions of these Conditions whereby the Contractor is expressly entitled to receive profit.

### **42.2 Maximum Liability**

The liability of the Contractor to the Employer under these Conditions shall in no case exceed the sum stated in the Preamble or, if no such sum is stated, the Contract Price.

### **42.3 Liability after Expiration of Defects Liability Period**

The Contractor shall have no liability to the Employer for any loss of or damage to the Employer's physical property which occurs after the expiration of the Defects Liability Period unless caused by Gross Misconduct of the Contractor.

### **42.4 Exclusive Remedies**

The Employer and the Contractor intend that their respective rights, obligations and liabilities as provided for in these Conditions shall alone govern their rights under the Contract and in relation to the Works.

Accordingly, the remedies provided under the contract in respect of or in consequence of:

- (a) any breach of contract, or
- (b) any negligent act or omission, or
- (c) death or personal injury, or
- (d) loss or damage to any property

are, save in the case of Gross Misconduct, to be to the exclusion of any other remedy that either may have against the other under the law governing the Contract or otherwise.

### **42.5 Mitigation of Loss of Damage**

In all cases the party claiming a breach of Contract or a right to be indemnified in accordance with the Contract shall be obliged to take all reasonable measures to mitigate loss or damage which has occurred or may occur.

#### **42.6 Foreseen Damage**

Where either the Employer or the Contractor is liable in damages to the other these shall not exceed the damage which the party in default could reasonably have foreseen at the date of the Contract.

### **Insurance**

#### **43.1 The Works**

The Contractor shall insure the Works in the joint names of the Contractor and the Employer to their full replacement value with deductible limits not exceeding those stated in the Preamble.

- (a) from the Commencement Date until the Risk Transfer Date against any loss or damage caused by any of the Contractor's Risks and any other risks specified in the Preamble, and
- (b) during the Defects Liability period against any loss or damage which is caused either:
  - (i) by the Contractor in completing any outstanding work or complying with his obligations under Clause 30, or
  - (ii) by any of the Contractor's Risks which occurred prior to the Risks Transfer Date.

#### **43.2 Contractor's Equipment**

The Contractor shall insure Contractor's Equipment for its full replacement value whilst in transit to the Site, from commencement of loading until completion of unloading at the Site and while on the Site against all loss or damage caused by any of the Contractor's Risks.

#### **43.3 Third Party Liability**

The Contractor shall insure against liability to third parties for any death or personal injury and loss of or damage to any physical property arising out of the performance of the Contract and occurring before the issue of the last Defects Liability Certificate.

Such insurance shall be effected before the Contractor begins any work on the Site. The insurance shall be for not less than the amount specified in the Preamble.

#### **43.4 Employees**

The Contractor shall insure and maintain insurance against his liability under Sub-Clause 41.1.



### **43.5 General Requirements of Insurance Policies**

The Contractor shall:

- (a) whenever required by the Employer produce the policies or certificates of any insurance which he is required to effect under the Contract together with receipts for the premiums,
- (b) effect all insurances for which he is responsible with an insurer and in terms approved by the Employer,
- (c) make no material alterations to the terms of any insurance without the Employer's approval. If an insurer makes any material alteration to the terms the Contractor shall forthwith notify the Employer, and
- (d) in all respect comply with any conditions stipulated in the insurance policies which he is required to place under the Contract.

### **43.6 Permitted Exclusions from Insurance Policies**

The insurance cover affected by the Contractor may exclude any of the following:

- (a) the cost of making good any part of the Works which is defective or otherwise does not comply with the Contract provided that it does not exclude the cost of making good any loss or damage to any other part of the Works attributable to such defect or non-compliance,
- (b) indirect or consequential loss of damage including any reductions in the Contract Price for delay,
- (c) wear and tear, shortages and theft, or
- (d) risks relating to vehicles for which third party or other insurance is required by law.

### **43.7 Remedies on the Contractor's Failure to Insure**

If the Contractor fails to produce evidence of insurance cover as stated in Sub-Clause 43.5 (a) then the Employer may effect and keep in force such insurance. Premiums paid by the Employer for this purpose shall be deducted from the Contract Price.

### **43.8 Amounts not Recovered**

Any amounts not recovered from the insurers shall be borne by the Employer or Contractor in accordance with their responsibilities under Clause 37.

## **Force Majeure**

### **44.1 Definition of Force Majeure**

Force Majeure means any circumstances beyond the control of the parties, including but not limited to:

- (a) war and other hostilities, (whether war be declared or not), invasion, act of foreign enemies, mobilization, requisition or embargo,
- (b) ionising radiation or contamination by radio-activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radio-active toxic explosives, or other hazardous properties of any explosive nuclear assembly or nuclear components thereof,
- (c) rebellion, revolution, insurrection, military or usurped power and civil war,
- (d) riot, commotion or disorder, except where solely restricted to employees of the Contractor.

### **44.2 Effect of Force Majeure**

Neither party shall be considered to be in default or in breach of his obligations under the Contract to the extent that performance of such obligations is prevented by any circumstances of Force Majeure which arise after the date of the Letter of Acceptance or the date when the Contract becomes effective, whichever is the earlier.

### **44.3 Notice of Occurrence**

If either party considers that any circumstances of Force Majeure have occurred which may affect performance of his obligations he shall promptly notify the other party and the Engineer thereof.

### **44.4 Performance to Continue**

Upon the occurrence of any circumstances of Force Majeure the Contractor shall endeavour to continue to perform his obligations under the Contract so far as reasonably practicable. The Contractor shall notify the Engineer of the steps he proposes to take including any reasonable alternative means for performance which is not prevented by Force Majeure. The Contractor shall not take any such steps unless directed so to do by the Engineer.

### **44.5 Additional Costs caused by Force Majeure**

If the Contractor incurs additional costs in complying with the Engineer's directions under Sub-Clause 44.4, the amount thereof shall be certified by the Engineer and added to the Contract Price.

#### **44.6 Damage Caused by Force Majeure**

If in consequence of Force Majeure the Works shall suffer loss or damage the Contractor shall be entitled to have the value of the work done, without regard to the loss or damage that has occurred, included in a Certificate of Payment.

#### **44.7 Termination in Consequence of Force Majeure**

If circumstances of Force Majeure have occurred and shall continue for a period of one hundred and eighty two (182) days then, notwithstanding that the Contractor may by reason thereof have been granted an extension of Time for Completion of the Works, either party shall be entitled to serve upon the other twenty eight (28) days' notice to terminate the Contract. If at the expiry of the period of twenty eight (28) days Force Majeure shall still continue the Contract shall terminate.

#### **44.8 Payment on Termination for Force Majeure**

If the Contract is terminated under Sub-Clause 44.7 the Contractor shall be paid the value of the work done.

The contractor shall also be entitled to receive:

- (a) the amounts payable in respect of any preliminary items so far as the work or service comprised therein has been carried out and a proper proportion of any such item in which the work or service comprised has only been partially carried out,
- (b) the cost of materials or goods ordered for the Works or for use in connection with the Works which have been delivered to the Contractor or of which the Contractor is legally liable to accept delivery. Such materials or goods shall become the property of and be at the risk of the Employer when paid for by the Employer and the Contractor shall place the same at the Employer's disposal,
- (c) the amount of any other expenditure which in the circumstances was reasonably incurred by the Contractor in the expectation of completing the whole of the Works,
- (d) the reasonable cost of removal of Contractor's Equipment from the Site and the return thereof to the Contractor's works in his country or to any other destination at no greater cost, and
- (e) the reasonable cost of repatriation of the Contractor's staff and workmen employed wholly in connection with the Works at the date of such termination.

#### **44.9 Release from Performance**

If circumstances of Force Majeure occur and in consequence thereof under the law governing the Contract the parties are released from further performance of the

Contract, the sum payable by the Employer to the Contractor shall be the same as that which would have been payable under Sub-Clause 44.8 if the Contract had been terminated under Sub-Clause 44.7.

#### **44.10 Force Majeure Affecting Engineer's Duties**

The provisions of Clause 44 shall also apply in circumstances where the Engineer is prevented from performing any of his duties under the Contract by reason of Force Majeure.

#### **Default**

##### **45.1 Notice of Default**

If the Contractor is not executing the Works in accordance with the Contract or is neglecting to perform his obligations thereunder so as seriously to affect the carrying out of the Works, the Engineer may give notice to the Contractor requiring him to make good such failure or neglect.

#### **45.2 Contractor's Default**

If the Contractor:

- (a) has failed to comply within a reasonable time with a notice under SubClause 45.1, or
- (b) assigns the Contract or subcontracts the whole of the Works without the Employer's written consent, or
- (c) becomes bankrupt or insolvent, has a receiving order made against him or compounds with his creditors, or carries on business under a receiver, trustee or manager for the benefit of his creditors or goes into liquidation.

The Employer may, after having given seven (7) days notice to the Contractor, terminate the Contract and expel the Contractor from the Site.

Any such expulsion and termination shall be without prejudice to any other rights or powers of the Employer, the Engineer or the Contractor under the Contract.

The Employer may upon such termination complete the Works himself or by any other contractor.

#### **45.3 Valuation at Date of Termination**

The Engineer shall, as soon as possible after such termination, certify the value of the Works and all sums then due to the Contractor as at the date of termination in accordance with Clause 33.

#### **45.4 Payment after Termination**

The Employer shall not be liable to make any further payments to the Contractor until the Works have been completed. When the Works are so complete, the Employers shall be entitled to recover from the Contractor the extra costs, if any, of

completing the Works after allowing for any sum due to the Contractor under Sub-Clause 45.3. If there is no such extra cost the Employer shall pay any balance due to the Contractor.

#### **45.5 Effect on Liability for Delay**

The Contractor's liability under Clause 27 shall immediately cease when the Employer expels him from the Site without prejudice to any liability thereunder that may have already occurred.

#### **46.1 Employer's Default**

The Contractor may, by giving fourteen (14) days notice to the Employer and the Engineer, terminate the Contract if the Employer:

- (a) fails to pay the Contractor the amount due under any certificate of the Engineer within twenty eight (28) days after the amount became payable, or
- (b) interferes with or obstructs the issue of any certificate of the Engineer, or
- (c) becomes bankrupt or insolvent, has a receiving order made against him, compounds with his creditors, or carries on business under a receiver, trustee or manager for the benefit of his creditors or goes into liquidation, or goes into liquidation, or
- (d) consistently fails to meet his contractual obligations, or
- (e) appoints, a person to act with or in replacement of the Engineer without the Contractor's consent.

Any such termination shall be without prejudice to any other rights of the Contractor under the Contract.

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

On such termination, the Contractor shall be entitled to remove immediately all Contractor's Equipment which is on the Site.

#### **46.3 Payment on Termination for Employer's Default**

In the event of such termination the Employer shall pay the Contractor an amount calculated in accordance with Sub-Clause 44.8.

The Employer shall pay in addition the amount of any loss or damage, including loss of profit which the Contractor may have suffered in consequence of termination. The additional amount shall, however, not exceed the limit specified in the Preamble.

### **Change in Cost and Legislation**

#### **47.1 Labour, Materials and Transport**

Where the Contract Price is to be adjusted for changes in the cost of labour, materials, transport or other costs of execution of the Works, the method for calculating such adjustment shall be specified in the Preamble.

When calculating the adjustment no account shall be taken of any increased cost which results from the Contractor's default or negligence.

## **47.2 Statutory and Other Regulations**

The Contract Price shall be adjusted to take account of any increase or decrease in cost resulting from changes in legislation of the country where the Site is located or in its generally accepted interpretation.

Legislation means any law, order, regulation or bye-law having the force of law, which affects the Contractor in the performance of his obligations under the Contract, made after the date 28 days prior to the latest date for submission of tenders for the Works.

The Engineer shall certify the amount of the resulting increase or decrease in cost, which shall be added to or deducted from the Contract Price.

## **Customs**

### **48.1 Customs and Import Duties**

Unless otherwise stated in Part II the Employer shall pay all customs, import duties and taxes in consequence of the importation of Plant. If the Contractor is required to pay such customs, import duties and taxes, the Employer shall not reimburse the amount thereof.

### **48.2 Clearance through Customs**

The Employer shall assist the Contractor in obtaining clearance through the customs of all Plant and Contractor's Equipment and in procuring any necessary government consent to the re-export of Contractor's Equipment when it is removed from the Site.

## **Notices**

### **49.1 Notices to Contractor**

All certificates, notices or written orders to be given to the Contractor by the Employer or the Engineer under these Conditions shall be sent by airmail post, cable, telex or facsimile transmission to or left at the Contractor's principal place of business or such other address as the Contractor shall nominate for that purpose, or may be handed over to the Contractor's representative.

### **49.2 Notice to Employer and Engineer**

Any notice to be given to the Employer or to the Engineer under these Conditions shall be sent by airmail post, cable, telex or facsimile transmission to or left at the respective addresses nominated for that purpose in the Preamble, or handed over to the Engineer's or the Employer's representative authorized to receive it.

### **49.3 Minutes of Meetings**

Instructions or notices to the Contractor and notices from the Contractor to the Engineer or the Employer recorded in a minute or protocol signed by the authorized representatives of the giver and recipient of such notice or instruction shall be valid notice or instruction for the purposes of the Contract.

## **Disputes and Arbitration**

### **50.1 Disputes concerning Engineer's Decisions**

If either party is dissatisfied with a decision or instruction of the Engineer as confirmed, reversed or varied in accordance with Clause 2 he may refer the matter to arbitration pursuant to Sub-Clause 50.2.

Unless the dissatisfied party has notified the other party and the Engineer within fifty six (56) days of such decision or instruction of his intention to refer the matter to arbitration, he shall be deemed to have accepted the decision as final.

Reference to arbitration shall not relieve the Contractor of his obligation to proceed with the Works in accordance with the Engineer's decision or instruction, nor relieve the Employer of any of his obligations under the Contract.

The Contractor shall in any such arbitration be at liberty to rely on reasons additional to the reasons stated in the notice given under Sub-Clause 2.7.

### **50.2 Arbitration**

If at any time any question, dispute or difference shall arise between the Employer and the Contractor in connection with or arising out of the Contract or the carrying out of the Works either party shall be entitled to refer the matter to be finally settled by arbitration in accordance with the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with those Rules, or by arbitration in accordance with such other rules as are specified in Part II.

The Arbitrators(s) shall have full power to open up, review and revise:

- (a) any decision or instruction of the Engineer referred to arbitration pursuant to Sub-Clause 50.1, and
- (b) any certificate of the Engineer related to the dispute.

### **50.3 Works to Continue**

Performance of the Contract shall continue during arbitration proceedings unless the Employer shall order suspension. If any such suspension is ordered the reasonable costs incurred by the Contractor and occasioned thereby shall be added to the Contract Price.

No payments due or payable by the Employer shall be withheld on account of pending reference to arbitration.

#### **50.4 Time Limit for Arbitration**

Formal notice of arbitration must be given to the other party, and where required to the appropriate arbitration body, no later than eighty four (84) days after the issue of the Final Certificate of Payment

##### **Law and Procedure**

#### **51.1 Applicable Law**

The law which is to apply to the Contract and under which the Contract is to be construed is stated in the Preamble.

#### **51.2 Procedural Law**

The law governing the procedure and administration of any arbitration instituted pursuant to Clause 50 is stated in the Preamble.

#### **51.3 Language**

The language and place of the arbitration are stated in the Preamble.

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## EDITORIAL AMENDMENTS

Following publication of the Third Edition of the Conditions of Contract for Electrical and Mechanical Works in 1987, a number of editorial amendments were agreed by FIDIC. The amendments have been incorporated during reprinting and the list below clarifies the differences between this copy and the original document.

