



कार्यालय नगर निगम जयपुर हैरिटेज

पुराना पुलिस मुख्यालय, हवामहल के पीछे, बडी चौपड, जयपुर

NOTICE INVITING E - BID

ई-निविदा सूचना संख्या 20/2024-25

नगर निगम जयपुर हैरिटेज गैराज शाखा द्वारा निम्न कार्य कराये जाने हेतु सामग्री क्रय/सेवाओं (Purchasing of Safety Equipments for Sewer Line Cleaning Work.) में ईच्छुक एवं अनुभवी संवेदकों से निर्धारित प्रपत्र में ई-प्रोक्यूमेंट प्रक्रिया हेतु आनलाईन दर संविदा हेतु निविदाएँ आमंत्रित की जाती है। टेण्डर की शर्तें निम्नानुसार है:-

- आर.टी.पी.पी. एक्ट 2012 एवं आर.टी.पी.पी. रूल्स 2013 के नियम एवं शर्तें निविदा में लागू होंगे।
- निविदादाताओं को निविदा शुल्क/बोली प्रतिभूति एवं प्रोसेसिंग फीस ऑन लाईन नगर निगम जयपुर हैरिटेज की वेबसाइट www.jaipurmcheritage.org पर Submission Date and time से पूर्व जमा करवाकर उससे प्राप्त होने वाली रसीद को स्कैन करके www.eproc.rajasthan.gov.in पर अपलोड करने पर ही निविदा को मान्य किया जावेगा।
- बोली आमंत्रण प्रपत्र में दिए गए निर्देशों के अनुसार प्रस्ताव उचित रूप में ऑनलाईन प्रस्तुत किए जाने हैं।

क्र. स.	कार्य का नाम	अनुमानित लागत (राशि लाखों में)	अमानता राशि 2%	निविदा शुल्क	MD-RISL Fees	निविदा प्रकाशित करने की तिथि	निविदा अपलोड करने की तिथि	निविदा डाउनलोड/अपलोड करने की अंतिम तिथि व समय	निविदा खोलने की तिथि व समय	कार्य पूर्ण करने की अवधि
1	Purchasing of Safety Equipments for Sewer Line Cleaning Work	1.52 लाख	3040/-	590/- जीएसटी सहित	500/-	22-07-2024	25-07-2024	01-08-2024 & up to 4.00 PM	02-08-2024 & up to 11.00 AM	15 दिन

- निविदा में स्वीकृत सामग्री/सेवाओं की दरें कायदेशि तिथि से 15 दिन के लिये मान्य होगी, उक्त अवधि को आपसी सहमति से 15 दिन के लिये ओर बढ़ाया जा सकता है।
- ई-बोली प्रपत्र दो भागों में है। प्रथम भाग तकनीकी बिड है तथा द्वितीय भाग वित्तीय बिड है। बोली दाता द्वारा तकनीकी बिड हेतु यह प्रपत्र मय संलग्न व वांछनीय दस्तावेज के प्रत्येक पृष्ठ पर हस्ताक्षर करते हुये (मय सील) eproc पोर्टल पर अपलोड करनी है। वित्तीय बिड ऑनलाईन BOQ में ही प्रस्तुत की जानी है। इससे भिन्न रूप में प्रस्तुत प्रस्तावों पर विचार नहीं किया जाएगा। वित्तीय दर वाला बिड डॉक्यूमेंट केवल उन्ही फर्मों का खोला जायेगा, जिन्हें कमेटी द्वारा तकनीकी बिड डॉक्यूमेंट में योग्य समझा जायेगा।
- निविदादाता निविदा राशि की 2.00 प्रतिशत अमानता राशि जमा कराना अनिवार्य होगा। प्रतिभूति घोषणा पत्र की हार्डकॉपी फर्म द्वारा निर्धारित समय, दिनांक पर कार्यालय में जमा करानी होगी।

7. संवेदक को किसी भी राजकीय संस्था विभाग, बोर्ड, कॉर्पोरेशन अथवा उपक्रम में वर्तमान में ब्लैक-लिस्टेड/डी-बार अथवा डिफाल्टर घोषित नहीं किया होना चाहिए इस संबंध में 100 रूपयों के नॉन ज्यूडिशियल स्टाम्प पैपर पर नोटरी से प्रमाणित शपथ-पत्र निविदा के साथ संलग्न किया जाना आवश्यक है।
8. फर्म का नाम एवं पता मय टेलीफोन नम्बर, फर्म की स्थिति एकाकी/पार्टनरशिप/प्रा.लि. आदि का विवरण संलग्न करना होगा। साथ ही फर्म का बैंक अकाउंट नं. की छायाप्रति संलग्न करनी होगी। फर्म का स्वयं का नगरीय निकाय क्षेत्र में कार्यालय स्थित होना आवश्यक है। (प्रमाण पत्र संलग्न करें)
9. फर्म का जीएसटी विभाग द्वारा जारी जीएसटी सर्टिफिकेट मय नवीनतम् जीएसटी रिटर्न प्रमाण पत्र की छाया प्रति संलग्न करनी होगी।
10. संवेदक को उपरोक्त कार्य में भाग लेने के लिए विगत तीन वित्तीय वर्ष में निविदा राशि का वार्षिक औसत न्यूनतम 50 प्रतिशत टर्न ओवर प्रतिवर्ष का होना आवश्यक होगा। इस हेतु संवेदक द्वारा सी.ए. से प्रमाणित ऑडिटेड बेलेंस शीट लगाया जाना आवश्यक होगा।
12. संवेदक को निविदा में मांगे गये दस्तावेजों की पूर्ति कर लगाया जाना आवश्यक होगा। यदि मांगे गये दस्तावेजों की पूर्ति नहीं किये जाने पर उस फर्म को असफल माना जावेगा।
13. फर्म के गठन आदि में किसी भी परिवर्तन की सूचना क्रेता अधिकारी को लिखित में आपूर्तिकर्ता/सेवाप्रदाता ठेकेदार द्वारा दी जायेगी तथा इस परिवर्तन से निविदा के अधीन किसी भी दायित्व से फर्म के पहले सदस्य को मुक्त नहीं किया जावेगा।
14. निविदादाता विफल रहा है के मूल्य की निम्नानुसार प्रतिशत के आधार पर वसूली की जावेगी।
- विहित परिदान कालावधि की एक चौथाई कालावधि तक विलम्ब 2.50 प्रतिशत
 - विहित कालावधि की एक चौथाई से अधिक किन्तु आधी से 5.00 प्रतिशत अनाधिक कालावधि तक विलम्ब
 - विहित कालावधि के आधे से किन्तु तीन चौथाई तक की कालावधि का विलम्ब 7.50 प्रतिशत
 - विहित कालावधि के तीन चौथाई से अधिक की कालावधि का विलम्ब 10.00 प्रतिशत
 - निर्धारित नुकसान की अधिकतम रकम 10.00 प्रतिशत
15. निविदा के संबंध में फर्म में किसी भी नए भागीदार/भागीदारों को ठेकेदार द्वारा फर्म में तब तक स्वीकार नहीं किया जायेगा जब तक कि वे इसकी समस्त शर्तों को मानने के लिये बाध्य नहीं हो जाते एवं क्रेता अधिकारी को इस संबंध में लिखित नामा प्रस्तुत नहीं कर दें। प्राप्त स्वीकृति के लिए ठेकेदार की रसीद या बाद में उपरोक्त रूप में स्वीकार की गयी किसी भागीदारी की रसीद उन सब को बाध्य करेगी तथा वह संबन्ध के किसी प्रयोजन के लिए पर्याप्त रूप से उन्मुक्ति (डिस्चार्ज) होगी।
16. स्वीकृत निविदादाता की नगर निगम जयपुर हैरिटेज गैराज शाखा द्वारा समय-समय पर सामग्री क्रय (Purchasing of Safety Equipments for Sewer Line Cleaning Work.) के आदेश मिलने पर नगर निगम जयपुर हैरिटेज गैराज शाखा द्वारा निर्दिष्ट स्थान पर सामान की निर्देशानुसार पूर्ण व्यवस्था करनी होगी। सामान टूट-फूट रहित साफ तथा अच्छी क्वालिटी का होना आवश्यक है। स्वीकृत निविदादाता को इसके लिये अतिरिक्त चार्ज देय नहीं होगा। सामान की संख्या में कमी या बढ़ोतरी करने का अधिकार नगर निगम जयपुर हैरिटेज गैराज को पूर्ण अधिकार होगा।

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17. स्वीकृत निविदादाता को निविदा की शर्तों की पूर्ण पालना करनी होगी। शर्तों की अवहेलना/खराब सामान आपूर्ति करने पर तथा विलम्ब पर नियमानुसार कार्यवाही कर नुकसान को वसूलने का नगर निगम जयपुर हैरिटेज गैराज को पूर्ण अधिकार होगा। ऐसे मामलों में फर्म के दोषी पाये जाने पर स्वीकृति निरस्त कर पुनः निविदा आमंत्रित की जा सकेगी। नई फर्म को निविदा द्वारा कायदेशि दिये जाने तक नगर निगम जयपुर हैरिटेज गैराज शाखा ठेकेदार की रिस्क व कोस्ट के आधार पर किसी अन्य (निविदा में भाग लेने वाली) फर्म से कार्य कराया जा सकेगा, जिसकी कटौती ठेकेदार से की जावेगी।
18. किसी भी निविदा को बिना कारण बताये अस्वीकृत करने का पूर्ण अधिकार नगर निगम जयपुर हैरिटेज गैराज शाखा को होगा।
19. सफल निविदादाता को सामग्री/सेवाओं की टेण्डर राशि की 5 प्रतिशत राशि सिक्योरिटी डिपोजिट के रूप में रखी जायेगी। इसमें अमानता राशि को समायोजित करते हुए, शेष राशि ठेकेदार को जमा करानी होगी। यह निविदा अवधि तक आयुक्त नगर निगम जयपुर हैरिटेज कोष में जमा रहेगी। इस पर किसी भी प्रकार का ब्याज देय नहीं होगा।
20. सफल निविदादाता को नियमानुसार निर्धारित राशि के नॉन ज्यूडिशियल स्टाम्प पेपर पर नगर निगम जयपुर हैरिटेज गैराज शाखा के तहत शर्तों की पालना के संबंध में एक संविदा पत्र लिखना होगा, जिस पर दो गवाहों के हस्ताक्षर होंगे।
21. निविदा की शर्तों में किसी भी प्रकार का परिवर्तन/परिवर्धन करने का अधिकार आपसी सहमति से नगर निगम जयपुर हैरिटेज को होगा। लेकिन यह निविदा प्रस्तुत करने की तारीख से पूर्व होना चाहिए तथा निविदा के कुल समय का 50% समय से पूर्व अपलोड होना चाहिए।
22. निविदादाता द्वारा दी जाने वाली दरें सभी कर सहित होगी।
23. फर्म के बिलों से नियमानुसार आयकर कटौती भुगतान करते समय की जायेगी।
24. यदि निविदादाता किसी कायदेशि की पूर्ति समय पर नहीं कर पावे अथवा आदेशों की अवहेलना करता है, या आदेशों को लेने से मना करता है, तो 5000/-रु. प्रतिदिन की दर से जुर्माना आगामी होने वाले भुगतान राशि में से काटा जावेगा।
25. कार्य की आवश्यकता को देखते हुए दूरभाष पर भी आदेश दिये जा सकेंगे जो ठेकेदार को मान्य होंगे। इसकी पुष्टि में बाद में आदेश जारी किये जा सकेंगे।
26. निविदादाता द्वारा दरें निकटतम रु. एवं पैसों में दी जावेगी।
27. ठेकेदार के ठेके को निरस्त करने की अवस्था में नगर निगम जयपुर हैरिटेज द्वारा उचित समझे जाने पर निविदा में भाग लेने वाली अन्य फर्मों से प्रथम निविदादाता (वर्तमान ठेकेदार) की अनुमोदित दरों पर कार्य करने की सहमति लेकर कार्य कराया जा सकेगा, जो शेष अवधि के लिए होगा।
28. इस करार से उत्पन्न समस्त विवादों तथा इस करार के निर्वाचन से संबंधित समस्त प्रश्न नगर निगम जयपुर हैरिटेज द्वारा निर्णित किये जायेंगे और नगर निगम जयपुर हैरिटेज गैराज शाखा का निर्णय अंतिम होगा।
29. सिविल विवाद की स्थिति में स्थानीय सिविल न्यायालय को ही क्षेत्राधिकार होगा।
30. राज्य सरकार व नगर निगम जयपुर हैरिटेज गैराज शाखा द्वारा समय समय पर जारी आदेश निर्देश मान्य होंगे।
31. निविदादाता को ई-मेल द्वारा सूचना दी जा सकती है। इसलिए आप अपने फैंक्स नम्बर साथ ही ई-मेल तथा मोबाईल नम्बर देने जरूरी होंगे।

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32. संतोषजनक कार्य नहीं होने की स्थिति में अनुबन्ध को किसी भी समय निरस्त किया जा सकता है तथा प्रतिभूति राशि जब्त कर ली जायेगी।
33. निविदादाता द्वारा किसी भी आईटम की दर प्रस्तुत नहीं करने पर निविदा को अपूर्ण मानकर निरस्त कर दिया जायेगा।
34. दर संविदा हेतु किसी निविदादाता द्वारा अस्पष्ट एवं अव्यावहारिक दरें दी जाती हैं, तो उसकी निविदा निरस्त कर अमानता राशि जब्त कर ली जायेगी।
35. यदि किसी निविदादाता द्वारा टेण्डर की राशि से कम दर भरी जाती है तो सफल निविदादाता को एल.ओ.ए. (स्वीकृति प्रत्र) जारी किये जाने के 14 दिवस के अन्दर अन्तर की राशि बीजी/एफडीआर/एनएससी के रूप में नगर निगम जयपुर हैरिटेज गैराज शाखा में जमा करानी होगी। कार्य संतोषप्रद पूर्ण होने के पश्चात् वापस लौटा दी जावेगी।
36. निविदादाता द्वारा निविदा प्रपत्र तथा एनेक्सचर A, B & C को स्वयं हस्ताक्षर कर स्केन करके www.eproc.rajasthan.gov.in पर अपलोड करने पर ही निविदा को मान्य किया जावेगा। अन्यथा निविदा निरस्त कर दी जावेगी।
37. निविदादाता दरों की वैधता अवधि खोले जाने की दिनांक से 90 दिवस तक अनुमोदन हेतु मान्य होगी।
38. असफल निविदादाता की अमानता राशि निविदा अंतिम स्वीकृति के पश्चात् लौटा दी जावेगी।

निविदादाता के हस्ताक्षर
एवं फर्म का नाम


उपायुक्त गैराज
नगर निगम जयपुर हैरिटेज



कार्यालय नगर निगम जयपुर हैरिटेज

पुराना पुलिस मुख्यालय, हवामहल के पीछे, बडी चौपड, जयपुर

Special Conditions of Contract

1. The tenderer would give guarantee that Equipments would continue to confirm to the description and quality as specified for a period of 6 month from the date of delivery of the equipments.
2. The contractor shall not assign or sub-let his contract or any substantial part thereof to any other agency.
3. The Equipments should be ISI/EN/DGMS/CE approved.

Delivery period:-

4. The Delivery of machines are to be completed in 15 days from the date of work order.
5. **Delay Penalty :-** Delay up to one fourth period of the prescribed delivery period 2.5%, Delay exceeding one fourth but not exceeding half of the prescribed period — 5%, Delay exceeding half but not exceeding three fourth of the prescribed period — 7.5%, Delay exceeding three fourth of the prescribed period — 10%.

- a. If the supplier requires an extension of time in completion of contractual supply on account of occurrence of any hindrance, he shall apply in writing to the authorities for this same immediately on occurrence of hindrance, but not after the stipulated date of completion of supply.
- b. Delivery period may be extended with or without liquidated damages if the delay in the supply of goods is on account of hindrances beyond the control of the tenderer.

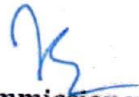
Payment Terms

6. On receipt of machine in JMCH and On complete submission of all documents and successful trial payment will be released to tenderer.
7. The firm is liable to execute any change/modification if suggested at the time of inspection for which no extra payment shall be paid.

Rejection —

8. Articles not approved during inspection or testing shall be rejected and will have to be replaced by the tenderer of his own cost within the time fixed by the JMCH.
9. If, however, due to exigencies of Government work, such replacement either in whole or in part is not considered feasible, the JMCH giving an opportunity to the tenderer of being heard, shall for reasons to be recorded, deduct a suitable amount from the approved rates. The deduction so made shall be final.