Page 1	The following additional text has been inserted:
Commencement date	Sub-Clause 1.1.1.(i) The date for commencement of the Works is <hr/>
Page 2	Sub-Clause 36.4(b) was previously Sub-Clause 36.4 The word 'Sums' following ' shall be' has been deleted.
Page 8	Sub-Clause 2.7. The missing letter 'D' has been inserted in 'Disputing' (margin note.)
Page 33	Sub-Clause 44.8(b). The word 'Contractor' on the last line was previously 'Contract'.
Page 35	Sub-Clause 49.3. The word 'or' between 'minute' and 'protocol' was previously 'of'.
Index, page (i)	The words 'Adverse physical conditions and artificial obstructions' have been deleted.
Index, page (v)	The word 'adverse' has been deleted after 'Physical conditions'.
Contract Agreement	The word 'Agreement' in the title has been capitalised.
Line 4	Inverted commas have been inserted after 'Employer'.
Line 6	Inverted commas have been inserted before the word 'the' and deleted before the word 'Contractor'.
Line 7	The comma following the word 'executed' has been deleted.
Line 15	Inverted commas have been inserted before the word 'the' and deleted after the word 'the'.
Item 4, line 2	The word 'defects' was previously 'defect'.
Item 4, line 3	The words 'become' was previously 'be come'.

- Item 5, line 1            The words 'and statutes or constitutions' have been inserted after the word 'laws'.
- Item 5, line 2            The words 'by their duly authorized signatories' have been inserted after the word 'hereof'.
- Item 5                    The remaining text of the original document has been deleted and is replaced by:

'Binding Signatures(s) on behalf of the Employer \_\_\_\_\_, and

'Binding Signatures(s) on behalf of the Contractor \_\_\_\_\_,

**PART II**  
**PARTICULAR CONDITIONS OF**  
**CONTRACT**

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

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

These Conditions of Particular Application Part-II are additions, deletions and amendment to General Conditions of Contract Part-I. Clause Nos., if similar as of Part-I are amendments therein otherwise these are additional clauses or sub-clauses thereto.

This Contract is a single responsibility EPC/ Turnkey Lump-Sum fixed price Contract for all the purposes. Any mentions or descriptions and intents in this Contract Agreement which are contrary to the spirit of EPC/Turnkey Lump-Sum fixed price Contract shall be ignored.

### **1.1 Definitions**

The text of Sub-Clause 1.1.1 is deleted and substituted by the following:

“Commencement Date” means the date specified in the Preamble to Conditions of Contract.

The text of Sub-Clause 1.1.2 is deleted and substituted by the following:

“Conditions” means the Preamble to Conditions of Contract, General Conditions of Contract (GCC) and Particular Conditions of Contract (PCC).

#### **Sub-Clause 1.1.3**

At the end of Sub-Clause, the following is added:

“Any subsequent document mutually agreed and signed by the Employer and the Contractor, shall be the part of the Contract.”

#### **Sub-Clause 1.1.5**

The text of Sub-Clause 1.1.5 is deleted and substituted by the following:

“Contract Price” means the sum stated in the Letter of Acceptance as payable to the Contractor for the design, execution and completion of the Works subject to such additions thereto or deductions therefrom as may be made under the provisions hereinafter contained and remedying of any defects therein in accordance with the provisions of the Contract”.

#### **Sub-Clause 1.1.11**

The Defects Liability Period is the period mentioned in the Preamble to Conditions of Contract.

#### **Sub-Clause 1.1.15**

The following is added at the beginning of this Sub-Clause:

“For the purpose of this EPC/ Turnkey Contract, based on two party agreement, the term Project Manager/Engineer is construed as The Engineer. The Engineer is a Person appointed by the Employer to act on behalf of the Employer for the purpose of the Contract as indicated in GCC Sub-Clause 1.1.15.” Project Manager/ Engineer will be read as the Engineer wherever appear for this document unless specified otherwise.

The following is added at the end of the Sub-Clause:

“or any other competent person appointed by the Employer as his replacement.”

### **Sub-Clause 1.1.23**

The following paragraph is added:

The word “Good” is synonymous with the word “Plant”.

The text of **Sub-Clause 1.1.27** is deleted and substituted by the following:

“Schedule of Prices” means the completed and priced Schedule of Prices, or any part or individual schedule thereof, submitted by the Contractor with his Bid or revised and mutually agreed and forming a part of the Contract Documents.

### **Add the following at the end of Sub-Clause 1.1.33:**

The word “Tender” is synonymous with the word “Bid” and the word “Tender Documents” with “Bidding Documents” including technical bid is also part of it.

The following new Sub-Clauses 1.1.38 to 1.1.49 are added:

**1.1.38 “Month”** means calendar month according to Gregorian calendar.

**1.1.39 “Operation and Maintenance Manuals”** has the meaning described in Sub-Clause 6.6.”

**1.1.40 “Warranty Certificate”** means the certificate against specified goods/equipment, for the period mentioned in the Preamble to Conditions of Contract, to be issued by the Contractor that the goods/equipment supplied under the Contract are new, unused and incorporate all recent improvements in design and materials unless provided otherwise in the Contract and that the Contractor will be responsible for making good or replacing any defective goods/equipment during the Warranty Period specified in the Preamble to Conditions of Contract which shall commence after expiry of Defect Liability Period.

### **Sub-Clause 1.1.41**

The word “Part II” wherever appearing in FIDIC Conditions of Contract is synonymous with the words “Particular Conditions of Contract”.

### **Sub-Clause 1.1.42**

The words “Local Goods” is synonymous with the words “Indigenous Goods” and the word “Installation” with “Erection”.

### **Sub-Clause 1.1.43**

“EPC/ Turnkey Basis” means where the Contractor takes total responsibility for design and execution of the project with little involvement of the Employer. Under the usual arrangements of turnkey projects the contractor carries out all the Engineering, Procurement and Construction (EPC) providing a fully equipped facility ready for operation.

Total responsibility of the Contractor include; but not limited to; design, supply, installation and commissioning of all mechanical and electrical equipment, civil and other works necessary for the completion and operation of the Plant and shall include all such items of Plant and equipment or work, whether mentioned in the Specifications, Bid drawings, Schedule of Prices or not, which are required to make the Plant operationally complete in accordance with the guarantees prescribed under the Contract.

### **Sub-Clause 1.1.44**

“Constructional Plant” means all appliances or things of whatsoever nature (other than Temporary Works) required for execution and completion of the Works and the remedying of any defects therein but does not include Plant, materials or other things intended to form or forming part of Permanent Works. The word “Constructional Plant” is synonymous with “Contractor’s Equipment”.

**Sub-Clause 1.1.45**

“Contractor’s Agent” means the person for the time being or from time to time appointed by the Contractor pursuant to the provisions of Clause 13. The word “Contractor’s Agent” is synonymous with “Contractor’s Representative”.

**Sub-Clause 1.1.46**

“Performance Tests” means tests intended to demonstrate the attainment of guaranteed contract performance to be conducted in accordance with the requirement of the Specifications.

**Sub-Clause 1.1.47**

“Reliability Test” means such test or tests as are provided for in the Contract, or as may be agreed upon, which shall be successfully completed as a pre-requisite to Taking Over.

**Sub-Clause 1.1.48**

“Temporary Works” means all temporary works of every kind (other than Contractor’s Equipment) required in or about the execution and completion of the Works and the remedying of any defects therein.

**Sub-Clause 1.1.49**

“Permanent Works” means the permanent works to be executed (including Plant) in accordance with the Contract.

**Sub-Clause 1.6 Costs, Overhead Charges and Profit**

The Clause is deleted in its entirety.

**Sub-Clause 2.1 The Engineer’s Duties**

The text of Sub-Clause 2.1 is deleted and substituted by the following:

“The Engineer shall carry out the duties specified in the Contract.

The Engineer may exercise the authority attributable to the Engineer as specified in or necessarily to be implied from the Contract. The Engineer is required to obtain the specific approval of the Employer before carrying out his duties in accordance with the following Clauses of General Conditions of Contract (GCC):

- (a) approval of Subcontractor under Sub-Clause 4.1,
- (b) Certifying additional sums under Sub-Clause 5.4,
- (c) Any action under Clause 10 “Performance Security”.
- (d) certifying additional costs under Sub-Clauses 11.3 & 12.3,

- (e) Certifying any cost under Sub-Clause 14.6,
- (f) Any action under Clause 24.2 "Suspension".
- (g) approval of extension of time under Clause 26,
- (h) issuing a Taking-Over Certificate under Sub-Clause 29,
- (i) issuing a Defects Liability Certificate under Sub-Clause 30.11,
- (j) issuing a Variation Order under Clause 31,
- (k) fixing rates or prices under Clauses 31 and 34,
- (l) Issuance of "Final Payment Certificate" under Sub-Clause 33.10.
- (m) Any change in the ratios of Contract currency proportions and payments thereof under Clause 35.3 "Currency and Rate of Exchange".
- (n) certifying additional costs under Sub-Clause 44.5 and
- (o) certifying additional costs under Sub-Clause 47.2;

Except for such variations pursuant to Sub-Clause 31.1 of the GCC which may be necessary in an emergency affecting safety of life, the Works or of adjoining property.

Except as expressly stated in the Contract, the Engineer shall have no authority to relieve the Contractor of any of his obligations under the Contract."

The following provisions shall also apply;

#### **Sub-Clause 2.6 Confirmation in Writing**

- (i) In line 3 after the words "undue delay" the following is added:

"but not after the number of days mentioned in the Preamble to Conditions of Contract from the instruction or decision".

- (ii) At the end of Sub-Clause 2.6, the following is added:

"The Engineer shall confirm or otherwise within the period mentioned in the Preamble to Conditions of Contract from the receipt of requirement(s) from the Contractor".

#### **Sub-Clause 2.8 Replacement of Project Manager/Engineer**

The text of Sub-Clause 2.8 is deleted in its entirety and substituted by the following:

"If the Employer intends to replace the Project Manager of Contractor, the Employer shall, not less than fourteen (14) days before the intended date of replacement, give notice to the Contractor, of the name, address and relevant experience of the intended replacement of Project Manager.

The Employer shall not replace the Engineer with a person against whom the Contractor raises reasonable objection by notice to the Employer, with supporting particulars."

The following new Sub-Clause 2.9 is added:

### **Sub-Clause 2.9 Project Manager/Engineer Not Liable**

Approval, reviews and inspection by the Engineer of any part of the Works does not relieve the Contractor from his sole responsibility and liability for the supply of remaining materials and equipment for the Works and parts thereof and complete the remaining erection works and testing and commissioning in accordance with the Contract and neither the Engineer's authority to act nor any decision made by him in good faith as provided for under this Contract whether to exercise or not to exercise such authority shall give rise to any duty or responsibility of the Engineer of the Contractor, any Subcontractor, any of their representatives or employees or any other person performing any of the Works."

The following new Sub-Clause 4.2 is added:

### **Sub-Clause 4.2 No Contractual Relation between Subcontractor and the Employer**

Nothing contained in the Contract Documents shall create any contractual relation between any Subcontractor and the Employer." unless mutually agreed.

### **Sub-Clause 5.3 Priority of Contract Documents**

The text of Sub-Clause 5.3 is deleted and substituted by the following:

"Unless otherwise provided in the Contract, the priority of the Contract Documents shall be as follows:

1. The Contract Agreement (if completed)
2. The Letter of Acceptance
3. The Specification - Special Provision
4. Preamble to Conditions of Contract
5. The Particular Conditions of Contract
6. The General Conditions of Contract
7. The priced Schedule of Prices
8. The completed Letters of Technical and Price Bids
9. The completed Schedules to Bid (A to L)
10. The Drawings
11. Specifications - Technical Provisions
12. Any other document forming part of the Contract.

In case of discrepancies between drawings, those of larger scale shall govern unless they are superseded by drawing(s) of a later date regardless of scale. All drawings and specifications shall be interpreted in conformity with the Contract Agreement and these conditions."

#### **Sub-Clause 5.4 Documents Mutually Explanatory**

The text appearing in the last line after the words “the Contract Price” is deleted and the following text is added:

“The Technical Specifications are taken to be correct, but complete accuracy is not guaranteed. Any error or ambiguity must be reported to the Employer and the Engineer before starting the work affected. In the event of any dispute arising as to the true intended meaning of Technical Specification, the Engineer shall interpret the same and his interpretation shall be accepted as final and binding upon all parties concerned.”

#### **Sub-Clause 6.2 Consequences of Disapproval of Contractor's Drawings**

Full stop in the last line is deleted and the following words are added at the end of the Sub Clause:

“for the approval of the Engineer. However, the Contractor shall not be entitled for time extension on this account”.

#### **Sub-Clause 6.6 Operation and Maintenance Manuals**

Paras 2 & 3 are deleted and the following text is added at the end of Para 1 of Sub-Clause:

“The Operation and Maintenance Manuals shall include full instructions for the operation, servicing and maintenance of the Plant, not only during the period of the Contractor's liability but more particularly during its operating life.

The directions shall be set out simply, clearly and systematically. This may be divided into two volumes if desirable, one for operation and the second for servicing and maintenance (in sub-volumes for major items of Plant).

The operational data shall include a complete physical and functional description of the Plant (in sub-volumes for major items of Plant) and step-by-step procedures for inspection, checking and adjustments for proper operation of the Plant.

The maintenance data shall include complete instructions for routine checks, servicing, maintenance and repair of all parts and for dismantling, handling and re-assembly of all equipment, sub-assemblies and all separate components. The maintenance data shall also include where possible parts catalogues. The lists shall provide all necessary information for identifying the parts and for re-ordering the parts including name of part, part number and catalogue references where applicable, name of manufacturer, size, capacity and other characteristics .

General arrangements, single line diagrams and detailed drawings shall be provided for ready reference in the operation and maintenance instructions.

The manuals shall be printed on ISO paper size A4 (210x297 mm) with offset or equivalent printing strongly bound in a durable stiff cover bearing the title in approved legend. Drawings shall be folded or reduced to 297 mm height. All volumes shall bear on the spine an approved shortened version of the title.

The Contractor shall submit three (3) draft copies for approval of the Engineer prior to producing finished volumes.

The Contractor shall provide six (6) copies of the approved Operation and Maintenance Manuals and as-built drawings along with soft copies, prior to Taking Over by the Employer. Supplementary Operation and Maintenance Manual shall be provided by the Contractor, if

required, to incorporate changes resulting from experience during the operation and maintenance period. The work shall not be considered to be completed for the purpose of taking over until such manual and drawings have been supplied to the Employer.”

#### **Sub-Clause 6.9 Manufacturing Drawings**

The words “Unless otherwise specified in Part-II” are deleted and the following is added at the end of Sub-Clause:

“However, the Contractor is required to disclose to the Engineer or the Employer any confidential information necessary to justify the reliability, the efficiency and the operation and maintenance of the Plant supplied by him.”

The following new Sub-Clauses 6.10 and 6.11 are added:

#### **Sub-Clause 6.10 “As–Built” Drawings**

The Contractor shall furnish to the Engineer six (6) copies and one (1) reproducible of approved quality of all “As–Built” drawings within the period mentioned in the Preamble to Conditions of Contract. Soft copies of all drawings shall also be provided.

#### **Sub-Clause 6.11 Shop Drawings**

The Contractor shall submit to the Engineer for review three (3) copies of all shop and site erection work drawings in 1:4 scale seeking approval of the Engineer.

Review and approval by the Engineer shall not be construed as a complete check but will indicate only that the general method of construction and detailing is satisfactory and that the Engineer’s review or approval shall not relieve the Contractor of any of his responsibilities under the Contract.”

#### **Sub-Clause 8.1 General Obligations**

The text of Sub-Clause 8.1 is deleted and substituted by the following:

- “(a) The Contractor shall commence the work on the date specified in the Preamble to Conditions of Contract and shall proceed with the same with due expedition and without delay.
- (b) The Contractor shall, in accordance with the Contract, with due care and diligence, complete the Works and test and commission the Plant and carry out the Works within the Time for Completion. The Contractor shall also provide all necessary Contractor’s Equipment, superintendence, labour and except as stated herein below, all necessary facilities therefor.

The Employer will permit use of the Erection and Testing Equipment and Maintenance Tools as given in the Preamble to Conditions of Contract.

The above facilities shall be provided at no cost to the Contractor but he shall procure at his cost all required consumable materials and any other items necessary for the proper execution of the Works. These shall be properly used and maintained by the Contractor and returned to the Employer upon handing over of the Works in good condition, fair wear and



tear excepted. In case of any damage, loss or theft, the items shall be replaced by the Contractor at his own cost.”

#### **Sub-Clause 9.1 Contract Agreement**

In line two of Clause 9.1 General Condition of Contract Part-I replace the words “at the cost of the Employer” with “at the cost of the Contractor” and add the following sub paragraphs at the end:

The Contract Agreement would be made on stamp paper of an appropriate value liveable under the law. Cost of stamp duty would be borne by the Contractor.

The Contractor shall at his own cost submit to the Employer photocopies of Four (4) sets and to the Engineer two (2) sets of the Contract Documents in bound form, duly initialled and stamped by the Employer, and the Contractor for the use of the Employer and the Engineer. Such submission shall be made within seven (7) days of signing of the Contract Agreement by the Employer and Contractor.

#### **Sub-Clause 10.1 Performance Security**

The text of Sub-Clause 10.1 is deleted and substituted by the following:

The Contractor shall provide Performance Security to the Employer in the prescribed form. The said Security shall be furnished by the Contractor within 28 days after the receipt of the Letter of Acceptance. The Performance Security shall be of an amount equal to 5% of the Contract Price stated in the Letter of Acceptance. Such Security shall, at the option of the bidder, be in the form of either (a) bank guarantee from any Scheduled Bank in Pakistan or (b) bank guarantee from a bank located outside Pakistan duly counter-guaranteed by a Scheduled Bank in Pakistan. The cost of complying with requirements of this Sub-Clause shall be borne by the Contractor.

#### **Sub-Clause 10.3 Claims under Performance Security**

Sub-Clause 10.3 is deleted in its entirety.

The following new Sub Clause 10.4 is added:

#### **Sub-Clause 10.4 Performance Security Binding on Variations and Changes**

“The Performance Security shall be binding irrespective of variations and changes in the quantities of the Works or extensions in completion time of the Works, which are granted or agreed upon under the provisions of the Contract.”

#### **Sub-Clause 11.1 Site Data**

The following paragraphs are added at the end of Sub-Clause:

“The Contractor shall satisfy himself as to the nature of the ground, the hydrological and climatic conditions, the form and nature of the Site, the quantities and nature of the Work

and materials necessary for the completion of the Works, and the means of access to the Site, the accommodation he may require and in general shall himself obtain all necessary information as to risks, contingencies, and other circumstances which may influence or affect his Bid.

The Employer does not guarantee the correctness of any data/information/drawings either verbal and/or written provided herein nor any interpretations, deductions or conclusions relative to conditions at Site. The Contractor must form his own opinion of the character of the work and of the materials to be excavated etc. He must make his own interpretations, and satisfy himself by his own investigations and research regarding all conditions affecting the work to be done. The Contractor must assume all responsibility for deductions and conclusions as to the nature or conditions of the materials to be excavated and of doing other work affected by the geology at the Site.”

#### **Sub-Clause 12.1 Programme to be Furnished**

(1) The text of Sub-Clause 12.1(a) is deleted and substituted by the following:

“(a) the order in which the Contractor proposes to carry out the Works (including preliminaries, required material ordering, delivery to Site, construction, erection and rectifications work, testing, commissioning of the Plant including design and construction of associated civil works and taking-over by the Employer). The programme on critical activity based format and resource planning schedule shall be prepared. The programme shall also include the following:

- (i) Employment of local and expatriate labour of various categories;
- (ii) Local material procurement; and
- (iii) Material imports, if any.”

(2) The text of Sub-Clause 12.1(c) is deleted and substituted by the following:

(3) The second last sentence of Sub-Clause 12.1 is deleted and substituted by the following:

“The programme is to be furnished by the Contractor along with performance security before signing of contract upto the satisfaction of the Client/Consultant.

#### **Sub-Clause 12.2 Programme**

Existing text is replaced with following:-

The Contractor shall submit the programme of work before issuance of Letter of Acceptance on bar chart and primavera (level III). The Contractor must also attach monthly progress schedule in terms of Percentage of project as described in Appendix-E to Bid (BE-1) which will be considered as “Scheduled Progress”.

The approval by the Engineers of the programme shall not relieve the Contractor or the Employer from any obligation under the contract.

The Contractor shall submit the programme of work within 14 days of date of issuance of Letter of Acceptance.

The approval by the Engineers of the programme shall not relieve the Contractor or the Employer from any obligation under the contract.

The following new Sub-Clauses 12.4 and 12.5 are added:

**Sub-Clause 12.4 Monthly Progress Report**

During the period of the Contract, the Contractor shall submit six (6) sets of monthly progress report to the Engineer not later than the 8<sup>th</sup> day of each month including:

- (i) a construction schedule indicating the progress achieved during the preceding month;
- (ii) description of all work carried out since the last report;
- (iii) description of the work planned for the next forty-two (42) days sufficiently detailed to enable the Engineer to determine his programme of inspection and testing; (iv) summary of daily job record for the preceding month; (v) colour digital photographs to illustrate progress.

**Sub-Clause 12.5 Daily Job Record**

“During the period of the Contract, the Contractor shall keep a daily record of the work progress, which shall be made available to the Engineer as and when requested.

The daily record shall include particulars of weather conditions, number of men working in different categories, deliveries of materials, quantity, location and assignment of equipment.”

**Sub-Clause 13.1 Contractor's Representative**

At the end of the Sub-Clause, the following is added:

“The Contractor's Representative shall be a competent and skilled person approved by the Engineer (which approval may at any time be withdrawn). He shall be present on the Site during all working hours and shall not be transferred from the Site without the consent of the Engineer. The Project Manager of Contractor shall be registered with PEC with 15 years overall experienced of related work.”

The following new Sub-Clauses 13.3 and 13.4 are added:

**Sub-Clause 13.3 Language Ability of Superintending Staff of Contractor**

A reasonable proportion of the Contractor's superintending staff shall have a working knowledge of the English language.

**Sub-Clause 13.4 Employment of Local Personnel**

“The Contractor shall, to the extent practicable and reasonable, employ staff and labour from sources within Pakistan.”

#### **Sub-Clause 14.1 Contractor's Equipment**

Replace the word “or” at the end of Sub-paragraph (a) by “and” and insert the following at the end of Sub-paragraph (b): “which shall not be unreasonably withheld.”

#### **Sub-Clause 14.2 Safety Precautions**

At the end of the Sub-Clause, the following is added:

“In order to provide for the safety, health and welfare of persons, and for prevention of damage of any kind, all operations for the purposes of or in connection with the Contract shall be carried out in compliance with the safety requirements of the Government of Pakistan with such modifications thereto as the Engineer may authorize or direct and the Contractor shall take or cause to be taken such further measures and comply with such further requirements as the Engineer may determine to be reasonably necessary for such purpose.

The Contractor shall make, maintain, and submit reports to the Engineer concerning safety, health and welfare of persons and damage to property as the Engineer may from time to time prescribe.”

#### **Sub-Clause 14.3 Electricity, Water and Gas**

The text of Sub-Clause 14.3 is deleted and substituted by the following:

“The Contractor shall be responsible for making his own arrangements for the adequate supply of electricity, water and gas required for the effective performance of his obligations under the Contract. Subject to the aforesaid, the Contractor shall be entitled to use for the purposes of the Works such supplies and services as may be available on the Site. The Contractor shall, before the commencement of the work at Site, seek the approval of the Engineer as to his detailed requirements of electricity, water and gas for the entire Contract period. The Contractor shall pay the Employer at the rates/cost incurred by the Employer. The Contractor shall at his own cost provide any apparatus necessary for such use”. The contractor will bear the cost of distribution network for electricity, potable water, telephone, gas and their consumption by his own personnel for the purpose of the work.”

#### **Sub-Clause 14.4 Employer's Equipment**

The text of Sub-Clause 14.4 is deleted and substituted by the following:

“The Employer shall, if the Contractor so requests for the execution of the works, operate any available equipment of which details are given in the Preamble to Conditions of Contract. The Contractor shall pay the Employer a mutually agreed price for such use.

The Employer shall during such operation retain control of and be responsible for the safe working of the equipment.”

#### **Sub-Clause 14.8 Information for Import Permits & Licenses**

The text of Sub-Clause 14.8 is deleted and substituted by the following:

“The Contractor shall submit to the Employer in good time such details of all Plant and Contractor's Equipment to be imported into Pakistan and identify as to what assistance of the Employer is required for obtaining by the Contractor of all necessary import permits or licenses. However, all costs to be incurred in this regard shall be borne by the Contractor”.

#### **Sub-Clause 15.2 Compliance with Laws**

The text of Sub-Clause 15.2 is deleted and substituted by the following:

“The Contractor shall comply with the Laws of country of manufacture and the Laws of Pakistan where the Plant is to be erected”.

The following new Sub-Clauses 16.4, 16.5 and 16.6 are added:

#### **Sub-Clause 16.4 Photographs of Works and Advertisement Prohibited**

Except with the prior written authorization of the Employer the Contractor shall not exhibit or permit to be exhibited any photographs or advertisement on the Works. Any authorized exhibition shall be immediately removed if the Employer so requires.

#### **Sub-Clause 16.5 Training of Employer's/Consultant's Staff**

The Contractor shall provide such facilities for the training of such numbers of Pakistani engineers, engineering students, apprentices and trade apprentices on such sections of the Works at the Site or on the Contractor's premises or Contractor selected plant manufacturer's premises and factories, or wherever else work is in hand, as specified or directed by the Engineer.

The language of training at the above stated premises shall be English and Urdu.”

#### **Sub-Clause 16.6 Design**

##### **Sub-Clause 16.6.1 General Design Obligations**

The Contractor shall be deemed to have scrutinized, prior to the Base Date, the Employer's Requirements (including design criteria and calculations, if any). The Contractor shall be responsible for the design of the Works and for the accuracy of such Employer's Requirements (including design criteria and calculations), except as stated below.

The Employer shall not be responsible for any error, inaccuracy or omission of any kind in the Employer's Requirements as originally included in the Contract and shall not be deemed to have given any representation of accuracy or completeness of any data or information, except as stated below. Any data or information received by the Contractor, from the Employer or otherwise, shall not relieve the Contractor from his responsibility for the design and execution of the Works.

However, the Employer shall be responsible for the correctness of the following portions of the Employer's Requirements and of the following data and information provided by (or on behalf of) the Employer:

- (a) portions, data and information which are stated in the Contract as being immutable or the responsibility of the Employer,
- (b) definitions of intended purposes of the Works or any parts thereof,
- (c) criteria for the testing and performance of the completed Works, and
- (d) portions, data and information which cannot be verified by the Contractor, except as otherwise stated in the Contract.

#### **Sub-Clause 16.6.2 Contractor's Documents**

The Contractor's Documents shall comprise the technical Documents specified in the Employer's Requirements, Documents required to satisfy all regulatory approvals.

The Contractor shall prepare all Contractor's Documents, and shall also prepare any other documents necessary to instruct the Contractor's Personnel.

If the Employer's Requirements describe the Contractor's Documents which are to be submitted to the Employer for review, they shall be submitted accordingly, together with a notice as described below. In the following provisions of this sub-clause, (i) "review period" means the period required by the Employer for review, and (ii) "Contractor's Documents" exclude any documents which are not specified as being required to be submitted for review.

Unless otherwise stated in the Employer's Requirements, each review period shall not exceed 21 days, calculated from the date on which the Employer receives a Contractor's Document and the Contractor's notice. This notice shall state that the Contractor's document is considered ready, both for review in accordance with this Sub-Clause and for use. The notice shall also state that the Contractor's Document complies with the Contract, or the extent to which it does not comply.

The Employer may, within the review period, give notice to the Contractor that a Contractor's Document fails (to the extent stated) to comply with the Contract. If a Contractor's Document so fails to comply, it shall be rectified, resubmitted and reviewed in accordance with this Sub-Clause, at the Contractor's cost.

For each part of the Works, and except to the extent that the Parties otherwise agree:

- (a) execution of such part of the Works shall not commence prior to the expiry of the review periods for all the Contractor's Documents which are relevant to its design and execution;
- (b) execution of such part of the Works shall be in accordance with these Contractor's Documents, as submitted for review; and
- (c) if the Contractor wishes to modify any design or Documents which has previously been submitted for review, the Contractor shall immediately give notice to the Employer. Thereafter, the Contractor shall submit revised Documents to the Employer in accordance with the above procedure.

Any such agreement (under the preceding paragraph) or any review (under this Sub-Clause or otherwise) shall not relieve the Contractor from any obligation or responsibility.

### **Sub-Clause 16.6.3. Contractor's undertaking**

The Contractor undertakes that the design, the Contractor's Documents, the execution and the completed Works will be in accordance with:

- (a) the laws in the country, and
- (b) the Documents forming the Contract, as altered or modified by variations.

### **Sub-Clause 16.6.4. Technical Standards and Regulations**

The design, the Contractor's Documents, the execution and the completed Works shall comply with the Country's technical standards, building, construction and environmental laws, laws applicable to the product being produced from the Works, and other standards specified in the Employer's Requirements, applicable to the Works, or defined by the applicable laws.

All these laws shall, in respect of the Works and each section, be those prevailing when the Works or section are taken over by the Employer. (References in the Contract to published standards shall be understood to be references to the edition applicable on the Base Date, unless stated otherwise.

If changed or new applicable standards come into force in the Country after the base date, the Contractor shall give notice to the Employer and (if appropriate) submit proposals for compliance. In the event that:

- (a) the Employer determines that compliance is required, and
- (b) the proposals for compliance constitute a variation,

Then the Employer shall initiate a Variation in accordance with clause 31.2.

### **Sub-Clause 16.6.5. Training**

The Contractor shall carry out the training of Employer's personnel in the operation and maintenance of the Works to the extent specified in the Employer's Requirements. If the Contract specified training which is to be carried out before taking-over, the Works shall not be considered to be completed for the purposes of taking-over under sub-clause 29.1 until this training has been completed.

### **Sub-Clause 16.6.6. As-Built Documents**

The Contractor shall prepare, and keep up-to-date, a complete set of "as built" records of the execution of the Works, showing the exact as-built locations, sizes and details of the work as executed. These records shall be kept on the site and shall be used exclusively for the purposes of this sub-clause. Two copies shall be supplied to the Employer prior to the commencement of the Tests on completion.

In addition, the Contractor shall supply to the Employer as-built drawings of the Works, showing all Works as executed, and submit them to the Employer for review. The Contractor shall obtain the consent of the Employer as to their size, the referencing system, and other relevant details.