Name & Signature of bidder-----


Dy. Commissioner (Garage)
Municipal Corporation Jaipur Heritage



Section VA: General Conditions of Contract

1. General			
S. No.	Particulars	Clause	Description
1.1	Definitions		Unless the context otherwise requires, the following terms wherever used in this Contract have the following meanings:
		1.1.1	"Act" means the Rajasthan Transparency in Public Procurement Act, 2012.
		1.1.2	"Applicable Law" means the Central or State laws and any other instruments having the force of law in India and Rajasthan or any other area of operation of the Contract as they may be, issued and in force from time to time.
		1.1.3	"Client" means the Procuring Entity with which the selected Consultant signs the Contract for the Services.
		1.1.4	"Consultant" means the Bidder who may be any entity or person including any Sub-Consultant and other personnel that may provide the Services to the Client under the Contract.
		1.1.5	"Contract" means the legally binding written agreement as signed by the Parties, that are these General Conditions of Contract (GCC), the Special Conditions of Contract (SCC), Bidding Forms, Appendices and all the attached documents.
		1.1.6	"Day" means a calendar day, unless indicated otherwise in the SCC.
		1.1.7	"Effective Date" means the date on which this Contract comes into force and effect.
		1.1.8	"Experts" means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultant, Sub-consultant or JV member(s) assigned by the Consultant to perform the Services or any part thereof under the Contract.
		1.1.9	"Foreign Currency" means any currency other than the Indian Rupees.
		1.1.10	"GCC" mean these General Conditions of Contract.
		1.1.11	"In writing" means communicated in written form as a letter, E-mail, fax to the specified address, contact id with proof of receipt.
		1.1.12	"Joint Venture (JV)" means an association with a legal personality distinct from that of its members, of more than one entity where one member has the authority to conduct all businesses for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the Client for

		1.1.13	"Key Expert(s)" or "Key Personnel" means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose Curricula Vitae (CV) were taken into
		1.1.14	"Local Currency" means Indian Rupees.
		1.1.15	"Member" means any of the entities that make up the Joint Venture/ Consortium/ Association; and "Members" means all these entities.
		1.1.16	"Non-Key Expert(s)" or "Non-Key Personnel" means an individual professional provided by the Consultant or its Sub-consultant to perform the Services or any part thereof under the Contract.
		1.1.17	"Party" means the Client or the Consultant, as the case may be, and "Parties" means both of them.
		1.1.18	"Personnel" means professionals and support staff in the form of Key Personnel and Non-Key Personnel provided by the Consultant or by any Sub-Consultant and assigned to perform the Services or any part thereof; "Foreign Personnel" means such professionals and support staff who at the time of being so provided had their domicile outside India; "Local Personnel" means such professionals and support staff who at the time of being so provided had their domicile in India.
		1.1.19	"Reimbursable expenses" where applicable means all assignment-related costs other than Consultant's remuneration.
		1.1.20	"Rules" means the Rajasthan Transparency in Public Procurement Rules, 2013.
		1.1.21	"SCC" means the Special Conditions of Contract by which the GCC may be amended or supplemented.
		1.1.22	"Services" means the work to be performed by the Consultant pursuant to this Contract.
		1.1.23	"Sub-Consultants" means any person or entity to whom the Consultant, with the approval of the Client, subcontracts any part of the Services while remaining solely liable for the execution of the Contract.
		1.1.24	"Third Party" means any person or entity other than the Government, the Client, the Consultant or a Sub-Consultant.
2. Interpretation			

2.1	Relationship Between the Parties	2.1.1	Nothing contained herein shall be construed as establishing a relationship of master and servant or of principal and agent as between the Client and the Consultant. The Consultant, subject to this Contract, has complete charge of Experts, Personnel and Sub-Consultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.
2.2	Law Governing the Contract	2.2.1	This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Laws .
2.3	Language	2.3.1	This Contract has been executed in the language specified in the SCC, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.
2.4	Headings	2.4.1	The headings shall not limit, alter or affect the meaning of this Contract.
2.5	Notices, Communications	2.5.1	Any communication, notice, request or consent required or permitted to be given or made pursuant to this Contract shall be In Writing. Any such notice, request or consent shall be deemed to have been given or made when delivered personally, posted, e-mailed, faxed to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the SCC.
		2.5.2	A Party may change its address for notice hereunder by giving the other Party a notice In Writing of such change to the address specified in the SCC.
2.6	Location	2.6.1	The Services shall be performed at such locations as are specified in Appendix A hereto and, where the location of a particular task is changed, at such locations, whether in the India or elsewhere, as the client may approve.
2.7	Authority of Member in Charge or Team Leader	2.7.1	In case the Consultant consists of a Joint Venture/ Consortium/ Association of more than one entity, the Members hereby authorise the entity specified in the SCC to act on their behalf in exercising all the Consultant's rights and obligations towards the Client under this Contract, including without limitation the receiving of instructions and payments in the joint name from the Client.
2.8	Authorized Representatives	2.8.1	Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Client or the Consultant may be taken or executed by the Authorized Representatives specified in the SCC.

3. Code of Integrity			
3.1	Code of Integrity	3.1.1	<p>It is required that Consultant observes the highest standards of ethics during the procurement process and performance of the Contract with strict compliance to the provisions of Code of Integrity specified in the Act and the Rules. In particular, the Consultant, Sub-Consultants, or their personnel shall-</p> <p>(a) not offer any bribe, reward or gift or any material benefit either directly or indirectly in exchange for an unfair advantage in procurement process or performance of the Contract or to otherwise influence the Client/ Procuring Entity;</p> <p>(b) not misrepresent or omit that misleads or attempts to mislead so as to obtain a financial or other benefit or avoid an obligation in performance of the Contract;</p> <p>(c) not indulge in any collusion, Bid rigging or anti-competitive behavior to impair the transparency, fairness and progress of the procurement process and performance of the Contract;</p> <p>(d) not misuse any information shared between the procuring Entity and the Bidders with an intent to gain unfair advantage in the procurement process and performance of the Contract;</p> <p>(e) not indulge in any coercion including impairing or harming or threatening to do the same, directly or indirectly, to any party or to its property to influence the procurement process and performance of the Contract;</p> <p>(f) not obstruct any investigation or audit of a procurement process and performance of the Contract;</p> <p>(g) disclose conflict of interest, if any; and</p> <p>(h) Disclose any previous transgressions with any Entity in India or any other country during the last three years or any debarment by any other procuring Entity.</p> <p>Further, none of them shall indulge in corrupt, fraudulent, coercive and collusive practices. For the purpose of this clause these practices are defined as below:</p> <p>i. "corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;</p> <p>ii. "fraudulent practice" means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;</p>
3.2	Measures to be Taken On Breach Of Code of Integrity	3.2.1	<p>Breach of Code of Integrity by the Consultant, Sub-Consultants, or their personnel:- Without prejudice to the provisions of Chapter IV of the Rajasthan Transparency in Public Procurement Act, in case of any breach of the Code of Integrity by the Consultant, Sub-Consultants, or their personnel, the Procuring Entity may take appropriate action in accordance with the provisions of sub-section (3) of section 11 and Chapter IV of the said Act.</p>

4. Commencement, Completion, Modification and Expiration of Contract			
4.1	Effectiveness of Contract	4.1.1	This Contract shall come into force and effect on the date (the "Effective Date") on which the Client issues to the Consultant the Letter of Acceptance of his Proposal. The notice to commence the Services, if issued separately, shall confirm that the effectiveness conditions, if any, listed in the SCC have been met.
4.2	Forfeiture of Performance Security	4.2.1	<p>Amount of the Performance Security in full or part may be forfeited in the following cases :-</p> <p>(a) when the Consultant does not execute the agreement in accordance with ITC Sub-Clause 9.1 [Award of Contract] within the specified time; after issue of letter of acceptance of offer; or</p> <p>(b) when the Consultant fails to commence the Services as per Letter of Award within the time specified; or</p> <p>(c) when the Consultant fails to complete the Services satisfactorily within the time specified; or</p> <p>(d) when any terms and conditions of the contract is breached; or</p> <p>(e) to adjust any accepted dues against the Consultant from any other contract with the Procuring Entity; or</p> <p>(f) if the Consultant breaches any provision of the Code of Integrity prescribed for Bidders in the Act and Chapter VI of the Rules and GCC Sub-Clause 3.1.1</p> <p>Notice of reasonable time will be given in case of forfeiture of Performance Security. The decision of the Procuring Entity in this regard shall be final.</p>
4.3	Expiration of Contract	4.3.1	Unless terminated earlier, this Contract shall expire at the end of such time period after the Effective Date as specified in the SCC.
4.4	Entire Agreement	4.4.1	This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.
4.5	Modifications or Variations	4.5.1	Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any proposals for modification or variation made by the other Party.
		4.5.2	In cases of substantial modifications or variations, the prior written consent of the competent authority of the Procuring Entity will be required.




5. Force Majeure			
5.1	Definition	5.1.1	For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and subject to those requirements includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by Government agencies.
		5.1.2	Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party's Experts, Sub-Consultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected both to take into account at the time of the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder.
		5.1.3	Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.
5.2	No Breach of Contract Due to Force Majeure	5.2.1	The failure of a Party to fulfill any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract in so far as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.
5.3	Measures to be Taken	5.3.1	A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.
		5.3.2	A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.
		5.3.3	Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

		5.3.4	<p>During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the Client, shall either:</p> <p>a. demobilize, in which case the Consultant shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the Client, in reactivating the Services; or</p> <p>b. continue with the Services to the extent possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.</p>
		5.3.5	In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled through Dispute Resolution Mechanism.
5.4	Suspension	5.4.1	The Client may, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Consultant to remedy such failure within a period not exceeding thirty (30) Days after receipt by the Consultant of such notice of suspension.
6. Termination			
6.1	By the Client	6.1.1	The Client may terminate this Contract in case of the occurrence of any of the events specified in paragraphs mentioned below. In such an occurrence the Client shall give a not less than thirty (30) <u>days'</u> written notice of termination to the Consultant in case of the events referred to in (a) through (d), sixty (60) <u>days'</u> in the case of the event referred to in (e), fourteen (14) <u>days'</u> in the case of the event referred to in (f) and (g), and five (5) <u>days'</u> in the case of the event referred to in (h), :

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			<p>(a) If the Consultant fails to remedy a failure in the performance of its obligations under the Contract, as specified in the notice of termination, within thirty (30) Days of receipt of such notice of termination or within such further period as the Client may have subsequently approved In Writing.</p> <p>(b) If the Consultant becomes (or, if the Consultant consists of more than one entity, if any of its Members becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary.</p> <p>(c) If the Consultant fails to comply with any final decision reached as a result of Dispute Resolution Mechanism or arbitration proceedings, where permissible.</p> <p>(d) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days.</p> <p>(e) If the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.</p> <p>(f) If the Consultant, in the judgment of the Client, has breached any provision of the Code of Integrity as given in GCC Clause 3 or engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for or in executing this Contract.</p> <p>(g) If the Consultant submits to the Client a false statement/ document which has a material effect on the rights, obligations or interests of the Client.</p> <p>(h) If the Consultant fails to confirm availability of Key Experts as required in GCC Clause 4.3.1.</p>
		6.1.2	<p>Termination by the Client due to failure of the Consultant to provide the required Services shall lead to the forfeiture of the Performance Security as per GCC Sub-Clause 4.2 [Forfeiture of Performance Security] and get the Services performed by another agency at the risk and cost of the original Consultant.</p>




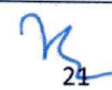
6.2	By the Consultant	6.2.1	<p>The Consultant may terminate this Contract, by not less than thirty (30) <u>days</u>' written notice to the Client, in case of the occurrence of any of the events specified as under:</p> <p>(a) If the Client fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute within forty-five (45) Days after receiving written notice from the Consultant that such payment is overdue.</p> <p>(b) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days.</p> <p>(c) If the Client fails to comply with any final decision reached as a result of Dispute Resolution Mechanism or arbitration, where permissible.</p> <p>(d) If the Client is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Consultant may have subsequently approved In Writing) following the receipt by the Client of the Consultant's notice specifying such breach.</p>
6.3	Cessation of Rights and Obligations	6.3.1	<p>Upon termination of this Contract pursuant to GCC Clause 6 hereof, or upon expiration of this Contract pursuant to GCC Clause 4.3, all rights and obligations of the Parties hereunder shall cease, except:</p> <p>(i) such rights and obligations as may have accrued on the date of termination or expiration,</p> <p>(ii) the obligation of confidentiality set forth in GCC Clause 7.7,</p> <p>(iii) the Consultant's obligation to permit inspection, copying and auditing of their accounts and records by the Client set forth in GCC Clause 7.10, and</p> <p>(iv) any right which a Party may have under the Applicable Law.</p>
6.4	Cessation of Services	6.4.1	<p>Upon termination of this Contract by notice of either Party to the other pursuant to GCC Clause 6.1 or 6.2, the Consultant shall, immediately upon despatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Client, the Consultant shall proceed as provided, respectively, by GCC Clause 7.13 or 7.14.</p>



6.5	Payment upon Termination	6.5.1	<p>Subject to the GCC Clause 3.2.1 [Measures to be Taken on Breach of Code of Integrity], upon termination of this Contract, the Client shall make the following payments to the Consultant:</p> <p>(a) payment for Services satisfactorily performed prior to the effective date of termination; and</p> <p>(b) in the case of termination pursuant to paragraphs (d) and (e) of GCC Clause 6.1.1, reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Contract, including the cost of the return travel of the Experts.</p>
6.6	Disputes about Events of Termination	6.6.1	<p>If either Party disputes whether an event has occurred, such Party may, within forty-five (45) Days after receipt of notice of termination from the other Party, may take recourse to Dispute Resolution Mechanism, and in that case this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting award in accordance with the Dispute Resolution Mechanism or arbitration, where permissible.</p>
6.7	Extension in Completion Period and Liquidated Damages	6.7.1	<p>If the Consultant considers at any time during the performance of the Contract that it is unable to meet the agreed dates and deadlines set forth for various deliverables due to occurrence of an event of Force Majeure or any other reasons, it may request in writing within 14 (Fourteen) days of the occurrence of cause of hindrance to the Client to extend the completion period of the Contract giving detailed reasons and justifications. The Client, after considering the reasons and justifications, may extend the period set forth for completion of the contract with or without liquidated damages. The Procuring Entity, except in case of an event of Force Majeure or reasons beyond the control of the Consultant, shall be entitled to impose on the Consultant, liquidated damages of 1% of the Contract amount for each week of delay after the stipulated period of completion of the Contract. However, the liquidated damages shall not exceed a total of 10% of the Contract amount.</p>




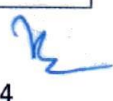

7. Obligations of the Consultant			
7.1	Standard of Performance	7.1.1	The Consultant shall perform the Services and carry out its obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, approved professionals, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as faithful adviser to the Client, and shall at all times support and safeguard the Client's legitimate interests in any dealings with Sub-Consultants or Third Parties. No decision regarding design or incidental thereto of the consultant should cause any loss to the Client. All designs, drawings and the estimates should provide optimum value to the Client.
		7.1.2	The Consultant shall employ and provide such qualified and experienced Experts and Sub-consultants as are required to carry out the Services.
		7.1.3	The Consultant may subcontract part of the Services to an extent and with such Key Experts and Sub-consultants as may be approved in advance by the Client. Notwithstanding such approval, the Consultant shall retain full responsibility for the Services.
7.2	Law Governing Services	7.2.1	The Consultant shall perform the Services in accordance with the Contract and the Applicable Law and shall take all practicable steps to ensure that any of its Experts and Sub-Consultants, as well as the Personnel of the Consultant and any Sub-Consultants comply with the Applicable Law.
		7.2.2	The Client shall notify the Consultant In Writing of relevant local customs, and the Consultant shall, after such notification, respect such customs.
7.3	Conflict of Interests	7.3.1	The Consultant shall hold the Client's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.
7.4	Consultant Not to Benefit from Commissions, Discounts, etc	7.4.1	The payment of the Consultant pursuant to GCC Clause 10 shall constitute the Consultant's only payment in connection with this Contract and, the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations hereunder, and the Consultant shall use its best efforts to ensure that any Sub- Consultants, as well as the Experts/ Personnel and agents of either of them, similarly shall not receive any such additional payment.

		7.4.2	Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the Client on the procurement of goods, works or services, the Consultant shall comply with the Procuring Entity's procurement rules and guidelines, and shall at all times exercise such responsibility in the best interest of the Client. Any discounts or commissions negotiated by the Consultant in the exercise of such procurement advisory responsibility shall be for the account of the Client.
7.5	Consultant and Affiliates Not to be Otherwise Interested in Project, Not to Engage in Certain Activities	7.5.1	The Consultant agrees that, during the term of this Contract and after its completion or termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-Consultants and any entity affiliated with such Sub-Consultants, shall be disqualified from providing goods, works or non-consulting services resulting from or directly related to the Consultant's Services for the preparation or implementation of the project, unless otherwise indicated in the SCC.
7.6	Prohibition of Conflicting Activities	7.6.1	The Consultant shall not engage, and shall cause its Experts, Personnel as well as Sub-Consultants and their Personnel not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.
		7.6.2	The Consultant has an obligation and shall ensure that its Experts and Sub-consultants shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of the Client, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract, in addition to any action which may be taken under the provisions of the Act and the Rules.
7.7	Confidentiality	7.7.1	In addition to the provisions of Section 49 of the Act and Rule 77 of the Rules, except with the prior written consent of the Client, the Consultant and the Experts or Personnel shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Experts or Personnel make public the recommendations formulated in the course of, or as a result of, the Services.
7.8	Liability of the Consultant	7.8.1	Subject to additional provisions, if any, set forth in the SCC, the Consultant's liability under this Contract shall be provided by the Applicable Law.