Prior to the issue of any Taking-Over Certificate, the Contractor shall supply to the Employer the specified numbers and types of copies of the relevant as-built drawings, in accordance with the Employer's Requirements. The Works shall not be considered to be completed for the purposes of taking over under sub clause 29.1 [*Taking over of the Works and sections*] until the Employer has received these Documents.

#### **Sub-Clause 16.6.7            Operation and Maintenance Manuals**

Prior to commencement of the tests on completion, the Contractor shall supply to the Employer provisional operation and maintenance manuals in sufficient detail for the Employer to operate, maintain, dismantle, reassemble, adjust and repair the plant.

The Works shall not be considered to be completed for the purposes of taking-over under sub clause 29.1 [taking over of the Works and sections] until the Employer has received final operation and maintenance manuals in such detail, and any other manuals specified in the Employer's Requirements for these purposes.

#### **Sub-Clause 16.6.8. Design Error**

If errors, omissions, ambiguities, inconsistencies, inadequacies or other defects are found in the Contractor's design or Documents, the design and the Works shall be corrected at the Contractor's cost, notwithstanding any consent or approval under this clause.

#### **Sub-Clause 17.4 Consents and Way Leaves**

The text of Sub-Clause 17.4 is deleted and substituted by the following:

"If the Employer shall issue/ desire permissions, letters, certificates and provide such other assistance to the Contractor for his obtaining permits-to-work, way leaves and approvals from any other department/authority and right of way from private owners, if required. The Contractor will bear the cost of logistics, fees, etc. for such activities."

#### **Sub-Clause 17.5 Import Permits and Licenses**

The word "Employer" is deleted and substituted by the word "Contractor" and the following is added at the end of Sub-Clause 17.5:

"The Employer will provide assistance for this purpose."

The following new Sub-Clauses 17.6 is added:

#### **Sub-Clause 17.6 Underground Utilities discovered during Execution**

If any underground utilities found during execution of work that disturbs the work shall be relocated at the risk and cost of contractor.

#### **Sub-Clause 18.1 Engagement of Labour**

At the end of the Clause the following is added:

"in accordance with the regulations, orders and requirements of the Government of Pakistan".



The following new Sub-Clauses 18.5 to 18.16 are added:

**Sub-Clause 18.5 Employment of Persons in the Service of Others**

The Contractor shall not recruit or attempt to recruit his staff and labour from amongst the persons in the service of the Employer or the Engineer and vice-versa, unless mutually agreed between the Employer/Engineer and the Contractor.

**Sub-Clause 18.6 Alcoholic Liquor or Drugs**

The Contractor shall not, otherwise than in accordance with the statutes, Ordinances and Government Regulations or Orders for the time being in force, import, sell, give, barter or otherwise dispose of any alcoholic liquor or drugs, or permit or suffer any such importation, sale gift, barter or disposal by his Subcontractors, agents, employees or labour.

**Sub-Clause 18.7 Arms and Ammunition**

The Contractor shall not give, barter or otherwise dispose of to any person or persons, any arms or ammunition of any kind or permit or suffer the same as aforesaid.

**Sub-Clause 18.8 Festivals and Religious Customs**

The Contractor shall in all dealings with his staff and labour have due regard to all recognized festivals, days of rest and religious or other customs.

**Sub-Clause 18.9 Disorderly Conduct**

The Contractor shall at all times take all reasonable precautions to prevent any unlawful riotous or disorderly conduct by or amongst his staff and labour and for the preservation of peace and protection of persons and property in the neighborhood of the Works against the same.

**Sub-Clause 18.10 Records of Safety and Health**

The Contractor shall maintain such records and make such reports concerning safety, health and welfare of persons and damage to property as the Engineer may from time to time prescribe.

**Sub-Clause 18.11 Reporting of Accidents**

The Contractor shall report to the Engineer details of any accident as soon as possible after its occurrence. In the case of any fatality or serious accident, the Contractor shall, in addition to appropriate action required under the law, notify the Engineer immediately by the quickest available means.

**Sub-Clause 18.12 Compliance by Subcontractors**

The Contractor shall be responsible for compliance by his Subcontractors of the foregoing provisions.

#### **Sub-Clause 18.13 Housing for Labour**

Save insofar as the Contract otherwise provides, the Contractor shall provide and maintain such housing accommodation and amenities as he may consider necessary for all his supervisory staff and labour, employed for the purposes of or in connection with the Contract including all fencing, electricity supply, sanitation, cookhouses, fire prevention, water supply and other requirements in connection with such housing accommodation or amenities. On completion of the Contract, these facilities shall be handed over to the Employer or if the Employer so desires, the temporary camps or housing provided by the Contractor shall be removed and the Site reinstated to its original condition, all to the approval of the Engineer.

#### **Sub-Clause 18.14 Epidemics**

In the event of any outbreak of illness of an epidemic nature, the Contractor shall comply with and carry out such regulations, orders and requirements as may be made by the Government, or the local medical or sanitary authorities, for purpose of dealing with and overcoming the same.

#### **Sub-Clause 18.15 Supply of Water**

The Contractor shall, so far as is reasonably practicable, having regard to local conditions, provide on the Site, to the satisfaction of the Engineer or his representative, adequate supply of drinking and other water for the use of his staff and labour.

#### **Sub-Clause 18.16 Compliance by Subcontractors**

The Contractor shall be responsible for compliance by his Subcontractors of the foregoing provisions.”

#### **Sub-Clause 19.1 Manner of Execution**

The following is added at the end of Sub-Clause:

“The Contractor shall submit for approval of the Engineer, his detailed method statement(s) for the execution of such items of work as may be desired by the Engineer.

Approval of such method statement(s) shall neither relieve the Contractor of his responsibilities under the Contract nor form any basis for claiming additional costs.”

#### **Sub-Clause 19.2 Covering up Work**

Third paragraph of Sub-Clause 19.2 is deleted and substituted by the following:

“The Engineer shall then, unless he notified the Contractor that he considers it unnecessary, covering up of the work without unreasonable delay”.

### **Sub-Clause 19.3 Uncovering Work**

The following is added at the end of first paragraph of Sub-Clause 19.3:

“at his own cost.”

The following is added at the end of second paragraph of Sub-Clause 19.3:

“In any other case, all costs shall be borne by the Contractor.”

The following new Sub-Clause 19.4 is added:

### **Sub-Clause 19.4 Use of Pakistani Materials**

“The Contractor shall so far as may be consistent with the Contract make the maximum use of materials, supplies and equipment indigenous to or produced in Pakistan and services available in Pakistan or operated in Pakistan provided such materials, supplies, equipment and services shall be of required standard.”

The following new Sub-Clause 20.6 is added:

### **Sub-Clause 20.6 Witnessing of Factory Acceptance Tests (as applicable):**

The Sub-Clause is deleted in its entirety and replaced with the following:-

The Contractor shall arrange visits (for selection/inspection/witness test and pre-shipment) for all imported equipment including pumps, motors, valves and screens at manufactures factories/workshops, In addition to visit for sump models test. These visits should comprise at-least four (04) Officers of the Employer and the Engineer, who will be nominated by the Employer, for a minimum period of Ten (10) days which may be extended as per the requirement of testing procedure, if needed. These visits shall be programmed as per the work schedule of the Contractor. The Contractor shall identify the timing of the visits at least Four (04) weeks in advance for providing sufficient time to the Employer for according necessary approvals. The pre-shipment visits shall also include independent inspection by an approved third party inspection agency (Lloyds or equivalent).

The Contract price shall be deemed to have include all the expenses of the above arrangements with and including the arranging the relevant visas for designated officers/ Engineers of the Employer and the Engineer, their visa fees, Air Tickets (Business Class), boarding, lodging, transport costs in independent vehicles etc., as well as cost of third party inspection.

### **Sub-Clause 24.1 Cost of Suspension**

At the end of the second paragraph after the word “Contractor” the following is added:

“or for the proper execution or for the safety of the Works or Plant unless such necessity results from any act or default of the Engineer or the Employer or in consequence of any of the Employer's Risks under Sub-Clause 37.2.”

#### **Sub-Clause 24.4 Resumption of Work**

First paragraph of Sub-Clause 24.4 is deleted and substituted by the following:

“If the Contractor chooses not to treat prolonged suspension as an omission or termination under Sub-Clause 24.3, the Employer shall, upon the request of the Contractor, take over the responsibility for protection, storage, security and insurance of the suspended Works and of the Plant which has been delivered to the Site and which is affected by suspension and the risk of loss or damage thereto shall thereupon pass to the Employer”.

#### **Sub-Clause 25.1 Time for Completion**

The text of Sub-Clause 25.1 is deleted and substituted by the following:

“The Works at the place of the project mentioned in the Preamble to Conditions of Contract shall be completed tested and commissioned within the period mentioned in the Preamble to Conditions of Contract.”

#### **Sub-Clause 26.1 Extension of Time for Completion**

Sub-Clause 26.1(h) is deleted.

Second paragraph of Sub-Clause 26.1 is deleted and substituted by the following:

“The Contractor shall give to the Engineer notice of his intention to make a claim for an extension of time within fourteen (14) days of the circumstances.”

#### **Sub-Clause 26.3 Earlier Completion**

- (i) At the end of Sub-Clause 26.3(a) the following text is added and Clause is re-designated as 26.3.

“The extra sum to be paid to the Contractor for Completion of Works prior to the date of Completion established under Sub-Clause 25.1 shall be computed on the basis of the sums mentioned in the Preamble to Conditions of Contract.”

- (ii) Sub-Clause 26.3 (b) is deleted.

The following new Sub-Clause 26.4 is added:

#### **Sub-Clause 26.4 Rate of Progress**

The Contractor Shall ensure that rate of progress does not fall below 20% of Scheduled Progress as reflected in the programme of work (submitted before issuance of letter of acceptance) .

If for any reason, which does not entitle the Contractor to an extension of time, the rate of progress of the Works or any Section is at any time, in the opinion of the Engineer, is below 20% of Scheduled Progress as reflected in the programme of work, then the Client will have prerogative to either terminate the contract or reduce/delete portion of work if the contractor fails to improve the progress within 30 days of receipt of notice under this Clause. The Engineer shall so notify the Contractor who shall thereupon take such steps as are necessary, subject to the consent of the Engineer, to expedite progress. The Contractor shall not be entitled to any additional payment for taking such steps. If, as a result of any notice given by the Engineer under this Clause, the Contractor considers that it is necessary to do any work at night or on locally recognized days of rest, he shall be entitled to seek the consent of the Engineer so to do. Provided that if any steps, taken by the Contractor in meeting his obligations under this Sub-Clause, involve the Employer in additional supervision costs, such costs shall, after due consultation with the Employer and the Contractor, be determined by the Engineer and shall be recoverable from the Contractor by the Employer, and may be deducted by the Employer from any moneys due or to become due to the Contractor and the Engineer shall notify the Contractor accordingly, with a copy to the Employer.”

#### **Sub-Clause 27.1 Delay in Completion**

The text of Sub-Clause 27.1 is deleted and substituted by the following:

“If the Contractor fails to deliver the Works, or any part thereof, within the time stated in Sub-Clause 25.1, or fails to complete the whole of the Work, or, if applicable, any Section within the relevant time prescribed by Sub-Clause 25.1, then the Contractor shall pay to the Employer the relevant sum stated herein below as liquidated damages for such default (which sum shall be the only moneys due from the Contractor for such default) for every day or part of a day which shall elapse between the relevant time for Delivery or Time for Completion and the actual date of delivery at site or the date stated in a Taking– Over Certificate of the whole of the Works or the relevant Section, as the case may be, subject to the applicable limit stated herein below.

The Employer may deduct the amount of such damages from any monies due or to become due to the Contractor. The payment or deduction of such damages shall not relieve the Contractor from his obligation to complete the Works, or from any other of his obligations and liabilities under the Contract.

The liquidated damages for each day of delay and the maximum amount of liquidated damages shall be the amounts mentioned in the Preamble to Conditions of Contract.”

#### **Sub-Clause 28.7 Consequences of Failure to Pass Tests on Completion**

The words “by arbitration” appearing at the end of the Sub-Clause 28.7(c) are deleted and substituted by the words “by the Engineer”.

#### **Sub-Clause 30.4 Extension of Defects Liability Period**

At the end of 4<sup>th</sup> paragraph of Sub-Clause the following is added:

“or a mutually agreed period.”

### **Sub-Clause 30.5 Failure to Remedy Defects**

In first line after the words “reasonable time” the following is added:  
“fixed by the Engineer”.

Following to be added in sub clause 30.5(c).

and the work shall be completed/corrected at the contractor’s risk and cost.

Sub-Clause 30.5 (b) is deleted.

### **Sub-Clause 30.9 Defects in Employer’s and Engineer’s Designs**

Deleted in its entirety as the project is as Design-built Basis.

### **Sub-Clause 30.10 Contractor to Search**

The text of Sub-Clause 30.1 is deleted and substituted by the following:

“The Contractor shall, if required by the Engineer in writing, search for the cause of any defects, under the direction of the Engineer”.

The following new Sub-Clause 30.13 is added:

### **Sub-Clause 30.13 Unfulfilled Obligations**

“After the Defects Liability Certificate has been issued, the Contractor and the Employer shall remain liable for the fulfillment of any obligation which remains unperformed at that time. For the purposes of determining the nature and extent of any such obligation, the Contract shall be deemed to remain in force.”

### **Sub-Clause 31.1 Project Manager/Engineer's Right to Vary**

The following is added at the end of second paragraph:

“No such variation shall in any way vitiate or invalidate the Contract, but the effect, if any, of all such variations shall be valued in accordance with Clause 31. Provided that whether the issue of an instruction to vary the Works is necessitated by some default of or breach of Contract by the Contractor or for which he is responsible, any additional cost attributable to such default shall be borne by the Contractor”.

### **Sub-Clause 31.5 Records of Costs**

The word “Engineer” in 4th line of Sub-Clause is deleted and substituted by “Engineer/Employer”.

The following new Sub-Clauses 31.6 and 31.7 are added:

### **Sub-Clause 31.6 Day work under Variation Order**

A Variation Order may provide that work done pursuant thereto shall be executed as Day work, if applicable in the opinion of the Engineer. In such case the Contractor shall be paid for such work under the conditions and the rates and prices set out in the Day Work Schedule.

#### **Sub-Clause 31.7 Value Engineering**

The Contractor may, at any time, submit to the Engineer a written proposal which in the Contractor's opinion will reduce the cost of constructing, maintaining or operating the works, or improve the efficiency or value to the Employer of the completed Works or otherwise be of benefit to the Employer. Any such proposal shall be prepared at the cost of the Contractor. However Employer is not bound to accept such proposal."

#### **Sub-Clause 33.1 Terms of Payment**

The text of Sub-Clause 33.1 is deleted and substituted by the following:

"The EPC/Turnkey Contract as Lump-Sum fixed Price shall be payable as per the Approved schedule of payment attached in the Technical Bid and Section Schedules.

##### **Sub-Clause 33.1.1            Secured Advance**

Employer may opt either "Secured Advance on Materials" if applicable shall be given after the Contractor has provided indemnity bond for secured advance as per standard format.

**OR**

##### **Sub-Clause 33.1.2            Advance Payment Security**

The text is deleted and replaced with following:

- (a) Mobilization advance up to 10% of the Contract Price may be paid by the procuring agency to the Contractor:
  - i). on submission by the Contractor of a mobilization advance guarantee for the full amount of the advance in the specified form, from a Scheduled Bank in Pakistan, acceptable to the procuring agency;
  - ii). contractor shall pay interest on the mobilization advance at the rate of 10% per annum on the advance; and.
- (b) This Advance including the interest shall be recovered in 5 equal installments from the 5 R.A bills and in case the number of bills is less than 5 then 1/5 of the advance inclusive of the interest thereon shall be recovered from each bill and the balance together with interest be recovered from the final bill. It may be insured that there is sufficient amount in the final bill to enable recovery of the Mobilization Advance.