7.9	Insurance to be Taken out by the Consultant	7.9.1	<p>The Consultant:</p> <ul style="list-style-type: none"> (i) shall take out and maintain, and shall cause any Sub-Consultants to take out and maintain, in the joint name of the Client and himself, upto the final completion of the Contract at their (or the Sub-Consultants', as the case may be) own cost but on terms and conditions approved by the Client, insurance against all the risks, personnel, vehicles, equipments, etc and for the coverage specified in the SCC; and (ii) at the Client's request, shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid. <p>The Consultant shall ensure that such insurance is in place prior to commencing the Services.</p>
7.10	Accounting, Inspection and Auditing	7.10.1	<p>The Consultant shall keep, and shall make all reasonable efforts to cause its Sub-consultants to keep, accurate and systematic accounts and records in respect of the Services and in such form and detail as will clearly identify relevant time changes and costs.</p>
		7.10.2	<p>The Consultant shall permit and shall cause its Sub-consultants to permit, the Procuring Entity or Government of Rajasthan and/or persons appointed by them to inspect the Site and its accounts and records as well as those of its Sub- Consultants relating to the performance of the Contract and the submission of the Proposal to provide the Services, and to have such accounts and records audited by auditors appointed by the Procuring Entity or Government of Rajasthan.</p>
		7.10.3	<p>The Consultant's attention is drawn to the fact that acts of the Consultant intended to impede the exercise of the powers of inspection and audit by the Client constitute a prohibited practice leading to Contract termination.</p>
7.11	Consultant's Actions Requiring Client's Prior Approval	7.11.1	<p>Subcontracts: If permitted in the RFP, the Consultant may subcontract work relating to the Services with such experts and entities as may be approved in advance by the Client. Notwithstanding such approval, the Consultant shall retain full responsibility for the Services. In the event that any Sub-Consultants are found by the Client to be incompetent or incapable in discharging assigned duties, the Client may request the Consultant to provide a replacement, with qualifications and experience equal to or better than those of the Sub-Cconsultant being replaced and acceptable to the Client, or to resume the performance of the Services itself.</p>

7.12	Reporting Obligations	7.12.1	The Consultant shall submit to the Client the reports and documents specified in Appendix A hereto, in the form, in number and within the time periods set forth in the said Appendix. Final reports shall be delivered in soft copy in addition to the hard copies specified in the said Appendix.
7.13	Proprietary Rights of the Client in Reports and Records	7.13.1	Unless otherwise indicated in the SCC, all reports and relevant data and information such as maps, drawings, diagrams, plans, databases, other documents and software, supporting records or material compiled or prepared by the Consultant for the Client in the course of the Services shall be confidential and become and remain the absolute property of the Client. The Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Client, together with a detailed inventory thereof. The Consultant may retain a copy of such documents, data and/or software but shall not use the same for purposes unrelated to this Contract without prior written approval of the Client.
		7.13.2	If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of the plans, drawings, specifications, designs, databases, other documents and software, the Consultant shall obtain the Client's prior written approval to such agreements, and the Client shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned. Other restrictions about the future use of these documents and software, if any, shall be specified in the SCC.
7.14	Equipment, Vehicles and Materials Provided by the Client	7.14.1	Equipment, vehicles and materials made available to the Consultant by the Client, or purchased by the Consultant wholly or partly with funds provided by the Client, shall be the property of the Client and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the Client an inventory of such equipment, vehicles and materials and shall dispose of such equipment, vehicles and materials in accordance with the Client's instructions. While in possession of such equipment, vehicles and materials, the Consultant, unless otherwise instructed by the Client In Writing, shall insure them in an amount equal to their full replacement value.
7.15	Equipment and Materials Provided by the Consultant	7.15.1	Any equipment or materials brought by the Consultant or its Experts and Personnel and used either for the Project or personal use shall remain the property of the Consultant or the Experts and Personnel concerned, as applicable.

8. Consultants' Experts, Personnel and Sub-Consultants			
8.1	Description of Key Experts	8.1.1	The title, agreed job description, minimum qualification and estimated period of engagement to carry out the Services of each of the Consultant's Key Experts are described in ToR.
8.2	Replacement of Key Experts	8.2.1	Except as the Client may otherwise agree in writing, no changes shall be made in the Key Experts.
		8.2.2	Notwithstanding the above, the substitution of Key Experts during Contract execution may be considered only based on the Consultant's written request and due to circumstances outside the reasonable control of the Consultant, including but not limited to death or medical incapacity. In such case, the Consultant shall forthwith provide as a replacement, a person of equivalent or better qualifications and experience, and at the same rate of remuneration.
8.3	Removal of Experts or Sub-consultants	8.3.1	If the Client finds that any of the Consultant's or Sub-consultant's personnel has committed serious misconduct or has been charged with having committed a criminal action, or shall the Client determine that Consultant's or Sub-consultant's personnel have engaged in corrupt, fraudulent, collusive, coercive or obstructive practice while performing the Services, the Consultant shall, at the Client's written request, provide a replacement.
		8.3.2	In the event that any of the Consultant's or Sub-consultant's Expert is found by the Client to be incompetent or incapable in discharging assigned duties, the Client, specifying the grounds therefore, may request the Consultant to provide a replacement.
		8.3.3	Any replacement of the removed Experts or Sub-consultants shall possess better qualifications and experience and shall be acceptable to the Client.
		8.3.4	The Consultant shall bear all costs arising out of or incidental to any removal and/or replacement of such Experts.
8.4	Resident Project Manager	8.4.1	If required by the SCC, the Consultant shall ensure that at all times during the Consultant's performance of the Services a resident project manager, acceptable to the Client, shall take charge of the performance of the Services.
9. Obligations of the Client			
9.1	Assistance and Exemptions	9.1.1	Unless otherwise specified in the SCC, the Client shall use its best efforts to:
		9.1.1.1	Assist the Consultant in obtaining work permits and such other documents as shall be necessary to enable the Consultant to perform the Services.

		9.1.1.2	Assist the Consultant in promptly obtaining, for the Experts and, if appropriate, their eligible dependents, all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in India while carrying out the Services under the Contract.
		9.1.1.3	Facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Experts, Personnel and their eligible dependents.
		9.1.1.4	Issue to officials, agents and representatives of the Government all such instructions and information as may be necessary or appropriate for the prompt and effective implementation of the Services.
		9.1.1.5	Assist the Consultant and the Experts and any Sub-consultants employed by the Consultant for the Services in obtaining exemption from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity in India according to the applicable law in India.
		9.1.1.6	Assist the Consultant, any Sub-consultants and the Experts of either of them in obtaining the privilege, pursuant to the applicable law in India, of bringing into India reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Experts and of withdrawing any such amounts as may be earned therein by the Experts in the execution of the Services.
		9.1.1.7	Provide to the Experts of Consultant and Sub-Consultants any such other assistance as may be specified in the SCC.
9.2	Access to Project Site	9.2.1	The Client warrants that the Consultant shall have, free of charge, unimpeded access to project site in respect of which access is required for the performance of the Services.
9.3	Change in the Applicable Law Related to Taxes and Duties	9.3.1	If, after the date of this Contract, there is any change in the Applicable Law with respect to existing or new taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, then the remuneration and Reimbursable Expenses otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the Contract price amount specified in GCC Clause 10.1.1.
9.4	Services, Facilities and Property of the Client	9.4.1	The Client shall make available to the Consultant and the Experts, for the purposes of the Services and free of any charge, the services, facilities and property described in the Terms of Reference.

		9.4.2	In case that such services, facilities and property shall not be made available to the Consultant, the Parties shall agree on: (i) any time extension that it may be appropriate to grant to the Consultant for the performance of the Services, (ii) the manner in which the Consultant shall procure any such services, facilities and property from other sources, and (iii) the additional payments, if any, to be made to the Consultant as a result of it.
9.5	Counterpart Personnel	9.5.1	The Client shall make available to the Consultant free of charge such professional and support counterpart Personnel, to be nominated by the Client with the Consultant's advice, if specified in ToR .
		9.5.2	If counterpart Personnel are not provided by the Client to the Consultant, the Client and the Consultant shall agree on: (i) how the affected part of the Services shall be carried out, and (ii) the additional payments, if any, to be made by the Client to the Consultant.
		9.5.3	Professional and support counterpart Personnel, excluding Client's liaison Personnel, shall work under the exclusive direction of the Consultant. If any member of the counterpart Personnel fails to perform adequately any work assigned to such member by the Consultant that is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the Client shall not unreasonably refuse to act upon such request.
9.6	Payment Obligation	9.6.1	In consideration of the Services performed by the Consultant under this Contract, the Client shall make such payments to the Consultant for the deliverables specified in ToR .

10. Payments to Consultant

10.1	Contract Price	10.1.1	The Contract price is fixed and is as mentioned in award of contrat.
		10.1.2	Any change to the Contract price specified in GCC Clause 10.1.1 can be made only if the Parties have agreed to the revised scope of Services pursuant to GCC Clause 4.6 and have amended in writing the Terms of Reference.
10.2	Payment	10.2.1	In consideration of the Services performed by the Consultant under this Contract as specified in ToR , the Client shall make to the Consultant such payments and in such manner as is provided in the Contract. This amount has been established based on the understanding that it includes all of the Consultant's costs and profits as well as any tax obligation that may be imposed on the Consultant.

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10.3	Schedule of Payments	10.3.1	The schedule of payments shall be as stated in the SCC
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10.4	Reimbursable	10.4.1	No Reimbursable expenses shall be allowed under Lump Sum Contracts, unless specified in the SCC.
10.5	Taxes and Duties	10.5.1	The Consultant, Sub-consultants and Experts are responsible for meeting any and all tax liabilities arising out of the Contract unless it is stated otherwise in the SCC.
		10.5.2	As an exception to the above and if stated in the SCC, all local identifiable indirect taxes (itemized and finalized at Contract negotiations) are reimbursed to the Consultant or are paid by the Client on behalf of the Consultant.
10.6	Currency of Payment	10.6.1	Any payment under this Contract shall be made in the currency (ies) of the Contract.
10.7	Payment for Additional Services	10.7.1	For the purpose of determining the remuneration due for additional Services as may be agreed, as per rules prior approval of competent authority.
10.8	Advance Payment	10.8.1	(a) No advance payment shall be made.
10.9	Mode of Billing and Payment	10.9.1	The total payments under this Contract shall not exceed the Contract Price set forth in GCC Clause 10.1 and the payments under this Contract shall be made in lump-sum installments against deliverables specified in ToR.
		10.9.2	<u>The Lump-Sum Installment Payments:</u> The Client shall pay the Consultant within sixty (60) days after the receipt by the Client of the deliverable(s) and the cover invoice for the related lump-sum installment payment. The payment can be withheld if the Client does not approve the submitted deliverable(s) as satisfactory in which case the Client shall provide comments to the Consultant within the same sixty (60) days period. The Consultant shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated.

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		10.9.3	<p><u>The Final Payment:</u> The final payment under this Clause shall be made only after the final report have been submitted by the Consultant and approved as satisfactory by the Client. The Services shall then be deemed completed and finally accepted by the Client. The last lump-sum installment shall be deemed approved for payment by the Client within ninety (90) days after receipt of the final report by the Client unless the Client, within such ninety (90) days period, gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report. The Consultant shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated.</p> <p>Any amount, which the Client has paid or caused to be paid in accordance with this Clause in excess of the amounts actually payable in accordance with the provisions of this Contract, shall be reimbursed by the Consultant to the Client within thirty (30) Days after receipt by the Consultant of notice thereof. Any such claim by the Client for reimbursement must be made within twelve (12) calendar months after receipt by the Client of a final report and a final statement approved by the Client in accordance with the above.</p>
		10.9.4	All payments under this Contract shall be made to the accounts of the Consultant specified in the SCC.
		10.9.5	With the exception of the final payment, payments do not constitute acceptance of the Services nor relieve the Consultant of any obligations hereunder.
11.1	Good Faith	11.1.1	The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realisation of the objectives of this Contract.
12. Settlement of disputes			
12.1	Settlement of Disputes	12.1	Dispute Resolution Mechanism shall be as stated in Annexure A.
	Jurisdiction of Court	12.2	Jurisdiction of court at Jaipur only

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Annexure A: Dispute Resolution Mechanism

Any dispute arising from the Contract shall be resolved amicably, as far as possible. The levels of the Dispute Resolution mechanism shall be as follows:

- I. Amicable resolution between representatives of Parties to the Contract

- II. If a question, difference or objection arises in connection with or out of the contract agreement or the meaning of operation of any part thereof or the rights, duties or liabilities of either party have not been settled by amicable resolution through mutual discussions, it shall be referred to the appropriate Empowered Dispute Resolution Committee for decision, if the amount of the claim is more than Rs. 50000/-.

Dispute Resolution Mechanism will have the following Committees at the levels of Head of the Department and Administrative Secretary of the Department:

- 1. Head of the Department Level Committee:** to address disputes in contracts of value upto Rs. 10 lakh:

The Head of the Department Level Committee shall comprise of Head of the Department, Financial Advisor/ Chief Accounts Officer of the Department, Concerned Procuring Entity or Additional Head of the Department (Member -Secretary) and Representative of Law Department not below the rank of Legal Assistant.

- 2. Administrative Secretary Level Committee:** to address disputes in contracts of value of more than Rupees 10 lakh.

The Administrative Department Level Committee shall comprise of Administrative Secretary of the Department, Representative of Finance Department not below the rank of Deputy Secretary, Law Secretary or his nominee, not below the rank of Joint Legal Remembrancer, Chief Engineer- cum - Addl. Secretary of the concerned department and Chief Engineer concerned [or Head of the Department, in case of other than a Works Department (Member- Secretary)].

NOTE: In case the Procuring Entity is other than a Department of the State Government, the concerned Administrative Department will decide the levels of various members of the two

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Dispute Resolution Committees.

III. Arbitration will be applicable in case of disputes arising in contracts above a value of more than Rs.1 crore which remain unresolved through the Dispute Resolution Committee.

IV. All legal proceedings, if necessary arise to institute by any of the parties shall have to be lodged in courts situated in Rajasthan and not elsewhere.

V. Procedure of reference to the Dispute Resolution Committee:-

The Consultant shall present his representation to the Procuring Entity along with a fee equal to two percent of the amount of dispute, not exceeding Rupees One lakh, within three months of occurrence of the Dispute. The Procuring Entity shall prepare a reply of representation and shall represent its stand before the concerned Dispute Resolution Committee. From the side of the Consultant, the claim case may be presented by himself or through a representative. After hearing both the parties, the Dispute Resolution Committee shall pronounce its decision which shall be final and binding both on the Consultant and the Procuring Entity.

Appendices

APPENDIX A – TERMS OF REFERENCE

[This Appendix shall include the final Terms of Reference (TORs) worked out by the Client and the Consultant during the negotiations; dates for completion of various tasks; location of performance for different tasks; detailed reporting requirements and list of deliverables against which the payments to the Consultant will be made; Client's input, including counterpart personnel assigned by the Client to work on the Consultant's team; specific tasks or actions that require prior approval by the Client.]

Insert the text based on the Section IV (Terms of Reference) of the ITC in the RFP and modified based on the Forms TECH-1 through TECH-10 of the Consultant's Proposal. Highlight the changes to Section IV of the RFP]

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APPENDIX B - KEY EXPERTS

[Insert a table based on Form TECH-6 of the Consultant's Technical Proposal and finalized at the Contract's negotiations. Attach the CVs (updated and signed by the respective Key Experts) demonstrating the qualifications of Key Experts.]

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APPENDIX C – BREAKDOWN OF CONTRACT PRICE

[Insert the table with the unit rates to arrive at the breakdown of the lump-sum price. The table shall be based on Form FIN-3 and FIN-4 of the Consultant's Proposal and reflects any changes agreed at the Contract negotiations, if any. The footnote shall list such changes made to Form FIN-3 and FIN-4 at the negotiations or state that none has been made.]

[When the Consultant has been selected under Quality-Based Selection method, also add the following:

"The agreed remuneration rates shall be stated in the attached Model Form I. This form shall be prepared on the basis of Appendix A to Form FIN-3 of the RFP "Consultant's Representations regarding Costs and Charges" submitted by the Consultant to the Client prior to the Contract's negotiations.

Should these representations be found by the Client (either through inspections or audits pursuant to GCC Clause 7.10 or through other means) to be materially incomplete or inaccurate, the Client shall be entitled to introduce appropriate modifications in the remuneration rates affected by such materially incomplete or inaccurate representations. Any such modification shall have retroactive effect and, in case remuneration has already been paid by the Client before any such modification, (i) the Client shall be entitled to offset any excess payment against the next installment payment to the Consultant, or (ii) if there are no further payments to be made by the Client to the Consultant, the Consultant shall reimburse to the Client any excess payment within thirty (30) days of receipt of a written claim of the Client. Any such claim by the Client for reimbursement must be made within twelve (12) calendar months after receipt by the Client of a final report and a final statement approved by the Client in accordance with GCC Clause 10.9.3 of this Contract.]"

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PRICE PROPOSAL SUBMISSION SHEET



Price schedule for supply and delivery of following items are as under:-

S N	Description	Item	BASIC RATE per unit In Figures To be entered by the Bidder	IGS T	SGST	CGS T	TOTAL AMOUNT Without Taxes	TOTAL AMOUNT With Taxes
1	Safety Equipments for Sewer Line Cleaning Work	SCBA SET WITH INTEGRATED AMBIENT OXYGEN MONITOR STATUS DRAEGER/MSA MAKE REFURBISHED {a) DRAEGER/MSA= LIGHT. ROBUST. SIMPLE TO USE. b) LIGHT WEIGHT CARBON COMPOSITE CYLINDER. (4.2KGS) c) APPX. 45 MINUTES DURATION d) 6.8 LTRS 300 BAR CYLINDER e) DRÄGER/MSA CARBON COMPOSITE CYLINDER IS ONE OF THE LIGHTEST AND COMFORTABLE SCBA WITH EFFECTIVE CUSHIONED PADDING TO ENABLE FIRE FIGHTER TO WORK LONGER DURING THE CRUCIAL TIMES f) THE EXTREMELY DURABLE CARRYING SYSTEM FEATURES OUR NEW AND INNOVATIVE ULTRA LIGHTWEIGHT, HIGH STRENGTH CARBON COMPOSITE CARRYING FRAME WHICH EXHIBITS OUTSTANDING THERMAL, IMPACT AND CHEMICAL RESISTANCE PROPERTIES. g) SUITABLE FOR USE IN ALL CONDITIONS EASY AND QUICK TO DON, THE LIGHTWEIGHT HARNESS HAS BEEN SPECIALLY DESIGNED TO RETAIN ITS FORM OVER A WIDE RANGE OF ENVIRONMENTAL TEMPERATURES. h) UTILIZING MATERIALS THAT HAVE GOOD CHEMICAL AND ABRASION RESISTANCE AND ALSO MEETING THE HEAT AND FLAME REQUIREMENTS OF EN137:2006 (TYPE 2). i) AMBIENT OXYGEN DISPLAY DEVICE INTRINSICALLY SAFE j) RANGE: 0-25% OXYGEN, RESOLUTIONS: 0.1% k) SENSOR LIFE: 2-3 YEARS l) EN APPROVED, CE APPROVED m) CARRYING BAG}						
2		RUBBERISED CHEST WADER SUIT WITH BOOTS (PVC MATERIAL)						

- All taxes & Transportation charges and all incidental charges included in bidding rate. Price to be quote without GST and quote GST Separately in above sheet.
- L-1 Would be decided according to Lowest rate.
- Bidder shall quote per unit rate in above financial sheet (BOQ).

Name & Signature of bidder-----


Dy. Commissioner (Garage)
Municipal Corporation Jaipur Heritage

APPENDIX XI (continued)

**GENERAL RULES AND DIRECTIONS
FOR THE GUIDANCE OF CONTRACTORS**

1. All works, proposed for execution by Contract, will be notified in a form of invitation to tender pasted on public places and on a board hung up in the office of and signed by the Chief Engineer or other duly authorised Engineer.

The form of invitation to tender will state the work to be carried out, as well as the date of submitting and opening of tenders and the time allowed for carrying out the work, also the amount of Earnest Money to be deposited with the tender and the amount of the [xxxx] Security Deposit to be deposited by the successful tenderer and the percentage, if any, to be deducted from bills. Copies of the specifications, designs and drawing and estimated rates/scheduled rates and any other documents required in connection with the work signed for the purpose of identification by the Executive Engineer shall be open for inspection by the Contractor at the office of the Chief Engineer or other duly authorised Engineer during office hours.
2. In the event of tender being submitted by a firm, it must be signed separately by each partner, thereof, or in the event of the absence of any partner, it must be signed on his behalf, by a person holding a power of Attorney, authorising him to do so. Such power of Attorney will be submitted with the tender and it must disclose that the firm is duly registered under the Indian Partnership Act, by submitting the copy of registration certificate.
3. Receipts for payments, made on account of a work when executed, by a firm must also be signed by the several partners, except where the contractors are described in their tender as a firm, in which case the receipts must be signed in the name of the firm by one of the partners or by some other person having authority to give effectual receipts for the firm.
4. Any person, who submits percentage rate tender, shall fill up the usual printed form stating at how much percent above or below the rates specified in Schedule G, he is willing to undertake the work. Only one rate of percentage, more or less, on all the estimated rates/scheduled rates shall be mentioned. Tenders, which propose any alteration in the work, specified in the said form of invitation to tender, or in the time allowed for carrying out the work, or which contain any other conditions of any sort, will be liable to rejection. No single tender shall include more than one work, but Contractors, who wish to tender for two or more works, shall submit a separate tender for each work. Tenders shall have the name and number of work, to which they refer, written outside the envelope.
5. The Chief Engineer or other duly authorised Engineer will open the tenders in the presence of any contracto (s) or their authorised representatives who may be present at the time, and will announce and enter the rates/amounts of all tenders in the Register of Opening of Tenders. (Form RPWA 20A). In the event of the tender being accepted, a receipt for the Earnest Money deposited shall be given to the Contractor who shall sign copies of the specifications and other documents mentioned in Rule 1. In the

1. Deleted words "Performance Guarantee and/or" by Order No.F 214(F) Exp: 199 dated 13.3.2001(Circular No. 12/2001) with immediate effect.

event of a tender being rejected, the Earnest Money forwarded with such unaccepted tenders shall, be returned to the Contractor making the same.

6. The Chief Engineer or other duly authorised Engineer shall have the right of rejecting all or any of the tender without assigning any reason.
7. The receipt of an Accountant, Cashier or any other official, not authorised to receive such amount, will not be considered as an acknowledgment of payment to the Chief Engineer or other duly authorised Engineer.
8. The memorandum of work tendered for, memorandum of materials and of tools and plant to be supplied by the Department and their rates, shall be filled in and completed in the office of the Chief Engineer or duly authorised Engineer before the tender form is issued.
9. If it is found that the tender is not submitted in proper manner, or contains too many corrections and or unreasonable rates or amounts, it would be open for the Engineer-in-charge not to consider the tender, forfeit the amount of earnest money and/or delist the contractor.
10. The tenderer shall sign a declaration under the Official Secrets Act for maintaining secrecy of the tender documents, drawings or other records connected with the work given to him in form given below. The unsuccessful tenderers shall return all the drawings given to them.

Declaration

"I/We hereby declare that I/We shall treat the tender documents, drawings and other records, connected with the work, as secret confidential documents, and shall not communicate information derived therefrom to any person other than a person to whom I/We am/are authorised to communicate the same or use the information in any manner prejudicial to the safety of the same "

11. Any percentage rate tender containing item-wise rates, and any item rate tender containing percentage rate below or above estimated/scheduled rates, will be summarily rejected. However, if a tenderer voluntarily offers a rebate for payment within a stipulated period, this may be considered.
12. On acceptance of the tender, the name of the accredited representative(s) of the Contractor (with a photograph and signature attested), who would be responsible for taking instructions from the Engineer in charge shall be communicated to the Engineer-in-charge.
13. Sales tax or any other tax on materials or Income Tax in respect of the contract shall be governed by Clause 36 A, B and C and D of the Conditions of Contract. Deduction of Income Tax at source will be made as per provisions of the Income Tax Act, in force from time to time.
14. The tender to work shall not be witnessed by a Contractor or Contractors who himself/himself has/have tendered or who may and has/have tendered for the same work. Failure to observe the secrecy of the tenders will render tenders of the contractors tendering as well as witnessing the tender, liable to summary rejection.

- [15. If on check, there are some discrepancies, the following procedure shall be followed:-]
- (i) Where there is a difference between the rates in figures and words, lower of the two rates shall be taken as valid and correct rate.
 - (ii) When the rate quoted by the contractor in figures and in words tallies, but the amount is not worked out correctly, the rate quoted by the contractor shall be taken as correct and not the amount worked out.
 - (iii) While quoting rates, if rate/rates against any item or items are found to be omitted, the rate given in the Schedule 'G' by the department for such items will be taken into account while preparing comparative statement and contractor shall be bound to execute such item on 'G' Schedule rates.
 - (iv) In case where percentage is given but the 'above' or 'below' not scored, the tender will be non-responsive.
16. The Contractor shall comply with the provisions of the Apprenticeship Act, 1961, and the rules and orders issued, thereunder, from time to time. If he fails to do so, his failure will be a breach of the contract and the original sanctioning authority in his discretion may cancel the contract. The Contractor shall also be liable for any pecuniary liability arising on account of violations by him of the provisions of the Act.
17. The Contractor shall read the specifications and study the working drawings carefully before submitting the tender.
18. The site for execution of the work will be made available as soon as the work is awarded. In case, it is not possible for the Department to make the entire site available on the award of the work, the Contractor shall arrange his working programme accordingly. No claim, whatsoever, for not giving the site in full on award of the work or for giving the site gradually in parts will be tenable. The contractor may satisfy himself regarding site, acquisition of land, approach roads etc.
19. The tender documents show already the specific terms and conditions on which tenders are required by the Government. Hence, all tenders should be in strict conformity with the tender documents and should be fulfilled in, wherever necessary, and initialed. Incomplete tenders are liable to be rejected. The terms and conditions of the tender documents are firm, as such conditional tenders are liable to be rejected.
20. The tenderer, while submitting tender, must provide adequate information regarding his financial, technical and organisational capacity and working experience to execute the work of the nature and magnitude.
21. The Chief Engineer or other duly authorised Engineer reserves the right to ask for submission of samples as in respect of materials for which the tenderer has quoted his rates before the tender can be considered for acceptance. If the tenderer, who is called upon to do so, does not submit within seven days of written order to do so, the Engineer-in-charge shall be at liberty to forfeit the said earnest money absolutely.

[Substituted by Order No F 100/DT/Exp/II/99 dated 19/11/2001 (Circular No. 6/2001) with immediate effect]

22. The Contractor shall submit the list of the works, which are in hand (progress), in the following form:-

Name of work	Name and particular of the Sub-Division/Division, where work is being executed	Amount of work	Position of works in progress	Remarks
1.	2	3	4	5

23. The Contractor should quote his rates only in one language i.e. either in Hindi or English. Rates should be quoted in figures as well as in words. In case a Contractor has quoted rates in both the languages, and the rates so quoted differ, then the lower of the two shall be treated as the rate quoted by the Contractor.
24. All additions, deletions, corrections and over writings, must be serially numbered and attested by the Contractor at every page, so also by the officer opening the tenders, so as to make further disputes impossible on this scope.
25. After acceptance of the tender, the Contractor or all partners (in the case of partnership firm), will append photographs and signatures duly attested, at the time of execution of Agreement.
26. If any contractor, who having submitted a tender does not execute the agreement or start the work or does not complete the work and the work has to be put to retendering, he shall stand debarred from participating in such retendering in addition to forfeiture of Earnest Money/Security Deposit [xxxx] and other action under agreement.
27. The tender documents shall be issued to those contractors only having valid enlistment as on the date of issue of documents.
28. (a) If a tenderer reduces the rates voluntarily after opening of the tenders/negotiations, his offer shall stand cancelled automatically, his earnest money shall be forfeited and action for debarring him from business shall be taken as per enlistment rules.
- (b) If a non-tenderer offers lower rates after opening of tenders, action for debarring him from business shall be taken as per enlistment rules.
29. Contractors shall submit only unconditional tenders. Conditional tenders are liable to be rejected summarily.

1 Deleted words "Performance Guarantee" by Order No F 204-D/Exp II/99 dated 23.3.2001(Circular No. 12/2001) with immediate effect.

5

Tender for works

I/We hereby tender for the execution for the Governor of the State of Rajasthan of the work specified in the underwritten memorandum within the time specified in such memorandum at the rates, (in figures).....% (as well as in words)..... percent below/above the amount, entered in the schedule G in all respects in accordance with the specifications, designs, drawings and instructions in writing referred to in Rule 1 in all respect in accordance with such condition so far as applicable. I/We have visited the site of work and am/are fully aware of all the difficulties and conditions likely to affect carrying out the work. I/We have fully acquainted myself/ourselves about the conditions in regard to accessibility of site and quarries/kilns, nature and the extent of ground, working conditions including stacking of materials, installation of tools & plant, conditions effecting accommodation and movement of labour etc. required for the satisfactory execution of contract.

Memorandum

- (a) General description of work.....
(b) Estimated cost Rs.....
(c) Earnest money Rs.....@ 2% for enlisted contractors outside their zone and 1/2% within their zone of enlistment.
(d) ¹[xxxx] Security Deposit :

²[i] The security deposit @ 10% of the gross amount of the running bill shall be deducted from each running bill and shall be refunded as per rules on completion of the contract as per terms and conditions. However, the amount of security deposit deducted from running bills shall not be converted into any mode of securities like bank guarantee, FDR etc. The earnest money deposited shall however be adjusted while deducting security deposit from first running bill of the contractor. There will be no maximum limit of security deposit.

(ii) However, a contractor may elect to deposit full amount of 10% security deposit in the shape of bank guarantee or any acceptable form of security before or at the time of executing agreement. In that case earnest money may be refunded only after deposition of full 10% as above. However, in case during execution cost of works exceeds as shown at the time of depositing 10% as above, balance security deposit shall be deducted from the Running Account Bills.]

(iii) Bank Guarantee shall in all cases be payable at the headquarter of the Division or the nearest District Headquarters.

- (e) Time allowed for the completion of work (to be reckoned from the 10th day after the date of written order to commence the work) is _____ months. Should this tender be accepted in whole or in Part. I/We hereby agree to abide by and fulfill all the terms and provisions of the conditions of contract annexed hereto and of the Notice Inviting Tender, or in default thereof, to forfeit and pay to the Governor of Rajasthan or his successors in office, the sum of money mentioned in the said conditions.

A sum of Rs._____ is forwarded herewith in the form of Cash, Bank Draft, Bankers Cheque as Earnest Money. This amount of earnest money shall absolutely be forfeited to the

1. Deleted words "Performance Guarantee &" by Order No.F 264(D)Exp.11/99 dated 23.3.2001(Circular No. 12/2001) with immediate effect.
2. Substituted by Order No.F 264(D)Exp. 11/99 dated 23.3.2001(Circular No. 12/2001) with immediate effect.

Governor of Rajasthan or his successor in office without prejudice to any other right or remedies of Governor of Rajasthan or his successor in his office, should I/We fail to commence the work specified in the above memorandum '[xxxx].

Signature of Witness
Witness's address & occupation

Signature of Contractor
Address of Contractor

Date

The above tender is hereby accepted by me on behalf of the Governor of Rajasthan.

Dated the _____ Engineer-in-charge

1. Deleted "or should I/We not furnish Performance Guarantee in Cash or in form of Bank Guarantee at the time of execution of agreement, as specified in the above memorandum in accordance with Clause I of the said Conditions of Contract" by Order No.F-2 (4)FD/Exp III/99 dated 23.3.2001(Circular No. 12/2001) with immediate effect.

CONDITIONS OF CONTRACT

Clause 1 : Security Deposit

¹[The security deposit @ 10% of the gross amount of the running bill shall be deducted from each running bill and shall be refunded as per rules on completion of the contract as per terms and conditions. The earnest money deposited shall however be adjusted while deducting security deposit from the first running bill of the contractor. There will be no maximum limit of security deposit.

A contractor may, however, elect to furnish bank guarantee or any acceptable form of security for an amount equal to the full amount of security deposit @ 10% of the work order before or at the time of executing the agreement. In that case, earnest money may be refunded only after furnishing of the bank guarantee as above. During the execution of the work or after completion of the work also a contractor may replace the security deposit by furnishing bank guarantee for an equal amount. However, during execution of the work if cost of work exceeds as shown at the time of furnishing bank guarantee, balance security deposit shall be deducted from the Running Account Bills.]

All compensation of other sums of money payable by the contractor to Government under the terms of his contract may be deducted from or paid by the sale of a sufficient part of his ²[xxxx] Security Deposit, or from interest arising therefrom, or from any sums, which may be due or may become due to the Contractor by the Government on any account whatsoever, and in the event of his Security deposit being reduced by reason of any such deduction or sale as aforesaid, the Contractor shall within ten days thereafter, make good in cash or Bank Guarantee of Nationalised/Scheduled bank, as aforesaid, any sum or sums which may have been deducted from or raised by sale of his ²[xxxx] Security Deposit or any part thereof..

In case of Bank Guarantee of any Nationalised/Scheduled Bank is furnished by the Contractor to the Government, as part of the Security Deposit ³[xxxx] and the bank goes into liquidation or, for any reason, is unable to make payment against the said Bank guarantee, the loss caused thereby shall fall on the Contractor and the Contractor shall forthwith, on demand, furnish additional security to the Government to make good the deficit.

The liability or obligation of the bank under the Guarantee Bond shall not be affected or suspended by any dispute between the Engineer-in-charge and the Contractor, and the payment, under the Guarantee Bond by the bank to the Government shall not wait till disputes are decided. The bank shall pay the amount under the Guarantee, without any demur, merely on a demand from the Government stating that the amount claimed is required to meet

1 Substituted by Order No.F.2 (4)FD /Exp.III/99 dated 19.6.2004(Circular No. 21/2004) with immediate effect.

2 Deleted words "Performance Guarantee and/or" by Order No.F.2 (4)FD /Exp.III/99 dated 23.3.2001(Circular No. 12/2001) with immediate effect.

3 Deleted words "Performance Guarantee" by Order No.F.2 (4)FD /Exp.III/99 dated 23.3.2001(Circular No. 12/2001) with immediate effect.

the recoveries due or likely to be due from the Contractor. The demand, so made, shall be conclusive as regards to amount due and payable by the bank, under the guarantee limited to the amount specified in the Guarantee Bond. The guarantee will not be discharged due to the change in the constitution of the Bank or the Contractor.