The following new Sub-Clauses 33.1.1 to 33.1.5 are added:

##### **Sub-Clause 33.1.3            Retention Money**

Retention money percentage shall be 10% of interim / running payment certificate. However limit of Retention Money shall be 5% of Contract price.

#### **Sub-Clause 33.1.4 Retention of Payment**

"If at any time any payment would fall due for Works or part of Works and, if there shall be any defect in part of such Works in respect of which such payment is proposed, the Employer may retain the whole or any part of such payment. Any sum retained by the Employer pursuant to the provisions of this Clause shall be paid to the Contractor after the said defect is removed."

#### **Sub-Clause 33.1.5 Payment Where Taking-Over Certificate Issued for Section or Part of Works**

"If any section or part of the Works shall be taken-over separately under Clause 29 (Taking Over) hereof, the payments herein provided for on or after Taking-Over shall be made in respect of the section or part taken-over and reference to the price shall mean such part of the price as shall, in the absence of agreement, be apportioned thereto by the Engineer."

#### **Sub-Clause 33.1.6 Extra Payment**

No extra payment in respect of overtime, additional materials, or special conditions or hardship shall be claimed by the Contractor unless otherwise provided in the Contract or such payments have been previously authorized in writing by the Engineer or the Employer.

#### **Sub-Clause 33.1.7 Breakdown of Lump Sum Items**

For the purposes of statements to be submitted in accordance with Sub-Clause 33.1 hereof, the Contractor shall submit to the Engineer, within twenty eight (28) days after the receipt of the Letter of Acceptance, a breakdown for each of the lump sum items contained in the Bid. Such breakdowns shall be subject to the approval of the Engineer."

#### **Sub-Clause 33.2 Method of Application**

The following paragraphs are added:

"The Contractor shall submit to the Employer/Engineer six (6) copies of the Application for Certificate of Payment (invoices) each signed by the Contractor and in such form as the Employer/Engineer may from time to time prescribe.

The Employer/Engineer shall examine such invoices within the times stated in SubClauses 33.3 and 33.5. After such time each invoice will be deemed to have been accepted. If the invoice amount is not accepted by the Employer/ Engineer, the disputed amount which is retained, shall be communicated, giving the reasons in writing, to the Contractor within the same time. If the objections of the Employer/ Engineer are not acceptable to the Contractor he will justify his claims with necessary documentation and include left over amounts / items in the next invoice. However, the portions of such invoices accepted by the Employer/ Engineer shall be paid as per Sub-Clause 33.5."

#### **Sub-Clause 33.5 Payment**



The text of Sub-Clause 33.5 is deleted and substituted by the following:

“The amount due to the Contractor under any Interim Payment Certificate issued by the Engineer pursuant to this Clause, or to any other term of the Contract, shall, subject to Clause 27, be paid by the Employer to the Contractor within thirty (30) days after such Interim Payment Certificate has been jointly verified by Employer and Contractor, or, in the case of the Final Certificate (referred to in Sub-Clause 33.10) within sixty (60) days after such Final Payment Certificate has been jointly verified by Employer and Contractor; Provided that the Interim Payment shall be caused in thirty (30) days and Final Payment in forty two (42) days in case of foreign funded project.

Deduction shall be made from the net amounts payable to the Contractor of any sum(s) in accordance with the prevalent Federal and/or Provincial laws, provided that no such deduction shall be made from those payments in respect of which the Contractor has obtained exemption under the Law.

All payments to the Contractor shall be subject to withholding of Retention Money @ 10% of each IPC upto a maximum of a total of 5% of Contract Price. 50% of Retention Money shall be released to the Contractor on Handing-over of Project and balance 50% shall be released to the Contractor after successful completion of Defect Liability Period.”

#### **Sub-Clause 33.6 Delayed Payment**

The text of Sub-Clause 33.6 is deleted.

#### **Sub-Clause 33.11 Issue of Final Certificate of Payment**

The following paragraph is added at the end:

“The final certificate of payment is also subject to the production of “As-Built Drawings” by the Contractor as per Sub-Clause 6.10 of particular Conditions of Contract.

The following Sub-Clauses 33.12 and 33.13 are added:

#### **Sub-Clause 33.12 Withholding of Payment**

If the Works or any parts thereof are not being carried out to the Engineer's satisfaction and in order to protect the Employer from loss on account of:

- i). defective work not rectified
- ii). guarantees not met
- iii). claims filed against the Contractor
- iv). failure of the Contractor to make payments due for Plant procured or labour employed by him
- v). damage to any other contractor employed by the Employer
- vi). Contractor's non-compliance with the Contract

vii). any Government dues recoverable from the Contractor if notified by the Government

The Engineer may notify withholding of such payments or part thereof as may, in his opinion, be related to the aforesaid reasons/grounds. When the reasons/grounds for withholding the payment are removed by the Contractor, the Engineer shall upon being satisfied to that effect issue Certificate of Payment in respect of withheld amounts.

#### **Sub-Clause 33.13 Payment Schedule**

The Payment shall be made accordingly in the payment schedule part of bidding document for estimated payment throughout the currency of the contract.

#### **Sub-Clause 35.1 Payment in Foreign Currencies**

The text of Sub-Clause 35.1 is deleted

#### **Sub-Clause 35.2 Currency Restrictions**

The text of Sub-Clause 35.2 is deleted.

#### **Sub-Clause 35.3 Rates of Exchange**

The text of Sub-Clause 35.3 is deleted

#### **Sub-Clause 36.4 Payment Against Provisional Sums**

The text of Sub-Clause 36.4 is deleted and substituted by the following:

“Provisional Sums, if any will be expended on the direction of the Engineer through Variation Orders which would be valued in accordance with the provisions of Clause 31 Conditions of Contract.”

#### **Sub-Clause 37.2 Employer's Risks**

The text of Sub-Clause 37.2 is deleted and substituted by the following: “The Employer's Risks are:

- (a) (Insofar as they relate to Pakistan) war and hostilities (whether war be declared or not), invasion, act of foreign enemies;
- (b) (Insofar as they relate to Pakistan) rebellion, revolution, insurrection, military or usurped power or civil war;
- (c) ionizing radiation or contamination by radioactivity from any nuclear fuel, radio-active toxic explosives or other hazardous properties of any explosive nuclear assembly or nuclear components thereof;

- (d) pressure waves caused by aircraft travelling at sonic or supersonic speed;
- (e) (Insofar as they relate to Pakistan) riot, commotion or disorder, unless solely restricted to the employees of the Contractor or of his Subcontractors.
- (f) use or occupation of the Work or any part thereof by the Employer;
- (g) fault, error, defect or omission in the design of any part of the Works by the Engineer, Employer or those for whom the Employer is responsible for which the
  - i). Contractor has disclaimed responsibility in writing within a reasonable time after the receipt of such design;
- (h) the use or occupation of the Site by the Works or any part thereof, or for the purposes of the Contract: or interference, whether temporary or permanent with any right of way, light, air or water or with any easement, way leaves or right of a similar nature which is the inevitable result of the construction of the Works in accordance with the Contract;
- (i) the right of the Employer to construct the Works or any part thereof on, over, under, in or through any land;
- (j) damage (other than that resulting from the Contractor's method of construction) which is the inevitable result of the construction of the Works in accordance with the Contract; and
- (k) the act, neglect or omission or breach of contract or of statutory duty of the Engineer, the Employer or other contractors engaged by the Employer or of their respective employees or agents."

#### **Sub-Clause 39.2 Loss or Damage Before Risk Transfer Date**

The words "by arbitration under Clause 50" are deleted and substituted "by the Engineer".

The following new Sub-Clause 39.4 is added:

#### **Sub-Clause 39.4 Duty to Minimize Delay**

Each Party shall at all times use all reasonable endeavors to minimize any delay in the Performance of the Contract as a result of Risks.

The Contractor shall give notice to the Employer and vice versa the Employer shall give notice to the Contractor in case of foreseeable delay by the Risks."

#### **Sub-Clause 40.2 Employer's Liability**

The text of Sub-Clause 40.2 from the words "death or personal injury" to the end of the Sub-Clause, is deleted and substituted by the following:

“..... (other than the Works) or of death or personal injury to the extent caused by those of the Employer's Risks listed in paragraphs (f), (g), (h), (i), (j), and (k) of Sub-Clause 37.2 but not otherwise.”

#### **Sub-Clause 42.2 Maximum Liability**

The words “the sum stated in the Preamble to Conditions of Contract or if no such sum is stated” appearing in 2nd line of Sub-Clause are deleted.

#### **Sub-Clause 42.6 Foreseen Damages**

Sub-Clause 42.6 is deleted in its entirety.

#### **Sub-Clause 43.1(a) The Works (Insurance)**

The other risks to be insured are:

- i). Fire, smokes, explosion, falling objects, earthquake, perils of the sea, tempest, impact by aircraft or land vehicle, aircraft and other aerial devices or articles dropped therefrom, lightning, strike, riot, civil commotion, escape of water, inundation, rain, snow, landslides, flood, act of God, vandalism or malicious damage, windstorm or hail storm.
- ii). Collision, upset, overturn, derailment, stranding or sinking of an automobile or any conveyance of a common carrier by land, water or air in which the Plant or any part thereof is being carried including overland transportation in Pakistan from port of entry to the Site.
- iii). Theft, burglary or attempted theft or burglary.
- iv). Any loss or damage during pre-erection storage.
- v). Faults in construction and erection, lack of skill, lack of experience, negligence, malicious act.
- vi). any other sudden and unforeseen event such as loss or damage due to collapse etc. on site, transport of items to be erected.
- vii). Actions of the Employer in the operation of plant or part thereof on behalf of the Contractor.

The following further Sub-Clauses are 43.1.1, 43.1.2 and 43.1.3 are added:

##### **Sub-Clause 43.1.1 Marine Insurance of Plant**

- (1) The Contractor shall in the joint names of the Contractor and the Employer, obtain Marine Cargo All Risks Insurance to cover loss or damage to the Plant or part thereof during transport.
- (2) The insurance for each consignment of Plant or part thereof shall attach from the time the Plant or part thereof leave the warehouse or place of storage and terminate

after ninety (90) days on its completion of unloading at the Site or until insurance survey whichever occurs first. Upon arrival of each consignment at the Site, the Contractor shall, immediately arrange insurance survey by the insurance company.

- (3) The sum insured for imported Plant or part thereof shall be for its full replacement value at the Site i.e. 100 % CIF value at the Site for each consignment of the Plant or part thereof plus not less than 30 % of CIF value at the Site to cover any additional costs resulting from loss or damage thereof.
- (4) The Insurance Policy for imported Plant etc. shall be on "All Risks" basis and shall not be limited to the attachment/endorsement of following clauses:
  - (a) Institute Cargo Clauses (A)
  - (b) Institute War Clauses (Cargo)
  - (c) Institute Strikes Clauses (Cargo)
  - (d) Institute Cargo Clauses (Air) excluding sending by Post (e) Institute War Clauses (Air Cargo) excluding sending by Post.
  - (f) Institute Strikes Clauses (Air Cargo)
  - (g) Special Replacement Clauses (Air)
  - (h) Institute Theft, Pilferage and Non-delivery Clauses

**Sub-Clause 43.1.2 Erection/Construction All Risks Insurance**

- (1) The Contractor shall insure the Works or part thereof in the joint names of the Contractor and the Employer.
  - (a) from the date following the completion of the first unloading at the Site of the Plant or part thereof and other materials (to be used for construction or erection) and from commencement of Works at Site until the Risk Transfer Date against any loss or damage caused by any of the Contractor's risks and any other risks specified in Sub-Clause 43.1.(a) above and
  - (b) during the Defects Liability Period against any loss or damage which is caused either:
    - (i) by the Contractor in completing any outstanding work or complying with his obligations under Clause 30, or
    - (ii) by any of the Contractor's risks and any other risks specified in Sub-Clause 43.1(a) above, which occurred prior to the Risk Transfer Date.
- (2) The sum insured shall be the full replacement value at the Site, which includes:
  - (a) (i) FOB value of imported Plant to be erected

- (ii) Ex-factory value of Indigenous Plant to be erected, if any (b) freight and insurance including local transport (c) customs duties and taxes etc.
- (d) cost of erection
- (e) cost of civil engineering work including escalation
- (f) clearance of debris, maximum @ 5 % of minimum amount of Third Party Liability Insurance Plus 30% to cover any additional costs resulting from loss or damage thereof.

#### **Sub-Clause 43.1.3 General**

Should a loss be sustained, the Contractor shall replace or repair any loss or damage at his own cost and complete the Works in accordance with the Contract as soon as possible after occurrence of such loss or damages, without waiting for the settlement of the insurance claim.”

#### **Sub-Clause 43.2 Contractor's Equipment**

The text of Sub-Clause 43.2 is deleted and substituted by the following:

“The Contractor shall insure the Contractor's Equipment for its full replacement value while on the Site against all loss or damage caused by any of the Contractor's Risks.”

#### **Sub-Clause 43.7 Remedies on the Contractor's Failure to Insure**

In 3<sup>rd</sup> line after the word, “purpose”, the expression “and reasonable costs including the man hours costs of Employer's Personnel” is added.

The following new Sub-Clauses 43.9 to 43.12 are added:

#### **Sub-Clause 43.9 Currency of Insurance**

All policies of Insurance of the Plant shall provide for payment of indemnity to be made in such amounts as will allow making good of loss of or damage to the whole or any part of the Works.

#### **Sub-Clause 43.10 Contractor to Notify**

It shall be the responsibility of the Contractor to notify the insurance company of any changes in nature and extent of the Works and to ensure the adequacy of the insurance coverage at all times in accordance with the provisions of the Contract.

#### **Sub-Clause 43.11 Procurement of Insurance Policies**

The Contractor shall procure and submit the insurance cover under this Clause within a period of twenty eight (28) days from the date of receipt of Letter of Acceptance from the Employer.

### **Sub-Clause 43.12 Insurance Company**

The policies of marine insurance and all other insurances with respect to Contractor's operations in Pakistan shall be effected with any of the insurance company acceptable to the Employer operating in Pakistan with financial strength rating of AA approved by Pakistan Credit Rating Agency (PACRA) or JCR including National Insurance Corporation (NIC) of Pakistan."

### **Sub-Clause 44.6 Damage Caused by Force Majeure**

At the end of the Sub-Clause 44.6 the following is added:

"However the Contractor shall put up his claim to the Employer / Engineer with full details and justification."

### **Sub-Clause 44.8 Payment on Termination for Force Majeure**

Text in sub-Para (c) is deleted and Paras (d) and (e) are re-numbered as (c) and (d).

### **Sub-Clause 44.10 Force Majeure Affecting Project Manager/Engineer's Duties**

Sub-Clause 44.10 is deleted in its entirety.

### **Sub-Clause 45.2 Contractor's Default**

The following paragraph is added at the end of Sub-Clause 45.2.

"The Employer or such other contractor may use for such completion any Contractor's Equipment which is upon the Site as he or they may think proper, and the Employer shall pay the Contractor a reasonable compensation for such use".

### **Sub-Clause 45.4 Payment after Termination**

The text of Sub-Clause 45.4 is deleted and substituted by the following:

"The Employer shall not be liable to make any further payments to the Contractor until the Works have been completed. When the Works are so complete, the Engineer shall certify the total cost of such completion of Works.

The Employer may recover the extra cost of such completion, as certified by the Engineer, from any sums otherwise due and payable to the Contractor and/or by disposing of the Contractor's Equipment and stores taken over by the Employer under this Clause or as otherwise provided by law. If there is no such extra cost the Employer shall pay any balance due to the Contractor."

The following new Sub-Clause 45.6 is added:

### **Sub-Clause 45.6 Integrity Pact**

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 Schedule-J to his Bid, then the Employer shall be entitled to:

- (a) recover from the Contractor an amount equivalent to ten times the sum of any commission, gratification, bribe, finder's fee or kickback given by the Contractor or any of his Subcontractors, agents or servants;
- (b) terminate the Contract; and
- (c) recover from the Contractor any loss or damage to the Employer as a result of such termination or of any other corrupt business practices of the Contractor or any of his Subcontractors, agents or servants.

The termination under Sub-Para (b) of this Sub-Clause shall proceed in the manner prescribed under Sub-Clauses 45.2 to 45.5 and the payment under Sub-Clause 45.4 shall be made after having deducted the amounts due to the Employer under Sub-Paras (a) and (c) of this Sub-Clause.

#### **Sub-Clause 46.1 Employer's Default**

The comma and the word "or" at the end of paragraph (d) of Sub-Clause 46.1 are deleted and substituted by period (.) Paragraph (e) of Sub-Clause 46.1 is deleted.

#### **Sub-Clause 46.3 Payment on Termination for Employer's Default**

The words "including loss of profit" in the second paragraph of Sub-Clause 46.3 are deleted.

#### **Sub-Clause 47.1 Labour, Materials and Transport**

The amounts payable to the Contractor, pursuant to Sub-Clause 60.1, shall be adjusted in respect of the rise or fall in the cost of labor, materials, and other inputs to the Works, by applying to such amount the formula prescribed in this Sub-Clause.

##### **(a) Other Changes in Cost**

To the extent that full compensation for any rise or fall in costs to the Contractor is not covered by the provisions of this or other Clauses in the Contract, the unit rates and prices included in the Contract shall be deemed to include amounts to cover the contingency of such other rise or fall of costs.

##### **(b) Adjustment Formula**

The adjustment to the monthly statements in respect of changes in cost shall be determined from the following formula:-

$$P_n = A + b \, L_n / L_o + c \, M_n / M_o + d \, E_n / E_o + \dots$$

Where:



$P_n$  is a price adjustment factor to be applied to the amount for the payment of the work carried out in the subject month, determined in accordance with Paragraph 60.1 (a), and with Paragraphs 60.1 (b) and (e), where any variations and day work are not otherwise subject to adjustment;

$A$  is a constant, specified in Appendix-C to Bid, representing the nonadjustable portion in contractual payments;

$b, c, d, \text{etc.}$ , are weightages or coefficients representing the estimated proportion of each cost element (labour, cement and reinforcing steel etc.) in the Works or Sections thereof, net of Provisional Sums and Prime Cost; the sum of  $A, b, c, d, \text{etc.}$ , shall be one;

$L_n, M_n, E_n, \text{etc.}$ , are the current cost indices or reference prices of the cost elements for month “ $n$ ”, determined pursuant to Sub-Clause 70.1(d), applicable to each cost element; and

$L_o, M_o, E_o, \text{etc.}$ , are the base cost indices or reference prices corresponding to the above cost elements at the date specified in Sub-Clause 70.1(d).

**(c) Sources of Indices and Weightages**

The sources of indices shall be those listed in Appendix-C to Bid, as approved by the Engineer. As the proposed basis for price adjustment, the Contractor shall have submitted with his bid the tabulation of Weightages and Source of Indices if different than those given in Appendix-C to Bid, which shall be subject to approval by the Engineer.

**(d) Base, Current, and Provisional Indices**

The base cost indices or prices shall be those prevailing on the day 28 days prior to the latest date for submission of bids. Current indices or prices shall be those prevailing on the day 28 days prior to the last day of the period to which a particular monthly statement is related. If at any time the current indices are not available, provisional indices as determined by the Engineer will be used, subject to subsequent correction of the amounts paid to the Contractor when the current indices become available.

**(e) Adjustment after Completion**

If the Contractor fails to complete the Works within the Time for Completion prescribed under Clause 43, adjustment of prices thereafter until the date of completion of the Works shall be made using either the indices or prices relating to the prescribed time for completion, or the current indices or prices, whichever is more favorable to the Employer, provided that if an extension of time is granted pursuant to Clause 44, the above provision shall apply only to adjustments made after the expiry of such extension of time.

**(f) Weightages**

The weightages for each of the factors of cost given in Appendix-C to Bid shall be adjusted if, in the opinion of the Engineer, they have been rendered unreasonable,

unbalanced, or inapplicable as a result of varied or additional work executed or instructed under Clause 51. Such adjustment(s) shall have to be agreed in the variation order.

#### **Sub-Clause 48.1 Local Taxation-Custom and Import Duties**

The rates and prices quoted by the Contractor in the Schedule of Prices shall be deemed to have included (i) business taxes, income tax, super tax, customs, import duties and other taxes on income, and (ii) fees charged for services provided under this Contract. The taxation is leviable as per income tax ordinance 2001 issued by FBR Government of Pakistan including adjustment in prices as per clause 47.

The following Sub-Clause 48.3 is added:

#### **Sub-Clause 48.3 Port Charges and Port Congestion**

“The Contractor shall be deemed to have obtained all the information regarding facilities and charges, in respect of port clearance, loading and unloading, storage, transportation, congestion and confirmed the requirements thereof at his own responsibility and all such costs and charges are deemed to be included in the rates and prices of the Schedule of Prices.”

#### **Sub-Clause 49.1 Notices to Contractor**

The following paragraph is added at the end of Sub-Clause 49.1:

“For the purposes of Sub-Clause 49.1, the Contractor shall, immediately after receipt of Letter of Acceptance, intimate in writing to the Employer and the Engineer by registered post, the address of his principal place of business or any change in such address during the period of the Contract.”

#### **Sub-Clause 50 Disputes & Arbitration**

Clause 50 is deleted and in its place the following Sub-Clauses 50.1 to 50.5 are inserted:

“50.1 If a dispute of any kind whatsoever arises between the Employer and the Contractor in connection with, or arising out of, the Contract or the execution of the Works, whether during the execution of the Works or after their completion and whether before or after repudiation or other termination of the Contract, including any dispute as to any opinion, instruction, determination, certificate or valuation of the Engineer, the matter in dispute shall, in the first place, be referred in writing to the Engineer, with a copy to the other party. Such reference shall state that it is made pursuant to this Clause. No later than the fifty sixth (56) day after the day on which he received such reference, the Engineer shall give notice of his decision to the Employer and the Contractor. Such decision shall state that it is made pursuant to this Clause.

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

In any case where the Conditions of Contract provide that the decision of the Engineer is to be final and conclusive, such decision shall not be referable to arbitration under this Clause nor shall the same be questioned in any other form of proceedings whatsoever.

- 50.2 If either the Employer or the Contractor be dissatisfied with a decision of the Engineer or if the Engineer fails to give notice of his decision on or before the fifty sixth (56) day after the day on which he received the reference, then either the Employer or the Contractor may, on or before the twenty eighth (28) day after the day on which the said period of fifty six (56) days expired, as the case may be, give notice to the other party to commence arbitration, as hereinafter provided, as to the matter in dispute. Such notice shall establish the entitlement of the party giving the same to commence arbitration, as hereinafter provided, as to such dispute and, subject to Sub-Clause 50.5, no arbitration in respect thereof may be commenced unless such notice is given.

If the Engineer has given notice of his decision as to a matter in dispute to the Employer and the Contractor and no notification of intention to commence arbitration as to such dispute has been given by either the Employer or the Contractor on or before the twenty eighth (28) day after the day on which the parties received notice as to such decision from the Engineer the said decision shall become final and binding upon the Employer and the Contractor.

- 50.3 Where notice of intention to commence arbitration as to a dispute has been given in accordance with Sub-Clause 50.2, arbitration of such dispute shall not be commenced unless an attempt has first been made by the parties to settle such dispute amicably through mutual negotiation within ninety (90) days from the date of notification of Engineer's decision.

- 50.4 Any dispute in respect of which:

- (a) the decision, if any, of the Engineer has not become final and binding pursuant to Sub-Clause 50.1 and
- (b) amicable settlement has not been started/reached within the period stated in Sub-Clause 50.3 shall be finally settled, unless otherwise specified in the Contract, under the Rules of Pakistan Arbitration Act, 1940 (Act No. X of 1940) and Rules made thereunder as amended, by one or more arbitrators appointed under such Rules.

The said arbitrator(s) shall have full power to open up, review and revise any decision, opinion, instruction, determination, certificate or valuation of the Engineer for the purpose of obtaining said decision pursuant to Sub-Clause 50.1.

No such decision shall disqualify the Engineer from being called as a witness and giving evidence before the arbitrator(s) on any matter whatsoever relevant to the dispute. The venue of arbitration proceedings shall be the place in Pakistan as mentioned in the Preamble to Conditions of Contract.

50.5 Where neither the Employer nor the Contractor has given notice of intention to commence arbitration of a dispute within the period stated in Sub-Clause 50.1 or 50.2 and the related decision has become final and binding, either party may, if the other party fails to comply with such decision, and without prejudice to any other rights it may have, refer the failure to arbitration in accordance with Sub-Clause 50.4. The provisions of Sub-Clauses 50.1 to 50.2 shall not apply to any such reference.”

## **Additional Conditions**

### **52. Liens**

Each contractor, for himself and for any persons directly or indirectly responsible to him, and for his or their material, equipment and employees, and for all other persons performing any labor or furnishing any labor or material for any/or all of the Work covered by his Contract, will be required to release or waive, to the full extent permitted by law, all mechanical and other liens, for or on account of the Work done or equipment and material furnished hereunder and the improvements or structures herein same may be incorporated, and the land to which they are appurtenant shall at all times be free and clear of all such liens.

### **53.1 Payment of Income Tax, etc.**

The Contractor shall be responsible for the payment, if any is required, of all Pakistani Income Tax, Super Tax, and other taxes on income arising out of the Contract, and the rates and prices stated in the priced Schedule of Prices shall be deemed to cover all such taxes.

### **53.2 Personnel, Taxes and Duties**

The Contractor or his personnel shall pay all personal income tax or other taxes due in Pakistan, if any, for the personnel employed by the Contractor for implementing the work or any other activity required by the Contract. The Contractor shall obtain, at his own cost, work permits from competent authorities to enable any foreign personnel to work in Pakistan. The Contractor shall be responsible for all formalities in connection with passports, obtaining visas, police permits, and expenses for customs duties, if any, related to personal goods of foreign personnel employed on the Project. However, the Employer will, if requested, assist the Contractor in obtaining visas and work permits.

### **53.3 Income Taxes Provisions in Subcontracts**

Provisions to the like effect as those contained in this Clause shall be incorporated in Subcontracts.

### **54. Liability of the Contractor**

The Contractor or his Subcontractors or assigns shall follow strictly, all relevant labour laws including the Workmen's Compensation Act and the Employer shall be fully indemnified for all claims, damages etc. arising out of any dispute between the Contractor, his Subcontractors or permitted assigns and the labour employed by them.

### **55. Joint and Several Liability**

If the Contractor is a joint venture of two or more persons, all such persons shall be jointly and severally bound to the Employer for the fulfillment of the terms of the Contract and shall designate one of such persons to act as leader with authority to bind the joint venture.

The composition or the constitution of the joint venture shall not be altered without the prior consent of the Employer.

**56. Details to be Confidential**

The Contractor shall treat the details of the Contract as private and confidential, save in so far as may be necessary for the purposes thereof, and shall not publish or disclose the same or any particulars thereof in any trade or technical paper or elsewhere without the prior consent in writing of the Employer or the Engineer. If any dispute arises as to the necessity of any publication or disclosure for the purpose of the Contract, the same shall be referred to the decision of the Engineer whose award shall be final.

**FORMS**

**BID SECURITY**

**PERFORMANCE SECURITY**

**CONTRACT AGREEMENT**

**MOBILIZATION ADVANCE GUARANTEE**

**INDEMNITY BOND FOR SECURED  
ADVANCE**

**FORM OF BID SECURITY**  
(Bank Guarantee)

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

Name of Guarantor (Bank) with address: \_\_\_\_\_

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

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

Bid Reference No. \_\_\_\_\_ Date of Bid Opening \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, that in pursuance of the terms of the Bid and at the request of the said Principal, we the Guarantor above-named are held and firmly bound unto the \_\_\_\_\_, (hereinafter called the "Employer") 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 Principal has submitted the accompanying Bid numbered dated as above for

\_\_\_\_\_ (Particulars of Bid) to the said Employer;  
and

WHEREAS, the Employer has required as a condition for considering the said Bid that the Principal furnishes a Bid Security in the above said sum to the Employer, conditioned as under:

- (1) that the Bid Security shall remain valid for a period 28 days beyond the period of validity of the Bid,
- (2) that in the event of;
  - (a) the Principal withdraws his Bid during the period of validity of Bid, or
  - (b) the Principal does not accept the correction of his Bid Price, pursuant to Sub-Clause 24.2 of Instructions to Bidders, or
  - (c) failure of the successful Bidder to
    - (i) furnish the required Performance Security, in accordance with Clause 34 of Instructions to Bidders, or
    - (ii) sign the proposed Contract Agreement, in accordance with Clause 35 of Instructions to Bidders,

then the entire sum be paid immediately to the said Employer as liquidated damages and not as penalty for the successful Bidder's failure to perform.

NOW THEREFORE, if the successful Bidder shall, within the period specified therefor, on the prescribed form presented to him for signature enter into a formal Contract with the said Employer 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 Employer 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 Guarantor shall forthwith pay to the Employer the said sum stated above upon first written demand of the Employer without cavil or argument and without requiring the Employer to prove or to show grounds or reasons for such demand notice of which shall be sent by the Employer by registered post duly addressed to the Guarantor at its address given above.

PROVIDED ALSO THAT the Employer shall be the sole and final judge for deciding whether the Principal 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 Guarantor shall pay without objection the sum stated above upon first written demand from the Employer forthwith and without any reference to the Principal or any other person.

IN WITNESS WHEREOF, the above bounden Guarantor has executed the instrument under its seal on the date indicated above, the name and 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:		Signature: _____
1. _____		Name: _____
_____		Title: _____
Corporate Secretary (Seal)		
2. _____		_____
_____		_____
(Name, Title & Address)		Corporate Secretary (Seal)



## FORM OF CONTRACT AGREEMENT

THIS CONTRACT AGREEMENT (hereinafter called the "Agreement") made on the \_\_\_\_ day of \_\_\_\_ (month) 2017 between \_\_\_\_\_ (hereafter called the "Employer") of the one part and \_\_\_\_\_

(hereafter called the "Contractor") of the other part.

WHEREAS the Employer 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 witness the 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) The Preamble to Conditions of Contract
  - (e) The Particular Conditions of Contract
  - (f) The General Conditions of Contract
  - (g) The priced Schedule of Prices
  - (h) The completed Schedules to Bid (A to L)
  - (i) The Drawings
  - (j) The Specifications
3. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and complete the Works and remedy defects therein in conformity and in all respects with the provisions of the Contract.
4. The Employer hereby covenants to pay the Contractor, in consideration of the execution and completion of the Works as per provisions of the Contract, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed on the day, month and year first before written in accordance with their respective laws.