The Bank Guarantee shall remain valid upto the specified date unless extended on demand by the Engineer-in-charge, which shall include the period of completion of the contract and the defect removal period as per terms of the Agreement. Bank's liability shall stand automatically discharged unless a claim in writing is lodged with the Bank within the period stated in the Bank Guarantee including the extended period. After satisfactory completion of the contract and clearance of all dues by the Contractor, the Chief Engineer or duly authority Engineer will discharge the Bank Guarantee after expiry of the original or the extended period, as the case may be. In case the date of expiry of the Bank Guarantee is a holiday, it will be deemed to expire on the close of the next working day.

Government is not concerned with any interest accruing to the Contractor on any form of Security (primary or collateral) lodged by him with the bank or any sums payable to sureties obtained by the Bank as counter guarantee to secure its own position. These will be the matters between the Bank and the Contractor.

Clause 2: Compensation for delay

The time allowed for carrying out the work, as entered in the tender, shall be strictly observed by the Contractor and shall be reckoned from the 10th day after the date of written order to commence the work given to the Contractor. If the contractor does not commence the work within the period specified in the work order, he shall stand liable for the forfeiture of the amount of Earnest Money, [xxxx] and Security Deposit. Besides, appropriate action may be taken by the Engineer-in-charge/competent authority to debar him from taking part in future tenders for a specified period or black list him. The work shall, through-out the stipulated period of completion of the contract, be proceeded with all due diligence, time being essence of the contract, on the part of the Contractor. To ensure good progress during the execution of work, the contractor shall be bound, in all cases in which the time allowed for any work exceeds one month (save for special jobs), to complete 1/8th of the whole of the work before 1/4th of the whole time allowed under he contract has elapsed, 3/8th of the work before 1/2 of such time has elapsed and 3/4th of the work before 3/4 of such time has elapsed. If the contractor fails to complete the work in accordance with this time schedule in terms of cost in money, and the delay in execution of work is attributable to the contractor, the contractor shall be liable to pay compensation to the Government at every time span as below :-

A.	Time Span of full stipulated period	1/4th (.....days)	1/2th (.....days)	3/4th (.....days)	Full (.....days)
B.	Work to be completed in terms of money	1/8th (Rs.....)	3/8th (Rs.....)	3/4th (Rs.....)	Full (Rs.....)

i. Deleted words "Performance Guarantee" by Order No.F.2 (4)FD/Exp.III.99 dated 23.3.2001(Circular No. 12/2001) with immediate effect.

<p>1[C. Compensation payable by the contractor for delay attributable to contractor at the stage of :</p>	<p>Delay upto one fourth period of the prescribed time span - 2.5% of the work remained unexecuted. Delay exceeding one fourth period but not exceeding half of the prescribed time span. - 5% of the work remained unexecuted. Delay exceeding half of the prescribed but not exceeding three fourth of the time span. - 7.5% of the work remained unexecuted. Delay exceeding three fourth of the prescribed time span.-10% of the work remained unexecuted.</p>
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Note : In case delayed period over a particular span is split up and is jointly attributable to Government and contractor, the competent authority may reduce the compensation in proportion of delay attributable to Government over entire delayed period over that span after clubbing up the split delays attributable to Government and this reduced compensation would be applicable over the entire delayed period without paying any escalation.

Following illustrations is given:

- (i) First time span is of 6 months, delay is of 30 days which is split over as under:-
5 days (attributable to government) + 5 days (attributable to contractor) + 5 days (attributable to government) + 5 days (attributable to contractor) + 5 days (attributable to contractor)
Total delay is thus clubbed to 15 days (attributable to government and 15 days (attributable to contractor).

Total normal compensation of 30 days as per clause 2 of agreement is 2.5% which can be reduced as $2.5 \times 15/30 = 1.25\%$ over 30 days without any escalation by competent authority.]

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

The contractor shall, further, be bound to carry out the work in accordance with the date and quantity entered in the progress statement attached to the tender.

In case the delay in execution of work is attributable to the contractor, the spanwise compensation, as laid down in this clause shall be mandatory. However, in case the slow progress in one time span is covered up within original stipulated period, then the amount of such compensation levied earlier shall be refunded. The Price escalation, if any, admissible under clause 45 of Conditions of Contract would be admissible only on such rates and cost of work, as would be admissible if work would have been carried out in that particular time span. The Engineer-in-charge shall review the progress achieved in every time span, and grant stagewise extension in case of slow progress with compensation, if the delay is attributable to contractor, otherwise without compensation.

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

Clause 3: Risk & Cost Clause

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

- (i) If Contractor having been given by the Engineer-in-charge, a notice in writing to rectify, reconstruct or replace any defective work or that the work is being performed in any inefficient or otherwise improper or unworkmanlike manner, shall omit to comply with the requirements of such notice for a period of seven days, thereafter, or

1. Substituted by Order No.F 244(FD/Exp.IID/99 dated 19.3.2001(Circular No. 5/2001) with immediate effect.

- if the Contractor shall delay or suspend the execution of the work so that either in the judgement of the Engineer-in-charge (which shall be final and binding) he will be unable to secure completion of the work by the date for completion or he has already failed to complete the work by that date,
- (ii) If the Contractor, being a company, shall pass a resolution of the Court shall make an order that the company shall be wound up or if a receiver or a manager, on behalf of a creditor, shall be appointed or if circumstances shall arise, which entitle the Court or Creditor to appoint a receiver or a manager or which entitle the Court to make a winding up order,
 - (iii) If the Contractor, being a company, shall pass a resolution or the Court shall make an order that the company shall be wound up or if a receiver or a manager, on behalf of a creditor, shall be appointed or if circumstances shall arise, which entitle the Court or Creditor to appoint a receiver or a manager or which entitle the Court to make a winding up order,
 - (iv) If the Contractor commits any acts mentioned in Clause 19 hereof.

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

(a) To determine or rescind the contract, as aforesaid (of which determination or rescission notice in writing to the Contractor under the hand of the Engineer-in-charge shall be conclusive evidence), upon such determination or rescission, the earnest money, full security deposit of the contract ¹[xxxx] shall be liable to be forfeited and shall be absolutely at the disposal of Government.

(b) To employ labour paid by the Department and to supply materials to carry out the work or any part of the work, debiting the Contractor with the cost of the labour and the price of the materials (of the amount of which cost and price certified by the Engineer-in-charge shall be final and conclusive against the Contractor) and crediting him with the value of the work done in all respects in the same manner and at the same rates, as if it had been carried out by the Contractor under the terms of this contract. The certificate of the Divisional Officer, as to the value of the work done, shall be final and conclusive evidence against the Contractor provided always that action under the sub-clause shall only be taken after giving notice in writing to the Contractor. Provided also that if the expense incurred by the department are less than amount payable to the Contractor at his agreement rates, the difference shall not be paid to the Contractor.

(c) After giving notice to the Contractor to measure up the work of the contractor and to take such part thereof, as shall be unexecuted out of his hands and to give it to another Contractor to complete, in which case any expenses which may be incurred in excess of the sum which would have been paid to the original Contractor, if the whole work had been executed by him (of the amount of which excess, the certificate in writing of the Engineer-in-charge shall be final and conclusive shall be borne and paid by the original Contractor and may be deducted from any money due to him by Government under this contract or on any other account, whatsoever, or from his Earnest Money, Security Deposit, ¹[xxxx] Enlistment Security or the

¹ Deleted by Order No.F.2(4)FD/Exp.311/99 dated 23.3.2001(Circular No. 12/2001) with immediate effect.

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

Clause 4 : Contractor remains liable to pay compensation, if action not taken under Clause 3

(i) In any case in which any of the powers conferred by Clause 3 hereof, shall have become exercisable and the same shall have not been exercised, the non-exercise, thereof, shall not constitute waiver of any of the conditions hereof, and such power shall, not with standing, be exercisable in the event of any future case of default by the Contractor for which, by any clause or clauses hereof, he is declared liable to pay compensation amounting to the whole of his Security Deposit/Performance Guarantee/Earnest Money/Enlistment security and the liability of the Contractor for past and future compensation shall remain unaffected.

Powers to take possession of, or require removal, sale of Contractor's Plant.

(ii) In the event of the Engineer-in-charge putting in force, powers vested in him under the preceding Clause 3 he may, if he so desires, take possession of all or any tools, plants, materials and stores, in or upon the works or the site, thereof, or belonging to the contractor or procured by him and intended to be used for the execution of the work or any part thereof, paying or allowing for the same in account, at the contract rates or, in case of these not being applicable, at current market rates, to be certified by the Chief Engineer or duly authorised Engineer (whose certificate, thereof, shall be final and conclusive), otherwise the Engineer-in-charge may, by notice in writing to the contractor or his clerk of the works, foreman or other authorised agent, require him to remove such tools, plant, materials or stores from the premises (within a time to be specified in such notice), and in the event of the Contractor failing to comply with any requisition, the Chief Engineer or other duly authorised Engineer may remove them at the Contractor's expenses, sell them by auction or private sale on account of the Contractor and at his risk in all respects, and the certificate of the Chief Engineer or other duly authorised Engineer, as to the expense of any such removal, and the amount of the proceeds and expense of any such sale shall be final and conclusive against the Contractor.

Clause 5 : Extension of Time

If the Contractor shall desire an extension of time for completion of the work on the ground of his having been unavoidably hindered in its execution or on any other grounds, he shall apply, in writing, to the Engineer-in-charge within 30 days of the date of the hindrance.

on account of which he desires such extension as aforesaid, and the Authority Competent to grant extension under the rules/delegations of powers or other duly authorised Engineer shall, if in his opinion, (which shall be final) reasonable grounds be shown therefor, authorise such extension of time, if any, as may, in his opinion, be necessary or proper, if the period of completion of contract expires before the expiry of the period of one month provided in this Clause, the application for extension shall be made before the expiry of the period stipulated for completion of the contract. The competent authority shall grant such extension at each such occasion within a period of 30 days of receipt of application from contractor and shall not wait for finality of work. Such extensions shall be granted in accordance with provisions under clause (2) of this agreement.

Clause 5 A : Monthly Return of Extra Claims

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

Clause 6 : Final Certificate

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

giving reasonable notice to the Contractor, and such re-measurements shall be binding on the Contractor.

Within ten/thirty days of the receipt of the notice, Engineer-in-charge shall inspect the work and if there is no visible defects on the face of the work, shall give the Contractor, a certificate of completion. If the Engineer-in-charge finds that the work has been fully completed, it shall be mentioned in the certificate so granted. If, on the other hand, it is found that there are certain visible defects to be removed, the certificate to be granted by Engineer-in-charge shall specifically mention the details of the visible defects alongwith the estimate of the cost for removing these defects. The final certificate of work shall be given after the visible defects pointed out as above have been removed

(delete whichever is not applicable). (Ten days will apply to works at the headquarters of Engineer-in-charge and thirty days for works at other place.)

Clause 7 : Payment on Intermediate Certificate to be regarded as advance

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

Clause 7 A : Time Limit for Payments of Final Bills

The final bill shall be paid within 3 months on presentation by the contractor after issuance of final completion certificate in accordance with clause 6 of the conditions of contract. If, there shall be any dispute about any item(s) of the work, then the undisputed item(s) only, shall be paid within the said period of 3 months. If a final bill (which contains no disputed item or disputed amount of any item) is not paid within the period of 3 months from presentation of final bill or 6 months from the date of receipt of registered notice regarding completion of work in accordance with clause 6 of the conditions of the contract, the defects, if any, shall be brought to the notice of the higher authority. The period of 3 months shall commence from the date of rectification of the defects. The higher authority shall ensure that in no case final bill should be left unpaid after 9 months from the receipt of

registered notice regarding completion of work. The contractor shall submit a memorandum of the disputed items alongwith justification in support within 30 days from the disallowance thereof, and if he fails to do so, his claims shall be deemed to have been fully waived and absolutely extinguished.

Clause 8 : Bills to be submitted monthly

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

Clause 8A : Contractor to be given time to file objection to the Measurements recorded by the Department

Before taking any measurement of any work, as have been referred to in preceding Clauses 6,7 & 8, the Engineer-in-charge or a subordinate, deputed by him, shall give reasonable notice to the Contractor. If the Contractor fails to be present at the time of taking measurements after such notice or fails to sign or to record the difference within a week from the date of measurement in the manner required by the Engineer-in-charge or by the subordinates deputed by him, as the case may be, shall be final and binding on the Contractor and the Contractor shall have no right to dispute the same.

Clause 8B : Recovery of cost of preparation of the Bill

In case of Contractors of Class "A" and "AA" do not submit the bill within time fixed, the Engineer-in-Charge may prepare the bill as per provision of clause 8 of the Conditions of Contract but deduction @ 0.5% of amount of such a bill shall be made and credited to the general revenue on account of preparation of bill.]

Clause 9 : Recovery of cost of preparation of the Bill

The Contractor shall submit all bills on the printed forms, to be had on application, at the office of the Engineer-in-charge and the charges in the bills shall always be entered at the rates specified in the tender or in the case of any extra work ordered in pursuance of these conditions, and not mentioned or provided for in the tender, at the rates hereinafter provided for such work.

Clause 9A : Payments of Contractor's Bills to Banks

Payments due to the Contractor may if so desired by him, be made to his Bank instead of direct to him, provided that the contractor has furnished to the Engineer-in-charge (i) an authorisation in the form of a legally valid document, such as a Power of Attorney conferring authority on the Bank to receive payments, and (ii) his own acceptance of the correctness of the account made out, as being due to him, by Government, or his signature on the bill or other claim preferred against Government before settlement by the Engineer-in-charge of the account or claim, by payment to the Bank. While the receipt given by such bank shall constitute a full and sufficient discharge for the payment, the Contractor should, whenever

1. Added by Order No.F.2(4)FD/Exp (II)/99 dated 14.8.2002 (Circular No.15/2002) with immediate effect.

possible, present his bill duly receipted and discharged through his Banker. Nothing, herein contained, shall operate to create in favour of the Bank any rights vis-a-vis the Governor.

Clause 10 : Stores supplied by Government

If the specification or estimate of the work provides for the use of any special description of material, to be supplied from Engineer-in-charge's stores, or if, it is required that contractor shall use certain stores to be provided by the Engineer-in-charge specified in the schedule or memorandum hereto annexed, the Contractor shall be bound to procure and shall be supplied such materials and stores as are, from time to time, required to be used by him for the purpose of the contract only, and the value of the full quantity of materials and stores, so supplied, at the rates specified in the said schedule or memorandum, may be set off or which may be deducted from any sum, then due or thereafter become due, to the contractor under the contract or otherwise or against or from the Performance Guarantee and/or Security Deposit or the proceeds of sale, if the same is held in Government securities, the same or a sufficient portion thereof being in this case, sold for this purpose. All materials supplied to the Contractor, either from departmental stores or with the assistance of Government, shall remain the absolute property of Government. The Contractor shall be the trustee of the Stores/Materials, so supplied/procured, and these shall not, on any account, be removed from the site of work and shall be, all times, open to inspection by the Engineer-in-charge. Any such material, unused and in perfectly good condition at the time of completion or determination or rescinding of the contract, shall be returned to the Divisional Officer's Stores, if, by a notice in writing under his hand, he shall so require, and if on service of such notice, the contractor fails to return the materials, so required, he shall be liable to pay the price of such materials in accordance with the provision of Clause 10 B *ibid*. But the Contractor shall not be entitled to return any such materials, unless with such consent, and shall have no claim for compensation on account of any such materials, so supplied to him as aforesaid being unused by him, or for any wastage in or damage to any such materials. For the stores returned by the Contractor, he shall be paid for, at the price originally charged excluding storage charges, in case of materials supplied from departmental stores and actual cost including freight, cartage, taxes etc., paid by the Contractor, in case of supplies received with the assistance of Government, which, however, should in no case exceed market rate prevailing at the time the materials are taken back. The decision of the Engineer-in-charge, as to the price of the stores returned, keeping in view its condition etc., shall be final and conclusive. In the event of breach of the aforesaid condition, the Contractor shall, in addition to throwing himself open to account for contravention of the terms of the license or permit and/or for criminal breach of trust, pay to the Government, all advantages or profits resulting, or which in the usual course, would result to him by reason of such breach. Provided that the Contractor shall, in no case be entitled to any compensation or damage on account of any delay in supply, or non-supply thereof, all or any such materials and stores.

Clause 10 A : Rejection of materials procured by the Contractor

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

charge may cause the same to be supplied and all costs, which may attend such removal and substitution, are to be born by the Contractor.

Clause 10 B : Penal rate in case of excess consumption

The Contractor shall also be charged for the materials consumed in excess of the requirements calculated on the basis of standard consumption approved by the department, at double of the issue rate including storage and supervision charges or market rate, whichever is higher. A Material Supply and Consumption Statement, in prescribed Form RPWA 35A, shall be submitted with every Running Account Bill, distinguishing material supplied by the Government and material procured by the Contractor himself. The recovery for such material shall be made from Running Account Bill next after the consumption and shall not be deferred. Certificate of such nature shall be given in each Running Account Bill.

Clause 10 C : Hire of Plant and Machinery

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

Clause 11: Works to be executed in accordance with Specifications, Drawings, Orders etc.

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

The specifications of work, material, methodology of execution, drawings and designs shall be signed by the Contractor and Executive Engineer while executing agreement and shall form part of agreement.