Signature of the Contractor

Signature of Employer

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

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

Signed, Sealed and Delivered in the presence of:

Witness:

Witness:

\_\_\_\_\_

\_\_\_\_\_

(Name, Title and Address)

(Name, title and Address)

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

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

Executed on \_\_\_\_\_

Expiry date \_\_\_\_\_

Name of Guarantor (Bank/) with address: \_\_\_\_\_  
\_\_\_\_\_

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 "Employer") in the penal sum of the amount stated above for the payment of which sum well and truly to be made to the said Employer, 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 \_\_\_\_\_ Employer'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 Employer, 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 30, Defects after Taking Over, 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 Employer without delay upon the Employer's first written demand without cavil or arguments and without requiring the Employer to prove or to show grounds or reasons for such demand any sum or sums up to the amount stated above, against the Employer'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 Employer's designated Bank & Account Number.

PROVIDED ALSO THAT the Employer 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 Employer 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 BANK GUARANTEE FOR ADVANCE PAYMENT

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

WHEREAS the \_\_\_\_\_ (hereinafter called the Employer)  
has entered into a Contract for \_\_\_\_\_  
\_\_\_\_\_ (Particulars of Contract), with  
\_\_\_\_\_ (hereinafter called the Contractor).

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

AND WHEREAS the Employer has asked the Contractor to furnish Guarantee to secure advance payment for performance of his obligations under the said Contract.

AND WHEREAS \_\_\_\_\_ (Bank)  
(hereinafter called the Guarantor) at the request of the Contractor and in consideration of the Employer agreeing to make the above advance to the Contractor, has agreed to furnish the said Guarantee.

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

Notice in writing of any default, of which the Employer shall be the sole and final judge, as aforesaid, on the part of the Contractor, shall be given by the Employer 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 come into force as soon as the advance payment has been credited to the account of the Contractor.

This guarantee shall expire not later than \_\_\_\_\_ by which date we must have received any claims by registered letter, telegram, telex or telefax.

It is understood that you will return this Guarantee to us on expiry or after settlement of the total amount to be claimed hereunder.

Witness:

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

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

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

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

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

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

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

**INDEMNITY BOND FOR SECURED ADVANCE  
AGAINST MATERIALS BROUGHT AT SITE  
(ON RS.100 NONJUDICIAL STAMP PAPER)**

This Deed of Indemnity is issued by M/s. \_\_\_\_\_  
\_\_\_\_\_ (Name of the Contractor) in  
favour of M/s. \_\_\_\_\_ (Name of the Employer).

Whereas \_\_\_\_\_ (hereinafter called the Employer) has agreed to pay the Secured Advance against the cost of material through any Bank or like agency by any other method by virtue of the terms of the contract existing between the parties. The details of the material and their price for which secured advance is being sought for the period \_\_\_\_\_ till consumption of the material is as under :-

1. \_\_\_\_\_ at Rs. \_\_\_\_\_ per \_\_\_\_\_ = Rs.
2. \_\_\_\_\_ at Rs. \_\_\_\_\_ per \_\_\_\_\_ = Rs.
3. \_\_\_\_\_ at Rs. \_\_\_\_\_ per \_\_\_\_\_ = Rs.
4. \_\_\_\_\_ at Rs. \_\_\_\_\_ per \_\_\_\_\_ = Rs.

**THEREFORE THIS DEED OF INDEMNITY WITNESSETH AS FOLLOWS:**

I/We \_\_\_\_\_ of M/s. \_\_\_\_\_  
do hereby indemnify M/s \_\_\_\_\_ for all losses due to thefts, arson, pilferage, loss due to flood and inundation, shortage, deterioration and depreciation etc. through any act of Man or God or slump in the Market of any or all the materials financed or paid by the Employer on our request for financing payment against material.

I/We \_\_\_\_\_ shall indemnify \_\_\_\_\_ against any or all claims, action damages arising out of or resulting to the said material.

I/We \_\_\_\_\_ further declare that we will faithfully abide by the above declaration and solemnly affirm that we will not remove, sell, pilferage any of the materials against which M/s \_\_\_\_\_ has paid us such a secured advance and will not pledge the same with any Bank, Finance Corporation, Firm, Company, Individual or the like agency or create any charge whereon in any form what so ever.

I/We \_\_\_\_\_ do hereby also declare that in the event of my/our infringement of the declaration made above \_\_\_\_\_ will be entitled to forfeit all such material and also proceed against me/us according to the relevant clause pertaining to breach of contract and further invoke the power or seek any remedies secured of \_\_\_\_\_ under the contract Agreement signed with us or otherwise available under law.

Place \_\_\_\_\_ Dated \_\_\_\_\_

Contractor \_\_\_\_\_

**SPECIFICATION –**  
**SPECIAL PROVISION**

## SPECIFICATIONS - SPECIAL PROVISIONS

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## **SPECIFICATIONS - SPECIAL PROVISIONS**

### **1. DESCRIPTION OF PROJECT**

The Employer intends to Construct NEW 65 MGD PUMP HOUSE (EQUIPPED WITH M & E PUMPING MACHINERIES) AT GHARO on EPC / Turnkey basis location shown on drawings and scope described as hereunder and specified herein after.

### **2. USER REQUIREMENTS**

The User Requirements shall have the overriding effect to any and all stipulations of the contract.

#### **2.1. Basic and Overriding Principle**

The Basic and overriding requirement under the Contract is to Construct NEW 65 MGD PUMP HOUSE (EQUIPPED WITH M & E PUMPING MACHINERIES) AT GHARO on EPC / Turnkey basis with operation of Pump Station on a Fixed Price Lump Sum Basis including but not limited to any and all expenses, costs taxes, levies, etc. The Contract Amount shall be deemed to include but not limited to any and all expenses, costs, taxes, levies etc.

#### **2.2. Site Visit and Disclaimer**

The Bidder / Contractor is required to visit the site and acquaint and satisfy himself regarding any and all features and requirements including but not limited to the works like dewatering, landfill, cleaning of Jungle etc. to submit a binding fixed price lump sum bid. No claim whatsoever under any circumstances shall be admissible for lack of knowledge of the site and / or project requirements.

#### **2.3. Available Land**

The New 65 MGD Pumping Station shall be constructed in the available land for which the site plan is attached as Bid Drawing.

The Contractor shall provide indemnity, if for any reasons change in location of proposed Pumping Station is envisaged; he will be responsible to complete the job in all respects without any extra cost from the Client.

#### **2.4. Site Survey and Geological Analysis**

The contractor shall carry out confirmatory physical survey and geo-technical analysis of the site for the design of structure. The scope of work of the said geo-technical testing shall be submitted by the Contractor to the Engineer for his approval and the investigations shall be carried out by approved laboratory, the report of which shall be submitted by the Contractor along with detailed structural design of the facility.

#### **2.5. Submittals and Training**

The contractor shall provide for the review and approval of the Employer / Engineer, the following apart from the other submittals mentioned in the Contract:

##### **2.5.1. Technical Proposal**

The bidder shall provide the plant layout, Dry well design, Hydraulic Design, Structural Design, Architectural Designs, Mechanical and electrical designs, in sufficient details required

for evaluation of the proposal. The proposal shall also detail the units of electricity that the pumping station would consume if running at full efficiency of 65 MGD.

### **2.5.2. Detailed Design**

The selected Contractor shall submit the Detailed Design, Working Drawings, Calculations and Computer Models of Design, Hydraulic Design, Structural Design, Architectural Design, M & E Design & External Services Design with 2 month of commencement of works for review and approval of the Engineer. Three sets of designs & documents along with two soft copies shall be submitted by the contractor.

### **2.6. Guideline Design**

The Guideline Design of the Project has already been got prepared by the Employer, through the Consultants / The Engineer, which is a part of the Bid Document. This design and its associated drawings are however only for reference purposes.

### **2.7. Site Laboratory**

The Contractor shall establish a Site laboratory for the purpose of necessary testing. The cost of establishment, operation & maintenance of this laboratory including but not limited to building, equipment, expendable material, electricity, gas, telephone, gas, telephone, water, sewerage, janitorial services, etc. shall be deemed to be included in the Lump Sum Fixed price of the Contract.

The operation of the lab shall be under the control of Resident Engineer and his designated officers.

### **2.8. Site order book**

The Contractor shall maintain site order book {of triplicate leaves} at the Site, at all times for taking down instructions of the Engineer and/ or the Employers, without any obligation and charges to the Employer / Engineer.

### **2.9. Dewatering at site**

Dewatering including shoring wherever so required for any foundation area, pumping, bailing out water, drainage of water within plot areas and establishment of well points if any shall be deemed to have been included in the lump sum fixed price quoted by the bidder and no extra payment under any circumstances shall be made. The lump sum fixed price shall be deemed inclusive of such incidental charges.

The Contractor shall execute all works at their own cost for diversion of water away from the plot as per site requirements to have full satisfaction of Engineer and no additional payment will be made on this account.

### **2.10. Rules of specifications**

#### **a) Specification or as Specified**

Specification" or "as specified" refers to the specifications outlined in these Documents and where no specifications are available for any work or where the same are found not applicable then the relevant applicable ASTM, BS or AWWA specifications or equivalent standards shall apply in the same order.

Any item for which no specifications are outlined but which are identified on drawings, shall be completed according to the standards as per ASTM / BS / AWWA specification, these include items that may be added in the future. The Employer / Employer's Representative may supplement such specifications during the progress of work. All materials and processes used for these items shall be subjected to standard testing

and, if found below the pertinent ASTM / BS / AWWA standards, shall be removed from the site immediately at Contractor's expense.

**b) Standards and Codes**

Wherever reference is made in the specifications to the respective standards and codes in accordance to which goods and materials are to be furnished, and work is to be performed or tested, the provisions of the latest current edition or revision of the relevant standards and codes in effect shall apply, unless otherwise expressly set forth in the Contract.

**c) Applicability**

Unless stated or specified else-where to the contrary these General Rules shall apply to all sections of work irrespective of their sequence, location and description.

## **2.11 First aid facilities**

The Contractor shall provide and maintain adequate First Aid Facilities at all times, convenient to the Site to the approval of the Employer.

## **2.12 Occupational Health & Safety Manual**

Occupation Health & Safety (OH&S) policy / plan for construction and afterwards during operations shall be submitted by the Contractor in the 1<sup>st</sup> Month of the commencement of works for review and approval of the Engineer. On approval, the contractor shall provide 10 sets of approved OH&S policy / plan and shall follow the same during the construction and commissioning of the project.

# **3. SETTING OUT OF WORK AND SURVEY**

## **3.1 Reference Points, Lines**

The Contractor shall establish bench marks and / or reference line at the Site in accordance with the instructions of the Engineer. The Contractor shall set out its work from these bench marks and / or lines.

## **3.2 Verification**

The Engineer and the Employer may make checks as the work progress to verify lines and grades established by the Contractor and to determine the conformance of the work as it progresses with the requirements of the Drawings and Specifications. Such checking by the Engineer shall not relieve the Contractor of his responsibility to perform all work in accordance with the Drawings and Specifications and the lines and grades given therein.

## **3.3 Survey Instruments**

The Contractor shall maintain at the Site the requisite surveying instruments in perfect working conditions for the use of the Engineer's Representative to check levels and lines of the work at all times. These instruments shall include (but not limited to) One Total Station, Adequate nos. of Levels, Theodolites, Tapes, etc.

## **3.4 No work without Joint Survey**

The Contractor shall not start the excavation and / or embankment works until the Joint Survey has been done to establish the existing/ original ground levels (i.e. Natural Surface Level or NSL).

## **4 APPROVAL OF MATERIALS AND PLANT**

### **4.1 Quality of Materials**

All materials, fixtures, fittings, supplies and plant furnished under the Contract shall be new and unused, standard first grade quality and of the best workmanship and design. No inferior or low-grade materials, supplies or articles will be either approved or accepted, and all work of assembly and construction shall be done in a first-class and workmanlike manner. In asking for prices for materials intended for delivery to the Site and incorporation in the Works under any portion of these Specifications, the Contractor shall provide the manufacturer or supplier with complete information as may be necessary to secure compliance to this Clause and, in every case, he shall quote this Clause in full to each such manufacturer or supplier.

The Employer will select the manufacturer of his choice and approval will be conveyed to the Engineer and Contractor.

### **4.2 Submission of Samples and Data**

As soon as practicable after award of Contract, the Contractor shall submit for the approval of the Engineer drawings, catalogues, diagrams and other descriptive data for all mechanical, electrical, architectural and such other materials and plant designated by the Engineer subject to approval of Employer, which the Contractor proposes for use under this Contract. For certain materials and plant, data may be required to be submitted in accordance with a detail form furnished by the Engineer. Samples of materials (1 set) each shall be submitted by the Contractor to the Engineer and the Employer at Contractor's cost for approval sufficiently in advance of the materials intended to be incorporated in the Works.

### **4.3 Testing**

Testing, except as otherwise specified herein, shall be performed by a testing agency as proposed by the Contractor and approved by the Engineer, at no extra cost to the Employer. The Engineer/ Employer may require all testing to be carried out under their supervision only.

The quality control testing shall be performed by the Contractor's competent personnel in accordance with a site testing as approved by the Engineer/ Employer.

The Contractor shall keep a complete record of all quality tests programme performed on Site.

### **4.4 Testing Laboratory Certificates**

The Engineer may accept a certificate from a commercial testing laboratory, satisfactory to him, certifying that the product has been tested within a period acceptable to the Engineer and that it conforms to the requirements of these Specifications. The Employer may carry out testing from independent laboratory at the cost of the Contractor.

### **4.5 Inspection**

All material and Plant furnished and all work performed under this Contract will be subject to inspection by the Engineer/ Employer or Employer's Representative at all times and in all states of completion both off-Site and on-Site. The Contractor shall furnish promptly without additional charge, all facilities, labour and materials reasonably needed for performing such inspection and testing as may be required by the Engineer/ the Employer or Employer's Representative.

### **4.6 Approved Sample at Site**

The Contractor shall, at all times, keep on the Site approved samples. All such samples shall be made available to the Engineer/ Employer as and when required.

## **5 CONSTRUCTION SCHEDULE**

### **5.1 Submittal Date**

The programme of Works submitted by the Contractor in accordance with Clause 14" Programme to be Submitted", of the Conditions of Contract shall be submitted in the form of a CPM schedule based on Primavera Project Planner or Microsoft Project covering all construction activities indicating critical activities with critical path, total and free float, interdependencies between the construction activities and resource scheduling for Contractor's Equipment, material and labour.

If the Contractor fails to submit the construction schedule indicating all the details as listed above within 30 days of Notice of Commencement a penalty of Rs 30,000/- per week will be charged on the Contractor.

### **5.2 Requirements**

The detailed submittal shall consist of schedules, network analysis tabulations and narrative descriptions of the proposed construction programme.

Each summary or detailed schedule shall consist of a bar chart and a time -scaled network. The scheduled start and finish times for all activities on the bar chart shall agree with those on the network. All inter-relationships and inter-dependencies between structures shall be clearly indicated on the schedules.

The network shall show the order and interdependence of activities planned by the Contractor, and shall be time-scaled according to calendar dates.

### **5.3 Monthly Reports**

Each month, the Contractor shall submit a report consisting of:

- o Copies of the bar charts for the current phase with both actual progress and scheduled progress shown.
- o Network analysis tabulations as in Sub-Clause 8.3 above, reflecting actual start and finish dates where applicable.
- o A narrative report discussing any significant deviations from the schedule and, if necessary, explaining the steps proposed to be taken to maintain the approved schedule.