Clause 12

The Engineer-in-Charge shall have power to make any alterations, omissions or additions to or substitutions for the original specifications, drawings, designs and instructions, that may appear to him to be necessary during the progress of the work and the contractor shall carry out the work in accordance with any instructions which may be given to him in writing signed by the Engineer-in-Charge, and such alterations, omission, additions or substitutions shall not invalidate the contract and any altered, additional or substituted work, which the contractor may be directed to do in the manner above specified, as part of the work.

shall be carried out by the contractor on the same conditions in all respects on which he agreed to do the main work. The time for the completion of the work shall be extended in the proportion that the altered, additional or substituted work bears to the original contract work, and the certificate of the Engineer-in-Charge shall be conclusive as to such proportion. The rates for such additional, altered or substituted work under this clause shall be worked out in accordance with the following provisions in their respective order :

- (i) If the rates for the additional, altered or substituted work are specified in the contract for the work, the contractor is bound to carry out the additional, altered or substituted work at the same rates as are specified in the contract for the work.
- (ii) If the rates for the additional, altered or substituted work are not specifically provided in the contract for the work, the such rates will be derived from the rates for a similar class of work as are specified in the contract for the work.
- (iii) If the rates for the altered, additional or substituted work can not be determined in the manner specified in the sub-clauses (i) to (ii) above, then the rates for such composite work item shall be worked out on the basis of the concerned Schedule of Rates of the District/area specified above minus/plus the percentage which the total tendered amount bears to the estimated cost of the entire work put to tender. Provided always that if the rate for a particular part or parts of the item is not in the Schedule of Rates, the rate for such part or parts will be determined by the Engineer-in-Charge on the basis of the prevailing market rates when the work was done.
- (iv) If the rates for the altered, additional or substituted work item can not be determined in the manner specified in sub-clauses (i) to (iii) above, then the contractor shall within 7 days of the date of receipt of order to carry out the work, inform the Engineer-in-Charge of the rate which it is his intention to charge for such class of work supported by analysis of the rate or rates claimed and the Engineer-in-Charge shall determine the rate or rates on the basis of prevailing market rates, and pay the contractor accordingly. However, the Engineer-in-Charge, by notice in writing, will be at liberty to cancel his order to carry out such class of work and arrange to carry it out in such manner as he may consider advisable. But under no circumstances, the contractor shall suspend the work on the plea of non-settlement of rates on items falling under the clause.
- (v) Except in case of items relating to foundations, provisions contained in sub-clauses (i) to (iv) above shall not apply to contract or substituted items as individually exceed the percentage set out in the tender documents under clause 12.A.,

For the purpose of operation of clause 12 (v) the following works shall be treated as work relating to foundations :-

- (a) For buildings, compound wall plinth level or 1.2 metres (4 ft.) above ground level whichever is lower, excluding items above flooring and D.P.C. but including base concrete below the floors.
- (b) For abutments, piers, retaining wall of culverts and bridges, walls of water reservoir and the bed of floor level.
- (c) For retaining walls, where floor levels is not determinate 1.2 metres above the average ground level or bed level.
- (d) For roads, all items of excavation and filling including treatment of sub base and soling work.

- (e) For water supply lines, sewer lines under ground storm water drains and similar work, all items of work below ground level except items of pipe work for proper masonry work.
- (f) For open storm water drains, all items of work except lining of drains.
- (g) Any other items of similar nature which Engineer-in-Charge may decide relating to foundation.

The rate of any such work, except the items relating to foundations, which is in excess of the deviation limit shall be determined in accordance with the provisions contained in Clause 12A.

Clause 12A

The quantum of additional work for each item shall not exceed 50% of the original quantity given in the agreement and the total value of additional work shall not exceed 20% of the total contract value, unless otherwise mutually agreed by the Engineer-in-charge and the Contractor. This limit shall not be applicable on items relating to foundation work which shall be executed as per original rates or provision of clause 12(i) to (iv).

In case of contract substituted items or additional items, which results in exceeding the deviation limit laid down in this clause except items relating to foundation work, which the contractor is required to do under clause 12 above, the contractor shall within 7 days from the receipt of order, claim revision of the rate supported by proper analysis in respect of such items for quantities in excess of the deviation limit notwithstanding the fact that the rates for such items exist in the tender for the main work or can be derived in accordance with the provision of sub clause (ii) of clause 12 and the Engineer-in-Charge, may revise their rates having regard to the prevailing market rates and the contractor shall be paid in accordance with the rates so fixed. The Engineer-in-Charge shall, however, be at liberty to cancel his order to carry out such increased quantities of work by giving notice in writing to the contractor and arrange to carry it out in such manner as he may consider advisable. But under no circumstances, the contractor shall suspend the work on the plea of non-settlement of rates of items failing under this Clause.

All the provisions of the preceding paragraph shall equally apply to the decrease in rates of items for quantities in excess of the deviation limit notwithstanding the fact that the rates for such items exist in the tender for the main work or can be derived in accordance with the provisions of sub-clause(ii) of the preceding clause 12 and the Engineer-in-Charge may revise such rates having regard to the prevailing market rates unless otherwise mutually agreed by the Engineer-in-charge and the Contractor.

Clause 13 : No compensation for alterations in or restriction of work to be carried out.

If, at any time after the commencement of the work, the Government shall, for any reason, whatsoever, not require the whole work, thereof, as specified in the tender, to be carried out, the Engineer-in-charge shall give notice, in writing, of the fact to the Contractor, who shall have no claim to any payments or compensation, whatsoever, on account of any profit or advantage, which he might have derived from the execution of the work in full but which he did not derive in consequence of the full amount of the work not having been

carried out. Neither, shall he have any claim for compensation by reason of alterations having been made in the original specifications, drawings and design and instructions, which shall involve any curtailment of the work, as originally contemplated. Provided, that the Contractor shall be paid the charges for the cartage only, of materials actually brought to the site of the work by him for bonafide use and rendered surplus as a result of the abandonment or curtailment of the work or any portion thereof, and taken them back by the Contractor provided, however, that the Engineer-in-charge shall have, in all such cases, the option of taking over all or any such materials at their purchase price or at local market rates whichever may be less. In the case of such stores, having been issued from Government Stores, charges recovered, including storage charges, shall be refunded after taking into consideration any deduction for claim on account of any deterioration or damage while in the custody of the contractor, and in this respect the decision of the Engineer-in-charge shall be final.

Clause 14 : Action and compensation payable in case of bad work

If, it shall appear to the Chief Engineer or any authorised authority or the Engineer-in-Charge or his subordinates in-charge of the work, or to the committee of retired officers/officers appointed by the State Government for the purpose that any work has been executed with unsound, imperfect or unskillful workmanship, or with material of any inferior description, or that any materials or articles provided by him for the execution of the work are unsound or of a quality inferior to that contracted, or otherwise not in accordance with contract, the Contractor shall on demand in writing from the Engineer-in Charge, specifying the work/materials or articles complained of, notwithstanding that the same may have been inadvertently passed, certified and paid for, will rectify or remove and reconstruct the work, so specified, in whole or in part, as the case may be. remove the materials or articles, so specified, and provide other proper and suitable materials or articles, at his own cost and in the event of his failing to do so, within a period to be specified by the Engineer-in Charge in his demand, as aforesaid, then the Contractor shall be liable to pay compensation, at the rate of one percent, on the tendered amount of work for every week not exceeding ten percent, while his failure to do so shall continue, and in the case of any such failure, the Engineer-in Charge may rectify or remove and re-execute the work or remove and replace with others, the materials or articles complained of as the case may be, at the risk and expense, in all respects of the contractor.

Clause 15 : Work to be open to inspection : Contractor or his responsible Agent to be present

All work, under or in course of execution or executed in pursuance of the contract, shall, at all times, be open to inspection and supervision of the Engineer-in-charge and his superior officers e.g. Superintending Engineer, Additional Chief Engineer, Chief Technical Engineer, Chief Engineer, and his subordinates and any other authorised agency of the Government and the contractor shall, at all times during the usual working hours, and at all other times at which reasonable notice of the intention of the Engineer-in-charge or his subordinate and any other authorised agency of Government or committee of retired officers/officers appointed by the State Government for the purpose to visit the works shall have been given to the Contractor, either himself be present to receive orders and instructions or have a responsible agent, duly accredited in writing, present for the purpose. Orders given

to the Contractor's agent shall be considered to have the same force as if they had been given to the Contractor himself.

Clause 16 : Notice to be given before any work is covered up

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

Clause 17 : Contractor liable for damage done and for imperfections

If the Contractor or his work people or servants shall break, deface, injure or destroy any part of a building, in which they may be working or any building, road, fence, enclosure, or cultivated ground contiguous to the premises on which the work or any part of it is being executed, or if any damage shall happen to the work, while in progress, from any cause, whatsoever, or any imperfections become apparent in it, within a period specified in Clause 37, after a Certificate, final or otherwise of its completion, shall have been given by the Engineer-in-charge, may cause the same to be made good by other workmen and deduct the expense (of which the certificate of the Engineer-in-charge shall be final) from any sums that may be then, or at any time thereafter, may become due to the Contractor, or from his security deposit, or the proceeds of sale thereof, or of a sufficient portion thereof.

Clause 18 : Contractor to supply Plant, Ladders, Scaffolding etc.

The Contractor shall arrange and supply, at his own cost, all material (except such special materials, if any, as may, in accordance with the contract, be supplied from the Engineer-in-charge's stores), plants, tools, appliances, implements, ladders, cordage, tackle, scaffolding and temporary works requisite or proper for the proper execution of the work, whether original, altered, or substituted, and whether included in the specification or other documents, forming part of the contract, or referred to in these conditions or not, or which may be necessary for the purpose of satisfying or complying with the requirements of the Engineer-in-charge, as to any matter as to which, under these conditions, he is entitled to be satisfied or which he is entitled to require, together with carriage thereof, to and from the work. The Contractor shall also arrange and supply, without charge, the requisite number of persons with the means and materials, necessary for the purpose of setting out work and counting, weighing and assisting in the measurement or examination at any time and from time to time of the work, or materials. Failing his so doing, the same may be provided by the Engineer-in-charge, at the expense of the Contractor, and the expenses may be deducted from any money due to the Contractor under the contract, or from his Performance Guarantee and/or Security Deposit or the proceeds of sale thereof, or a sufficient portion thereof. The

Contractor shall also provide all necessary fencing and lights required to protect the public from accident and shall be bound to bear the expenses of defense of every suit, action or other proceeding at law, that may be brought by any person for injury sustained owing to neglect of the above precautions, and to pay any damages and costs, which may be awarded in any such suit, action proceeding to any such person or which may, with the consent of the Contractor, be paid to compromise any claim by any such person.

Clause 19 : Work not to be sub-let, Contract may be rescinded and Security Deposit and Performance Forfeited for sub-letting, bribing or if Contractor becomes insolvent.

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

Clause 20 : Sums payable by way of compensation to be considered as reasonable compensation without reference to actual loss.

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

Clause 21 : Changes in Constitution of firm

Where the Contractor is a partnership firm, the previous approval, in writing, of the Engineer-in-charge shall be obtained before any change is made in the constitution of the firm. Where the Contractor is an individual or a Hindu undivided family business concern, such approval, as aforesaid, shall likewise be obtained before the Contractor enters into any partnership agreement where under the partnership firm would have the right to carry out the work thereby undertaken by the Contractor. If, previous approval, as aforesaid, is not obtained, the contract shall be deemed to have been assigned in contravention of Clause 19 hereof, and the same action may be taken, and the same consequences shall ensue, as provided in the said clause 19.

Clause 22 : Works to be under direction of Engineer-in-charge

All the works, to be executed under the contract, shall be executed under the direction and subject to the approval, in all respect, of the Engineer-in-charge of the Government of Rajasthan for the time being, who shall be entitled to direct, at what point or points, and in what manner, they are to be commenced, and from time to time, carried on.

Clause 23 : Standing Committee for Settlement of Disputes

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

- (i) Administrative Secretary concerned.
- ¹(ii) Finance Secretary or his nominee, not below the rank of Deputy Secretary.]
- (iii) Law Secretary or his nominee, not below the rank of Joint Legal Remembrancer.
- (iv) Chief Engineer-cum-Addl. Secretary of the concerned department.
- (v) Chief Engineer concerned (Member - Secretary)

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

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

Clause 23A : Contractor to indemnify for infringement of Patent or design.

Contractor shall fully indemnify the Governor of Rajasthan against any action, claim or proceeding, relating to infringement or use of any patent or design, or any alleged patent or design, rights, and shall pay and royalties, which may be payable in respect of any article or part thereof, included in the contract, in the event of any claims made under or action brought against Government. In respect of any such matters, as aforesaid, the Contractor shall be, immediately, noticed thereof, and the Contractor shall be at liberty, at his own expense, to settle any dispute or to conduct any litigation, that may arise therefrom provided that the Contractor shall not be liable to indemnify the Governor of Rajasthan, if the infringement of

1. Substituted by Order No.F.2 (4)FD/Exp.III/99 dated 30.11.1999 (Cir. No 2/99) and again substituted on 9.3.2004 (Circular No. 19/2004) with immediate effect.

the patent or design or any alleged patent or design, right is the direct result of an order passed by the Engineer-in-charge in this behalf.

Clause 24. : Imported Store articles to be obtained from Government.

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

Clause 25 : Lump-sums in estimates

When the estimate, on which a tender is made includes lump sums, in respect of parts of the work, the Contractor shall be entitled to payment in respect of the item of work involved, or the part of the work in question at the same rates, as are payable under the contract for such items or if the part of the work in question is not, in the opinion of the Engineer-in-charge, capable of measurement, the Engineer-in-charge may at his discretion pay the lump sum amount entered in the estimate and the certificate in writing of the Engineer-in-charge shall be final and conclusive with regard to any sum or sums payable to him under the provisions of this clause.

Clause 26 : Action where no Specification

In case of any Class of work for which there is no such specification as is mentioned in Rule 1, such work shall be carried out in accordance with the detailed specification of the department and also in accordance with the instructions and requirement of the Engineer-in-charge.

Clause 27 : Definition of work

The expression "works" or "work" where used in these conditions, shall, unless there be some thing either in subject or context, repugnant to such construction, be construed and taken to mean the works by or by virtue of the contract contracted to be executed, whether temporary or permanent, and whether original, altered, substituted or additional.

Clause 27 A : Definition of Engineer-in-charge

The term "Engineer-in-charge" means the Divisional Officer, who shall supervise, and be in charge of the work, and who shall sign the contract on behalf of the Governor.

Clause 28 :

It can not be guaranteed that the work will be started immediately after the tenders have been received. No claims for increase of rate will be entertained, if the orders for starting work are delayed.

Clause 29 : Payments at reduced rates on account of items of work not accepted and not completed to be at the discretion of the Engineer-in-charge

The rates for several items of works, estimated to cost more than Rs. 1,000/-, agreed within, will be valid only when the item concerned is accepted, as having been completed fully in accordance with the sanctioned specification. In cases, where the items of work are not accepted, as so completed, the Engineer-in-charge may make payment on account of such items, at such reduced rates, as he considers reasonable, in the preparation of final or on account bills, and his decision in the matter shall be final and binding.

Clause 29 A: Payments at part rates.

The rates for several items of works may be paid at part rates provisionally in running bills in proportion to the quantum of items executed at the discretion of Engineer-in-charge. In case of item rates, if the rate quoted for certain items are very high in comparison to the average/overall tendered premium, then the payment at running stages shall not be made more than the average sanctioned premium. The deferred payment, will however be released after successful completion of the work.

Clause 30 : Contractor's percentage.

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

Clause 31 : Contractor to adhere to labour laws/regulation

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

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

Clause 32 : Withdrawal of work from the Contractor

If the Engineer-in-charge shall at any time and for any reasons, whatever, including inability to maintain prorata progress, think any portion of the work should not be executed or should be withdrawn from the contractor, he may, by notice in writing to that effect, require the Contractor not to execute the portion of the work specified in the notice, or may withdraw from the Contractor the portion of work, so specified, and the contractor shall not be entitled

1. Added vide Circular No. 46/2010 dated 28.5.2010 and again substituted vide Circular No. 47/2010 dated 27.7.2010 for - "All Contracts with Government shall require registration of workers under the Building & other Construction Workers (Regulation of Employment & Conditions of Services) Act, 1996 and extension of benefit to such workers under the Act."

to any compensation, by reason of such portion of work having been withdrawn from him. The Engineer-in-charge may supplement the work by engaging another agency to execute such portion of the work at the cost of the original contractor, without prejudice to his rights under clause 2. He shall also be competent to levy compensation for delay in progress. The recovery of excess cost shall be made from next available running bill or any other claim and shall not be deferred.

Clause 33 :

The contract includes clearance, levelling and dressing of site within a distance of 15 meters of the building on all sides except where the building adjoins another building.

Clause 34 : Protect works

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

All templates, forms, moulds, centering, false works and models, which in the opinion of the Engineer-in-charge, are necessary for the proper and workman like execution of the work, shall be provided by the Contractor free of cost

Clause 35 : Contractor liable for settlement of claims caused by his delays

If the progress of the work has fallen so much in arrears as to prevent other contractors on the work, from carrying out their part of the work within the stipulated time, he will be liable for the settlement of any claim, put in by any of these contractors for the expenses of keeping their labour unemployed, to the extent considered reasonable by the Engineer-in-charge.

Clause 36 A :

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

Clause 36 B :

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

Clause 36 C : Payment of Sales Tax, and any other Taxes

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

Clause 36 D:

In respect of goods and materials procured by the Contractor, for use in works under the contract, sales tax will be paid by the Contractor himself. But in respect of all such goods manufactured and supplied by the Contractor and works executed under the contract, the responsibility of payment of sales tax would be that of the Engineer-in-charge.

Clause 37: Refund of Performance Guarantee and Security Deposit:

The Performance Guarantee and/or Security Deposit will be refunded after the expiry of the period as prescribed below:-

- (a) In case of contracts relating to hiring of trucks and other T & P transportation including loading, unloading of materials, the amount of **Performance Guarantee/Security Deposit** is refundable along with the final bill
- (b) **Supplies of material** : As per provisions of the G.F.& A.R.
- (c) **Ordinary repairs** : 3 months after completion of the work provided the final bill has been paid.
- ¹[(d) Original works/special repairs works : Security deposit will be refunded six months after completion, or expiry of one full rainy season, or after expiry of defect liability period as defined in the special condition of agreement, whichever is later provided the final bill has been paid.]
- ²[(e) In case of PWD original works/special repairs works costing more than Rs. 10.00 lacs, partial amount of Security Deposit will be refunded during the defect liability period @ 10% of SD amount after lapse of one year of completion and there after 10% of original amount of SD at the end of each subsequent year. The remaining amount of SD be refunded after the expiry of defect liability period.]

Clause 38: Fair Wage Clause:

- (a) The Contractor shall pay not less than fair wages/minimum wages to labourers engaged by him on the works as revised from time to time by the Government, but the Government shall not be liable to pay any thing extra for it except as stipulated in price escalation clause (clause 45) of the agreement.
Explanation : "Fair Wage" means minimum wages for time or piece work, fixed or revised, by the State Government under the Minimum Wages Act, 1948.
- (b) The Contractor shall, notwithstanding the provisions of any contract to the contrary, cause to be paid fair wages to labourers indirectly engaged on the work, including any labour engaged by his sub-contractors in connection with the said work as if the labourers have been immediately or directly employed by him.
- (c) In respect of all labourers, immediately or directly employed on the work, for the purpose of Contractor's part of this agreement, the Contractor shall comply with or cause to be complied with the Public Works Department Contractor's Labour Regulations made, or that may be made by the Government from time to time in

1. Sub by Order No.F.2(4)FD/Exp.III/99, dated 15.9.2009 with immediate effect.
2. Added by Order No.F.2(4)FD/Exp.III/99, dated 15.9.2009 with immediate effect.

regard to payment of wages, wage period, deductions from wages, recovery of wages not paid, and unauthorised deductions, maintenance of wages register, wage card, publication of scale of wages and other terms of employment, inspection and submission of periodical returns and other matters of a like nature.

- (d) The Engineer-in-charge shall have the right to deduct from the money due to the Contractor any sum required or estimated to be required for making good the loss suffered by a worker or workers, by reasons of non-fulfillment of the conditions of the contract, for the benefit of the worker or workers, non-payment of wages or of deductions made therefrom, which are not justified by the terms of the contract, or as a result of non-observance of the aforesaid regulations.
- (e) Vis-a-Vis the Government of Rajasthan, the Contractor shall be primarily liable for all payments to be made and for the observance of the regulations aforesaid, without prejudice to his right to claim indemnity from his sub-contractors.
- (f) The regulations, aforesaid, shall be deemed to be part of this contract and any breach, thereof, shall be deemed to be breach of the contract.

Clause 39 : Contractor to engage technical staff

The Contractor shall engage the technical staff, as follows, on the contract works.

- (a) For works costing Rs. 100 lac and above - One Graduate Engineer
- (b) For works costing between Rs. 50 lac to Rs. 100 lac - One qualified diploma holder having experience of not less than 3 years.
- (c) For works costing between Rs. 15 lac and Rs. 50 lac - One qualified diploma holder.

The technical staff should be available at site, whenever required by Engineer-in-charge to take instructions.

Clause 39 A :

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

Clause 40 : Safety Code

The Contractor shall follow the safety code of the Department.

Clause 41 : Near Relatives barred from tendering

The Contractor shall not be permitted to tender for works in Circle, in which his near relative is posted as Divisional Accountant or as an officer in any capacity between the grades

of the Superintending Engineer and Assistant Engineer (both inclusive). He shall also intimate the names of persons, who are working with him in any capacity, or are subsequently employed by him and who are near relatives to any gazetted officer in the Organization/Department. Any breach of this condition by the Contractor would render him liable to be removed from the approved list of contractors of the Department. If such facts is noticed (a) before sanction of tender, his offer shall be declared invalid and earnest money shall be forfeited, (b) after sanction of the tender then the tender sanctioning authority may at his discretion forfeit his earnest money, performance guarantee, security deposit and enlistment deposit and the work/remaining work may allot to any registered contractor on the same rates as per rules.

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

Clause 42 : Retired Gazetted Officers barred for 2 years

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

Clause 43 : Quality Control

The Government shall have right to exercise proper Quality Control measures. The Contractor shall provide all assistance to conduct such tests.

Clause 43 A :

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

Clause 44 : Death of Contractor

Without prejudice to any of the rights or remedies under the contract, if the Contractor dies, the legal heirs of the Contractor or the Chief Engineer or duly authorised Engineer shall have the option of terminating the contract without any compensation.

¹[Clause 45 : Price Variation Clause

If, during the progress of the contract of value exceeding Rs. 50 lac (accepted tendered amount minus cost of material supplied by the department), and where stipulated completion period is more than ²[3 months] (both the conditions should be fulfilled), the price,

1. Substituted by Order No.F.2 (4)FD/Exp.III/99 dated 13.7.2006 (Cir. No.26/2006) with immediate effect.

2. Substituted by Order No.F.2 (4)FD/PWF&AR/99 Part-II dated 24.10.2008 (Cir. No.38/2008) for "6 months" wherever appearing in said clause.

of any materials/bitumen/diesel and petrol/cement/steel incorporated in the works (not being materials to be supplied by the department) and/or wages of labour increases or decreases, as compared to the price and/or wages prevailing at the date of opening of tender or date of negotiations for the work, the amounts payable to contractors for the work shall be adjusted for increase or decrease in the rates of materials (excepting those materials supplied by the department)/labour/bitumen/diesel and petrol/cement/steel. If negotiated rates have been accepted, prices as on the date of negotiation shall be considered for price adjustment. Similarly, if rates received on the date of opening of tenders have been accepted, then prices on the date of opening of tender shall be considered for price adjustment.

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

(A) Labour

$$V_L = 0.75 \times \frac{P_L}{100} \times R \times \frac{(I_{L1} - I_{L0})}{I_{L0}}$$

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

R = The value of the work done in rupees during the quarter under consideration excluding the cost of materials supplied by the department and excluding other items as mentioned in this clause.

I_{L0} = The average consumer price index for industrial workers (whole-sale prices) for the quarter in which tenders were opened/negotiated (as published in Reserve Bank of India Journal/Labour Bureau Simla, for the area).

I_{L1} = The average consumer price index for industrial workers (whole-sale prices) for the quarter of calendar year under consideration (as published in Reserve Bank of India Journal/Labour Bureau Simla, for the area).

P_L = Percentage of labour components.

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

(B) Material (excluding material supplied by the department).

$$V_M = 0.75 \times \frac{P_M}{100} \times R \times \frac{(L_{M1} - L_{M0})}{L_{M0}}$$

V_M = Increase or decrease in the cost of work during the quarter under consideration due to change in rates for material.

R = The value of the work done in rupees during the quarter under consideration excluding the cost of materials supplied by the department and excluding other items as mentioned in this clause.

1.Substituted vide Circular No.F.2(4)FD/PWF&AR/99 Part-II dated 24.10.2008.

L_{M0} - The average wholesale price index (all commodities) for the quarter in which tenders were opened/negotiated (as published in Reserve Bank of India Journal/Economic Adviser to Government of India, Ministry of Industries, for the area).

L_{M1} - The average wholesale price index (all commodities) for the quarter under consideration (as published in Reserve Bank of India Journal/ Economic Adviser to Government of India, Ministry of Industries, for the area).

P_M - Percentage of material components (excluding materials supplied by the Department).

(C) **Bitumen**

$$V_b = 0.85 \times \frac{P_b}{100} \times R \times \frac{(B_1 - B_0)}{B_0}$$

V_b - Increase or decrease in the cost of work during the month under consideration due to changes in the rate for bitumen.

R = The value of the work done in rupees during the month under consideration excluding the cost of materials supplied by the department and excluding other items as mentioned in this clause.

B_0 - The official retail price of bitumen at the IOC depot at nearest center on the day 28 days prior to date of opening of Bids.

B_1 = The official retail price of bitumen of IOC depot at nearest center for the 15th day of the month under consideration.

P_b = Percentage of bitumen component of the work.]

(D) **Petroleum**

$$V_f = 0.75 \times \frac{P_f}{100} \times R \times \frac{(F_1 - F_0)}{F_0}$$

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

R = The value of the work done in rupees during the quarter under consideration excluding the cost of materials supplied by the department and excluding other items as mentioned in this clause.

F_0 = The average wholesale price index of High Speed Diesel (HSD) as published by the Economic Adviser to the Government of India, Ministry of Industry on the day of opening of tender/negotiations.

F_1 = The average whole sale price Index of H.S.D. for the quarter under consideration as published weekly by the Economic Adviser to the Government of India, Ministry of Industry for the quarter under consideration.

P_f = Percentage of fuel and lubricants components excluding fuel and lubricants supplied by the Department (Specified in the sanctioned estimate for the work).

R = Total work done during the quarter as prescribed under this clause.

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

(E) **Cement**

$$V_C = 0.75 \times \frac{P_C}{100} \times R \times \frac{(L_{C1} - L_{C0})}{L_{C0}}$$

1. Added by Order No.F.2(4)FD/Exp.III/99 dated 13.7.2006 (Cir. No.26/2006) with immediate effect.
2. Substituted vide Circular No. 38/2008 dated 24.10.2008.

- V_C = Increase or decrease in the cost of work during the quarter under consideration due to change in the rates of cement.
- R = The value of the work done in rupees during the quarter under consideration excluding the cost of cement supplied by the department and excluding other items as mentioned in this clause.
- L_{C0} = The average wholesale price index for the quarter in which tenders were opened/negotiated (as published by the Economic Adviser to the Government of India, Ministry of Industries).
- L_{C1} = The average whole sale price Index for the quarter under consideration (as published by the Economic Adviser to Government of India, Ministry of Industries).
- P_C = Percentage of cement components (excluding cement supplied by the Department).

(F) **Steel**

$$V_S = 0.75 \times \frac{P_S}{100} \times R \frac{(L_{S1} - L_{S0})}{L_{S0}}$$

- V_S = Increase or decrease in the cost of work during the quarter under consideration due to change in the rates of steel.
- R = The value of the work done in rupees during the quarter under consideration excluding the cost of steel supplied by the department and excluding other items as mentioned in this clause.
- L_{S0} = The average wholesale price index for the quarter in which tenders were opened/negotiated (as published by the Economic Adviser to the Government of India, Ministry of Industries).
- L_{S1} = The average whole sale price Index for the quarter under consideration (as published by the Economic Adviser to Government of India, Ministry of Industries).
- P_S = Percentage of steel components (excluding steel supplied by the Department.)

Clause 45A : Price Variation in installation of elevators, supply/installation of Centrally Air Conditioning and Central Evaporating Cooling Works.

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

$$P = \frac{P_0}{100} (15 + 55 \frac{MP}{MP_0} + 15 \frac{W_0(D)}{W_0} + 15 \frac{W_0(I)}{W_0})$$

Where :

- P = Price payable as adjusted in accordance with the above price variation formula.
- P_0 = Price quoted/confirmed.
- MP_0 = Wholesale Price Index Number for metal product as published by the office of the Economic Adviser, Ministry of Industry, Government of India, in their weekly bulletin. Revised Index Number of Wholesale Prices (Base : 1981 - 82=100) for the week ending first Saturday of the relevant calendar month. The relevant month shall be that in which price was offered or negotiated whichever is later.

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

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

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

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

$W_o(1)$ = All India Average Consumer Price Index Number for Industrial workers (Base : 1982=100) as published by Labour Bureau, Ministry of Labour, Government of India. The applicable All India Consumer Price Index Number of Industrial workers prevailing for the FOUR months prior to the date of completion of installation/progress parts of installation and would be as published by IEEMA. The date of delivery shall be the date on which the manufactured material is actually supplied at site. The date of completion of installation (or progress part of installation shall be the date on which the work is notified as being completed and is available for inspection/duly tested. In the absence of such notification, the date of completion is not intimated, such completion shall be considered by the Engineer-in-charge which shall be final.

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

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

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

General Conditions for admissibility of Escalation

1. The exact percentage of labour/material (excluding materials to be supplied by the department)/bitumen/diesel and petrol/cement/steel component for the work shall be approved by the authority while sanctioning the detailed Estimates.
2. The breakup of components of labour/materials (excluding materials to be supplied by the department)/bitumen/diesel and petrol/cement/steel as indicated in Clause 45 have been pre-determined as below:-

(a)	Labour-----	percent
(b)	Material-----	percent
(c)	Bitumen-----	percent
(d)	Diesel and Petrol-----	percent
(e)	Cement-----	percent
(f)	Steel-----	percent
Total-----		100%
3. While allowing price escalation the following shall be deducted from the value of work done (R):
 - (a) Cost of material supplied by the Department.
 - (b) Cost of services rendered as per Clause 34.
 - (c) Secured Advance/any advance added earlier but deducted now after work is measured.
 - (d) Cost of extra items, the rates for which have been worked out based on market rates/mutually agreed rates.
4. The first statement of escalation shall be prepared at the end of three months in which the work was awarded and the work done from the date of start to the end of this period shall be taken into account. For subsequent statement, cost of work done during every quarter shall be taken into account. At the completion of work, the work done during the last quarter or fraction, thereof, shall be taken into account.
5. For the purpose of reckoning the work done during any period, the bills prepared during the period shall be considered. The dates of recording measurements in the Measurement Book by the Assistant Engineer shall be the guiding factor to decide the bills relevant to any period. The date of completion, as finally recorded by the competent authority in the Measurement Book, shall be the criterion.
6. The index relevant to any quarter, for which such compensation is paid, shall be the arithmetical average of the indices relevant of the calendar month.
7. Price adjustment clause shall be applicable only for the work that is carried out within the stipulated time, or extension thereof, as are not attributable to the contractor.
8. If during the progress in respect of contract works stipulated to cost ¹[Rs.50 lacs] or less, the value of work actually done excluding cost of material supplied by the Department, exceeds Rs. 100 lac and completion period is more than ¹[6 months] then

1. Substituted by Order No.F.2 (4)FD/Exp.III/99 dated 13.7.2006 (Cir. No.26/2006) with immediate effect.

escalation would be payable only in respect of value of work in excess over ¹[Rs.50 lacs,] from the date of satisfying both the conditions.

9. Where originally stipulated period is ¹[6 months] or less but actual period of execution exceeds beyond ¹[6 months] on account of reasons not attributable to contractor, escalation amount would be payable only in respect of extended period if amount of work is more than ¹[Rs.50 lacs].
10. In case the contractor does not make prorata progress in the first or another time span and the short fall in progress is covered up by him during subsequent time span within original stipulated period then the price escalation of such work expected to be done in the previous time span shall be notionally given based upon the price index of that quarter in which such work was required to be done.
11. No claims for price adjustment other than those provided herein, shall entertained.
12. If the period of completion including extended period attributable to Government exceeds twelve months but cost does not exceeds more than ¹[Rs.50 lacs,] no escalation is admissible.
13. Similarly, if cost of works increases more than ¹[Rs.50 lacs] but completion period including extended period attributable to government is less than ¹[6 months,] no escalation is admissible.
14. No provisional escalation is payable on the basis of indices of the previous quarter in absence of non publication of indices for concerned quarter by the RBI.
15. Escalation is always payable quarterly and no provisional escalation is payable monthly or fortnightly.
16. In case at the time of executing agreement, both the conditions (completion period ¹[6 months] and amount of work ¹[Rs.50 lacs] for admissibility of price escalation are not fulfilled and subsequent due to additional work and extension of time attributable to Government, both the conditions become fulfilled, in that case the escalation shall be payable from the date of satisfying both the conditions and only for work done beyond ¹[Rs.50 lacs] and in period of work beyond ¹[6 months].
17. The contractor shall for the purpose of this conditions keep such books of account and other documents as are necessary to show the amount of any increase climbed or reduction available and shall allow inspection of the same by a duly authorised representative of Government and further shall at the request of the Engineer-in-charge furnish, verified in such a manner as the Engineer-in-charge may require any documents so kept and such other information as the Engineer-in-charge may require.

Clause 46: Force Majeure

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

1. Substituted by Order No.F.2 (4)FD/Exp.III/99 dated 13.7.2006 (Cir. No.26/2006) with immediate effect.

Clause 47 : General Discrepancies and Errors

In case of percentage rate tenders, if there is any typographical or clerical error in the rates shown by the Department in the "G" Schedule, the rates as given in the Basic Schedule of Rates of the Department for the area shall be taken as correct.