## **6 SITE OFFICE AND TEMPORARY FACILITIES PROVIDED BY THE CONTRACTOR**

### **6.1 Contractor's Office, Facilities etc.**

The Contractor shall establish and maintain a temporary Site office Porta cabin as per drawing attached immediately within 7 days from the date of issuance of order for commence of work. The Contractor shall provide all facilities in connection with the execution, completion, of the Works, remedying defects therein and maintenance of the utilities services. The facilities shall, not be limited to, the Contractor's Site Office, labour camps, workyard and storage areas, temporary water supply, waste water disposal, temporary electricity, medical unit, temporary roads, fire protection and firefighting equipment etc. The Contractor shall be solely responsible for arranging the facilities.

The Contractor shall arrange his labour camp, work yard, storage area, site office within the area available at the Site.

## 6.2 Notice Board

The Contractor shall erect and maintain at the Site in a location to be approved by the Engineer, 1 Sign Board 2.5M height and 1.5 M wide for writing the name of Work, name of Employer, name of Consultants, name of Contractor and Project Cost. The notice board shall comprise of the following;

- Frame of 3" dia GI Pipe properly painted as per the direction of the Consultants/ Engineer and as per drawing.
- 2 Nos. Posts of 3" dia GI Pipe 4.45M above ground and 1M below ground embedded in 1:2:4 CC 2'x2'x4' with proper arrangements of anchorage and brasses. Pipes painted with anti-rust as directed by the Engineer.
- 4 Nos. Steel Sheets 0.6M high and 2M wide fixed on both sides with 50mm gap between each. The background of plates is of white color whereas the writing would be black or red color (as approved by the Engineer).
- White imported 3M sheet used as background. The color of monogram would be, green, red or black etc. (as approved by the Engineer).
- Alphabets of appropriate size as approved by the Engineer in 3M reflective sheet in blue/ black color.

The Contractor shall maintain the display of the notice boards at his own cost throughout the length of the project.

## 7 FACILITIES FOR ENGINEER'S PERSONNEL PROVIDED BY THE CONTRACTOR

### 7.1 Engineer Facilities

The Contractor shall start construction of Office Accommodation, provide, operate and maintain the following facilities within 1 week of the Engineer's Order to Commence the Works for the Engineer: -

- a). The Contract Price shall be deemed to have included cost for four (04) Nos. smart mobile phones as approved by employer and cost of Rupees Sixteen thousand (Rs. 16,000/-) per month pertaining to telephone uses in shape of Prepaid Mobile Cards.
- b). Four (04) Nos. Desktop Computer "Desktop Computer Brand New - HP, Dell, IBM or other equivalent as approved.

6th Generation 3.4 GHz 6 MB Cache Intel Core i7 Processor (6700K) or higher, 16GB DDR-4 RAM 8 x 2, 4GB Dedicated Graphic Card, 1 Terabit SATA Hard Drive, 24" LED Screen, Giga bit Ethernet LAN alongwith genuine / licensed Microsoft Windows 10 operating system and Microsoft Office Professional Edition latest version alongwith 128 GB USB 3.0 Flash Drive and UPS minimum 2 hours backup latest model.

- c). Two (02) Nos. Laptop/Notebook Brand New - Sony / Toshiba / Dell / HP or other equivalent as approved.

Intel Core i7 6500U - 2.3 GHz (6th Generation) or higher, 8GB RAM, 2GB Dedicated Graphic Card, 1 TB SATA Hard Drive, 15.6" HD Screen, Camera, Bluetooth, Gigabit Ethernet LAN, Card Reader, DVD Writer, WIFI 802.11b/g alongwith genuine / licensed with Microsoft Windows 10 or latest version operating system and Microsoft Office Professional Edition latest version alongwith Notebook bag."

- e). "One (01) No. Photocopier" RICOH MP-2001 SP with Network Printer/ Scanner" brand new with standard warranties.
- f). One (01) Nos. Printer Brand New - HP inkjet Printer A-3 Size Color Printer - CP5225DN or other equivalent as approved, with original complete set of tonners (01) extra set for - CP5225DN Printer.
- g). Two (02) Nos. Printer Brand New - HP LaserJet Printer A-4 Size Black & White Printer - M401DNe or other equivalent as approved with HP original tonner (01) extra piece for - M401DNe Printer.
- h). One (01) No. A3 size HP Scanner latest model.
- i). Two (02) Nos. Digital Camera, Brand New latest model available in the market alongwith 32GB Memory Card, rechargeable cell (4 Nos.), with battery charger, pouch, tripod etc. as approved by engineer
- j). Book binding machine (1 Nos.), Heavy duty staplers (1 Nos.), heavy duty punching machine (1 No.) and other office equipment.
- k). Three (03) Nos. Fire extinguishers

The above equipment shall be in use of the Engineer and shall become property of the Employer and as-such will be handed-over to the Employer in good working condition on completion of the project.

In case of non-provision of above facilities, the same shall be arranged by the Employer / Engineer and be deducted from any monies due / becoming due to the Contractor by the Employer along with 10% overheads till these facilities are provided satisfactorily to the Engineer.

Cost of all above facilities are deemed to be included in the Contract Price and no additional payment shall be made by the Employer to the Contractor under any circumstances except Office Accommodation, Furniture & Equipment.

## **7.2. Furnishing and Maintaining Transportation Facilities for the Engineer / Engineer's Supervision Team**

- a). The Contractor shall provide, operate and maintain following transportation facility to the Engineer as described as under:-
  - a) One (01) Nos. vehicle 4x4 Toyota Hilux Revo or equivalent latest model.
  - b) Three (03) Nos. Suzuki Jimmy Jeep Vehicle or equivalent latest model.
- c) Three (03) Nos.1300 CC Car (Suzuki Swift or equivalent) (A/C fitted latest model).
- d) Two (02) Nos.1300 CC Car (Toyota Corolla Xli / Honda City or equivalent) latest model)
- e) One (01) No. Truck 2600 CC with Hood & Seats (Shahzore or equivalent) latest model.

The above vehicles shall be latest year model with driver along with Comprehensive Insurance, tracker and Registration, for the exclusive use of the Engineer / Engineer's supervision team / Employer to meet their transportation needs. The use of such transportation facilities shall be exclusively under the control of the Engineer and the contractor shall be wholly responsible for furnishing at all times above said facilities. The said facility shall be provided within one week of Engineer's issue of commencement letter and shall continue un-interrupted till the completion of works. The said vehicles shall be the property of the Employer after issuance of completion certificate of the contract.



- b). The Contractor shall furnish, supply and provide, without specific direction of the Engineer all lubricants, tyre's and other supplies, regular service and maintenance at all time for the above vehicles till the issue of the Completion Certificate of the contract.
- c). The Contractor shall provide Fleet cards or equivalent amount for 500 Liters of Hi-Super Petrol/Diesel with all lubricant with full service from authorized workshop per month per vehicle to the Engineer by 5<sup>th</sup> of each month in advance.
- d). The vehicles will be handed-over to the Employer on completion of the Project with following condition:
  - Vehicles shall be registered in the name of Employer.
  - All dues shall be cleared upto the handing-over date.
  - The vehicles shall be repaired upto the entire satisfaction of Employer and handed-over in good serviceable condition.

In case of non-provision of above facilities, the same shall be arranged by the Employer / Engineer and be deducted from any monies due / becoming due to the Contractor by the Employer along with 10% overheads till these facilities are provided satisfactorily to the Engineer.

Cost of all above facilities are deemed to be included in the Contract Price and no additional payment shall be made by the Employer to the Contractor under any circumstances.

## **8. SAFETY**

### **8.1. Accident Prevention, Protective Equipment**

The Contractor shall comply and enforce compliance by all his Subcontractors with the highest standards of safety and accident prevention in compliance with all applicable laws, ordinance and statutory provisions.

Where overhead work is being carried out, warning signs shall be installed at ground level clearly warning of the overhead work.

All warning signs shall be in two languages, English and Urdu, and shall at all times be maintained in a clean and legible condition, to the satisfaction of the Engineer.

Trash shall be removed at frequent intervals to the satisfaction of the Engineer.

If, safety precautions/ warning signs are not installed by the Contractor, KW&SB will charge an amount of Rs. 10,000/- per site per day for the period.

## **9. PAYMENT FOR WORK REQUIRED BY SPECIAL PROVISIONS**

Unless otherwise specifically stated in the Contract, the price of all work required by the Special Provisions shall be considered to be included in the Contract Price.

The quoted Rates shall be inclusive of all lead and lift

No alterations or additions shall be made by the Contractor in the Bill of Quantities and rates must be filled in ink or typed out both in figures and words clearly and legibly in the columns provided in the schedule of quantities. All corrections must be initialed by the contractors. Any Tender which does not comply with this condition will be liable to be summarily rejected and not taken into account when preparing comparative statement.

Materials obtained from excavations will be the property of the Employer. Serviceable materials are to be stacked in places pointed out by Engineer-in-charge. The Contractor undertakes to have the site clean and free from rubbish to the satisfaction of the Engineer. All surplus materials, rubbish, etc., will be removed to places to be fixed by the Engineer and nothing extra will be paid for this.

On completion of the work or earlier as directed by the Engineer, the Contractor shall remove all temporary structure (Godowns, site offices, etc.), erected by him at the site of work. He shall fill tanks dug out by him at site, remove all debris and other materials like surplus sand, stone ballast, rubbish, etc.; and in short, shall leave the site in a neat and tidy condition.

The contractors in the course of their works should understand that all material (e.g., stone and other materials) obtained in the work or dismantling, excavation, etc., will be considered as Employer's property and issued to the contractors (if they require the same for their own use) at rates approved by the Engineer. If the materials are not required by them they will be disposed off in the interest of Employer.

The contractor shall inspect the site of works and acquaint himself with the nature and requirements of the work, facilities of access for materials, removal of rubbish, cost of carriage, nature of strata, etc., before submitting his Bid.

The contractor shall have to make temporary approach roads, etc., at his own cost to facilitate movement of materials, such approach roads shall be aligned in a manner approved by the Engineer.

The contractor shall have to make proper arrangements for road crossing barriers during working hours in the day time as well as in the night when danger lights will have to be provided on either ends at his own cost and no extra cost will be paid. Sufficient barricades and red lights will be provided by the Contractor where required to avoid the chances of accidents. In case an accident occurs for failure on the part of the contractor, he shall be entirely responsible for the consequences.

The Contractor shall have to make arrangements for diversions for traffic wherever necessary and shall have to provide diversion and caution boards as per directions of the Engineer at his own cost for which no extra cost will be paid. The diversion shall be watered and consolidated as per directions of the Engineer.

No material shall be removed from the site without the written permission of the Engineer.

Dewatering including shoring wherever so required for any foundation area, pumping, bailing out water, drainage of water within plot areas if any shall be deemed to have been included in the rates quoted by the bidders and no extra payment will be made.

The rates shall be deemed inclusive of such incidental charges.

The Contractors shall execute all works at their own cost for diversion of water away from the plot as per site requirements to have full satisfaction of Engineer and no additional payment will be made on this account.

The Engineer, subject to approval of the Employer, reserves the right to select all materials and the type, grade, heating capacity and quantity of proportion of any or all materials as required for a particular work. The decision of Employer in this respect shall be final and binding on the Contractor. The rejects on materials must be carted at his own cost. If the rejected materials are not removed within one month of its rejection the materials will become the property of the Employer or will be removed at Contractors cost.

**10. ATTENDANCE OF MEETINGS**

The Contractor shall attend and shall cause his Sub-Contractors to attend any or all meetings when called by the Employer or the Engineer or his Representative to discuss progress of the work and other matters related to the work and the Contract, without any compensation from the Employer.

- a) The proceedings of the meetings shall be recorded by the Engineer which shall be circulated to all the participants including those of the Contractor. All decisions taken in the meetings shall be binding on the Contractor and shall form part of the Contract.

**11. DOCUMENTS NOT TO BE ALTERED OR MUTILATED**

No alteration or mutilation (other than filling in all the blanks intended to be filled in) shall be made in the form of Bid or in any of the documents attached to it. Any comments which it is desired to make shall not be placed on any of the documents attached hereto, but shall take the form of a separate statement which shall be as brief as possible and referenced to items, clauses and pages of the annexed documents.

Such statements shall not qualify the acceptance of the Bid based upon a proposed change or changes in the annexed documents, nor shall be binding upon the Employer in any way in making the award. Alterations of already written prices must be signed in the place of alteration by the Bidder or his legally authorized representative.

**12. PERSONAL LIABILITY OF PUBLIC OFFICIALS OR ENGINEER**

In carrying out any of the provisions of these specifications, or in exercising any power of authority granted to them by or within the scope of the Contract, there shall be no liability upon the Employer or his authorized representatives or the Engineer or his authorized representatives their personally or in their official capacity, it being understood that in all matters they act solely as agents and representatives of the Employer.

**13. ACCESS AND EXISTING ROADS**

If the Contractor finds it necessary or elects to use existing roads, the Contractor shall make all necessary arrangements and obtain all permits from the relevant departments for travel over and use of such roads. The Contractor shall observe all rules regulations of the concerned department regarding the use of said roads. The cost of maintaining all necessary safety measures and temporary structures and making any necessary repairs, replacements or similar operations and all or any other costs required by reason of his use of such roads shall be borne by the Contractor and the Contractor shall save harmless and indemnify the Employer in respect of all claims, demands proceedings, damages, costs, charges and expenses whatsoever arising out of or in relation to any such operation or interference.

**14. FIRST AID FACILITIES**

The Contractor shall provide and maintain adequate First Aid Facilities at all times, convenient to the Site to the approval of the Employer.

**15. FINAL TAKING OVER**

At the end of the Period of Maintenance stipulated in the contract, the Employer and the Engineer on application of the Contractor, shall decide the members of the final Handing/ Taking Committee and announce the same to the Contractor. The committee, after inspection of Work, if satisfied that there are no deficiencies or defects due to work of the Contractor shall certify the final Taking Over, and the Employer will then issue a final Certificate of Completion of Work within thirty (30) calendar days thereafter.

Once completion has been formalized and endorsed both by the contractor as well as the Engineer and Handing/ Taking Over Committee, the work will be regarded as completed for all purpose as per contract agreement although the accounts may not have been settled, no further new works will be authorized against the sanctioned project and not further supplementary estimates or claims may be accepted.

**16. EMPLOYER AND ENGINEER NOT PERSONALLY LIABLE**

No member or officer of the Government or the Employer or the Employer's

Representative or the Engineer or his representatives or any one of their respective staffs or their employees shall be in anyway personally bound or liable for the acts or obligations of the contractor under the contract or answerable for any default or omission in the observance or performance of any of the acts, matters or things which are herein, contained.

**17. PROGRESS PHOTOGRAPHS**

The contractor shall furnish to the Employer and to the Engineer every two weeks at least six digital photographs to clearly show the progress of construction. Digital photographs should reflect the date. Three hard copies of the same photographs should also be submitted.

**18. REPORT ON PROGRESS OF WORK AND PHOTOGRAPHS**

The Contractor shall, during the execution of the work, submit to the Employer (3 copies) and Engineer (2 copies) so as to reach them in the first week of every calendar month, a report on the actual progress of the works attained by him during the preceding month fully supported with colour photographs of (5" x 7") size, at least 15, depicting the complete stages of the works. Each photograph should be properly pasted on A-4 size paper, indicating the location and other relevant information of the area photographed. The report will also be submitted on the CD.