Clause 48 : Post payment Audit & Technical Examination

The Government shall have right to cause an audit and technical examination of the works, and the final bills of the contractor, including all supporting vouchers, abstracts etc., to be made within 2 years after payment of the final bill, and if, as a result of such audit and technical examination, any sum is found to have been over paid in respect of any work done by the Contractor under the contract, or any work claimed by him to have been done by him under the contract and found not to have been executed or executed below specifications, the Contractor shall be liable to refund the amount of over payment, and it shall be lawful for Department to recover the same from him in the manner prescribed in Clause 50 or in any other manner legally permissible, and if it is found that the Contractor was paid less than what was due to him under the contract in respect of any work executed by him under it, the amount of such under-payment shall be duly paid by the Government to the Contractor.

Clause 48 A : Pre Check or Post Check of Bills

The Government shall have right to provide a system of pre-check of Contractor's bills by a specified Organisation, and payment by an Engineer or an Accounts Officer/Sr. Accounts Officer/ Chief Accounts Officer/ Financial Advisor, as the Government may in its absolute discretion prescribe. Any over-payments/ excess payments detected, as a result of such pre-check or post-check of Contractor's bills, can be recovered from the Contractor's bills, in the manner, herein before provided, and the Contractor will refund such over/excess payments.

Clause 48 B : Check Measurements

The department reserves to itself, the right to prescribe a scale of check measurement of work, in general, or specific scale for specific works, or by other special orders (about which the decision of the department shall be final). Checking of measurement by superior officer shall supersede measurements by the subordinate officer, and the former will become the basis of the payment. Any over/excess payments detected, as a result of such check measurement or otherwise at any stage upto the date of completion and the defect removal period specified else-where in this contract, shall be recoverable from the Contractor, as any other dues payable to the Government.

Clause 49 : Dismantled Materials

The Contractor, in course of the work, should understand that all materials e.g. stone, bricks, steel and other materials obtainable in the work by dismantling etc. will be considered as the property of the Government and will be disposed off to the best advantage of the Government, as per directions, of the Engineer-in-charge.

Clause 50 : Recovery from Contractors

Whenever any claim against the Contractor for the payment of a sum of money arises out of or under the contract, the Department shall be entitled to recover such sum by appropriating, in part or whole of the Performance Guarantee and/or Security Deposit, Security Deposit at the time of enlistment of the Contractor. In the event of the security being insufficient, or if no security has been taken, then the balance or the total sum recoverable, as the case may be, shall be deducted from any sum, then due or which at any time, thereafter, may become due to the Contractor, under this or any other contract with the Governor of Rajasthan. Should this sum be not sufficient to cover the full amount recoverable, the Contractor shall pay to the Department on demand the balance remaining dues.

The department shall, further, have the right to effect such recoveries under Public Demands Recovery Act.

Clause 51 : Jurisdiction of Court

In the event of any dispute arising between the parties hereto, in respect of any of the matters comprised in this agreement, the same shall be settled by a competent Court having jurisdiction over the place, where agreement is executed and by no other court, after completion of proceedings under Clause 23 of this Contract.

**Schedule of Materials to be supplied by the Department, if available
(Referred to in Clause 10)**

S.No.	Particulars	Quantity	Rates		Place of Delivery
			Unit	Rupees	

Schedule of Machinery/T & P to be supplied by the Department

The following Machinery/T & P shall be supplied by the Department, if available, to the Contractor, on hire as per "Rules of the Department for supply for machinery and T & P to the Contractors on hire"

(Referred to in Clause 10 C)

S. No.	Item	Rate	Place of Delivery and Return

Progress Statement referred to in Clause 2 of Conditions of Contract

Name of Work	Date from which the work should be commenced	Date by which the work should be completed	Monthly rate of Progress

The Contractor has been informed that his tender has been accepted

Dated Signature of Engineer-in-charge

Dated signature of Contractor

Notes :- For Filling in the Progress Statement Form

1. Columns 2,3, and 4 must be initialled and dated by the Contractor
2. Column 4 must be initialled and dated by the Chief Engineer or other duly authorised Engineer also.
3. The date in column 2 should correspond to the date on which the order to commence work is given to the contractor read with Clause 2 of the conditions of contract.
4. The date in column 3 must correspond to the period stated in Sub clause (e) of the Memorandum below "Tender for works".
5. Column 4. This will ordinarily be worked out proportionately; thus if Rs. 24,000/- is the cost of the whole or portion of work tendered for, and six months period of completion, then the monthly rate of progress should be Rs. 4,000. If necessary, quantities may also be specified in this column at the discretion of the Chief Engineer.
6. The Certificate as to intimation of acceptance of tender printed at the foot of the form, must be signed and dated both by the Chief Engineer or other duly authorised Engineer and the Contractor.

ANNEXURE TO APPENDIX XI

RAJASTHAN PUBLIC WORKS DEPARTMENT CONTRACTORS LABOUR REGULATIONS

1. **Short title :** These regulations may be called "The Rajasthan Public Works Department Contractor's-Labour Regulations."
2. **Definition :** In these regulations unless otherwise expressed or indicated, the following words and expressions shall have the meaning hereby assigned to them respectively. That is to say:-
 - (i) "**Labour**" means workers employed by a Rajasthan P.W. Department contractor directly, or indirectly through a sub-contractor or other person or by an agent on his behalf.
 - (ii) "**Fair Wage**" means minimum wages for time or piece work fixed or revised by the State Government under the Minimum Wages Act., 1948.
 - (iii) "**Contractor**" shall include every person whether sub- contractor or headman or Agent employing labour on the work taken on contract.
 - (iv) "**Wages**" shall have the same meaning as defined in the Payment of Wages Act and includes time and piece rate wages.
3. **Display of Notice regarding wages etc. :** The contractor shall (a) before he commences his work on contract, display and correctly maintain and continue to display and in conspicuous places on the work notices in English and the correctly maintain in Hindi by the majority of the workers giving the rate of wages which have been certified by the Executive Engineer, the Superintending Engineer, the Chief Engineer or Labour Commissioner, as fair wages and the hours of works for which such wages are earned, and (b) send a copy of such notices to the Certifying Officers.
4. **Payment of Wages :**
 - (i) Wages due to every worker shall be paid to him direct.
 - (ii) All wages shall be paid in current coin or currency or in both.
5. **Fixation of wage periods :**
 - (i) The contractor shall fix the wage periods in respect of which the wages shall be payable.
 - (ii) No wage period shall exceed one month
 - (iii) Wages of every workman employed on the contract shall be paid before the expiry of ten days after the last day of the wage period in respect of which the wages are payable.

- (iv) When the employment of any worker is terminated by or on behalf of the contractor, the wages earned by him shall be paid before the expiry of the day succeeding the one on which his employment is terminated.
- (v) All payments of the wages shall be made on a working day except when the work is completed before the expiry of the wage period, in which case, final payments shall be made within 48 hours of the last working day.

Note : The term "working day" means a day on which the labour is employed in progress.

6. Wage Book and Wage Slips etc. :

- (i) The Contractor shall maintain a Wage Book of each worker in such form as may be convenient but the same shall include the following particulars:-
 - (a) Rate of daily or monthly wages.
 - (b) Nature of work on which employed.
 - (c) Total number of days worked during each wage period.
 - (d) Total amount payable for the work during each wage period.
 - (e) All deductions made from the wages with an indication in each case of the ground for which the deduction is made.
 - (f) Wages actually paid for each wage period.
- (ii) The contractor shall also maintain a wage slip for each worker employed on the work.
- (iii) The Executive Engineer may grant an exemption from the maintenance of the wage books and wages slips to a contractor who, in his opinion, may not directly or indirectly employ more than 50 persons on the work.

(7) Fines and deductions which may be made from wages :

- (i) The wages of a worker shall be paid to him without any deductions of any kind except those authorized, namely the following :-
 - (a) Fines.
 - (b) Deductions for absence from duty i.e. from the place or places where, by the terms of his employment, he is required to work. The amount of deduction shall be in proportion to the period for which he was absent.
 - (c) Deductions for damages to or loss of goods expressly entrusted to the employed person for custody or for loss or any other deductions of money, which he is required to account where such damages or losses are directly attributable to his neglect or default.
 - (i-a) The Rajasthan Government may, from time to time, allow deductions other than those specified in clause I above.
- (ii) No fines shall be imposed on a worker and no deductions for damage or loss shall be made until worker has been given an opportunity of showing cause against each fine or deductions.

- (iii) The total amount of fines, which may be imposed in any one wage period on a worker, shall not exceed an amount equal to three paise in rupee of the wage payable to him in respect of that wage period.
- (iv) No fine imposed on any worker shall be recovered from him by installments or after the expiry of 60 days from the date on which it was imposed.

8. **Register of fines etc. :** The contractor shall maintain a register of fines and of all deductions for damage or loss. Such register shall mention the reasons for which fine was imposed or deduction for damage or loss was made.

The Contractor shall maintain both in English and local Indian Language, a list approved by the Labour Commissioner clearly stating the acts and omission for which penalty of fine may be imposed on a workman and display it in a good condition in a conspicuous place on the work.

9. **Preservation of Register :** The wage register, the wage card and the register of fines deductions required to be maintained under these regulations, shall be preserved for 12 months after the date of the 1st entry made in them.

10. **Powers of Labour Welfare Officer to make investigation of enquiry :** The Labour Welfare Officer or any other person, authorized by the State Government on their behalf, shall have power to make enquiries with a view to ascertaining and enforcing due and proper observance of the fair wage clauses and provisions of the regulations. He shall investigate into any complaint regarding default made by the Contractor or Sub-Contractor in regard to such provisions.

11. **Report of Labour Welfare Officer :** The Labour Welfare Officer or other person, authorized as aforesaid, shall submit a report of the result of his investigation or enquiry to the Executive Engineer concerned indicating the extent, if any, to which the default has been committed with a note that necessary deductions from the contractors bill be made and the wage and other dues be paid to the labour concerned. In case an appeal is made by contractor under clause 12 of these regulations, actual payment to Labours will be made by the Executive Engineer after the Labour Commissioner had given decision on such appeal.

12. **Appeal against the decision of Labour Welfare Officers :** Any person aggrieved by the decision and recommendation of the Labour Welfare Officer or other persons, so authorised, may appeal against such decision to the Labour Commissioner within 30 days from the date of decision forwarding simultaneously a copy of his appeal to Executive Engineer concerned but subject to such appeal the decision of the Officer shall be final and binding upon the contractor.

- 12-A. No party shall be allowed to be represented by a lawyer during any investigation, enquiry, appeal or any other proceedings.

13. **Inspection of Wage Books and Slips :** The Contractor shall allow inspection of the wage books and wage slips and register of fines and deductions to any of his workers or to his agent at a convenient time and place after due notice is received or

to the Labour Welfare Officer or any other person authorised by the State Government on his behalf.

14. **Submission of Returns :** The Contractor shall submit periodical returns, as may be specified from time to time.
15. **Amendments:** The State Government may, from time to time, add to or amend these regulations and on any questions as to the application, interpretation or effect of these regulations, the decision of the Labour Commissioner to the Government of Rajasthan or any other person authorised by the State Government in that behalf, shall be final.

**SCHEDULE OF FAIR WAGE TO BE GIVEN
BY EXECUTIVE ENGINEER**

LIST OF ACTS AND COMMISSION FOR WHICH FINE CAN BE IMPOSED

1. Willful insubordination or disobedience whether alone or in combination with another.
2. The fraud or dishonesty in connection with the contractor's business or property of the Rajasthan P.W.D.
3. Taking or giving bribes or any illegal gratification.
4. Habitual late attendance.
5. Drunkenness, fighting, riot or disorderly or indecent behaviour.
6. Habitual negligence.
7. Smoking near or around the area where combustible or other materials are stocked.
8. Habitual indiscipline.
9. Causing damage work in progress or to property of the Rajasthan P.W.D. or the contractor.
10. Sleeping on duty.
11. Malingering or sowing down work.
12. Giving of false information regarding name, age, father's name.
13. Habitual loss of wage cards supplied by the employers.
14. Unauthorised use of employer's property or manufacturing or making of unauthorised articles at the work places.
15. Bad workmanship in construction and maintenance by skilled workers which is not approved by the department and for which contractors are compelled to undertake rectification.
16. Making false complaints and/or misleading statement.
17. Engaging in trade within the premises of the establishment.
18. Any delinquency of business affairs of the employers.
19. Collection or canvassing for the collection of any money within the premises of an establishment unless authorised by the employer.
20. Holding meeting inside the premises without previous sanction of the employer.
21. Threatening or intimidating any workman or employee during the working hours within the premises.

Schedule showing (approximately) materials to be supplied from the Public Works Store for work contracted to be executed and the rates of which they are to be charged for

Particulars	Rates which the materials will be charged to the contractor			Place of delivery
	Unit	Rs.	NP.	
Doors, with Chowkhats				
----- do -----				
----- do -----				
Windows with Chowkhats				
----- do -----				
----- do -----				
Steel Shapes				
----- do -----				
----- do -----				
Bars Mild Steel				
Sheets plain. G.I.				
----do--- Corrugated G.I. etting, Wire				
Belts Tower				
----- do -----				
Locks, Mortice				
-----do----- Rim				
Hinges, Butt				
----- do -----				
Hinges, Spring				
Cement. Portland				

Note : The person or firm submitting the tender should see that the rates in the above schedule are filled up by the Engineer-in- Charge on the issue of the form prior to the submission to the tender.

(Signature of Contractor)

(Signature of Engineer)

Progress Statement referred to in Clause 3 of Conditions of Contract

Name of Works	Date from which the work should be commenced	Date by which the work should be completed	Monthly rate of progress
1	2	3	4

The contractor has been informed that his tender has been accepted.

Date :
Engineer-in-charge

Date :
Contractor

**NOTES FOR FILLING IN THE PROGRESS STATEMENT FORM
ON THE LAST PAGE**

1. Columns 2,3 and 4 must be initialled and dated by the contractor.
2. Column 4 must be initialled and dated by the Chief Engineer or other duly authorised Engineer also.
3. The date in column 2 should correspond to the date on which the order to commence work is given to the contractor: specified in line 3, clause 2, page 3 of the "conditions of contract".
4. The date in column 3 must correspond to the period stated in clause (f) page 2, of the tender.
5. Column 4. This will ordinarily be worked out proportionately: thus if Rs. 24,000/- is the cost of the whole or portion of work tendered for, and six months period of completion, then the monthly rate of progress should be Rs. 4,000. If necessary, quantities may also be specified in this column at the discretion of the Chief Engineer.
6. The certificate as to intimation acceptance of tender printed at the foot of the form, must be signed and dated both by the Chief Engineer or other duly authorised Engineer and the contractor.

APPENDIX XII
(See Rules 636 and 637)

Detailed procedure to be followed by the P.W. Divisions (within the Jurisdiction of the same Accountant General, for the settlement of Inter-divisional transactions by Cheques/Bank Drafts. (The forms mentioned below are those appended to this Appendix)

I - Originating Debits : (In force upto)

(1) Action in the Division in which the transaction takes place :

All transactions relating to services rendered or supplies made by the Division, should be classified under the Head "8658-Suspense Account-Cash Settlement Suspense Account". These transactions, as and when they take place (at the end of the month in the case of Stock transactions), should be posted in a "Division wise Register of Transactions Adjusted" under the Head "Cash Settlement Suspense Account" in Form-1. On closing the monthly accounts of the Division, a copy of Part I of Form 1 (which will have inter-leaved perforated copies to be posted by carbon process) should be sent to the Division concerned supported by all relevant vouchers (except those for work done see Rule 642 (b)) and the receipt of the Cheque/Bank Draft should be watched through the Register referred to above. The Cheque/Bank Draft, when received, should be entered on the receipt side of the cash book of the Division, the entry being classified as Minus Debit to the Head "Cash Settlement Suspense Account" thus clearing the original debit under this head and deposited into Treasuries. In the Divisional Cash Book the remittance of Cheque/Bank Draft into the Treasury will be charged off as a Debit under "P.W. Remittances-I-Remittances into Treasuries."

(2) Action in the responding Division :

Immediately on receipt of the copy of Form 1 from the originating Division, the responding Division should check that the connected vouchers (except those for work done) have been duly received. The same should, then, be entered in the "Register of Claims Received" in Form 3 and urgent arrangement made to obtain and send the Cheque or Bank Draft with a distinct marking "Payment by Book Adjustment only" alongwith a forwarding letter in Form 4. On the cheque being issued, the entry will appear on the payment side of the Divisional Cash Book as Debit to the Head "8658-Suspense Accounts-Material Purchase Settlement Suspense Account (in the case of stores received), thus clearing the original Minus Debit afforded to this head on receipt of the stores by debit to "Stock" or "work" concerned, as the case may be.

It should be ensured that the dispatch of the Cheque/Bank Draft is not delayed beyond ten days of the receipt of the account. For this purpose, the Divisional Officer should arrange to have the detailed verification of the claim completed well within this period. In order to ensure smooth working all around, the Cheque/Bank Draft should always be for the full amount claimed by the Division. In case where some mistake in calculation etc. is detected in the course of check of the Account or an item clearly pertaining to another Division has been wrongly included in the Account, the Cheque/Bank Draft should be sent for the full amount and the discrepancies should be

simultaneously pointed out to the originating Division. Such items should be debited to the Division concerned by including them in the next monthly account to be sent to the latter along with the supporting vouchers, if any.

Note-1 In cases where payments are to be made at a treasury with which the Division is not in account, the settlement should be made by Bank Draft.

Note-2 Since the facility of cash settlement will be available to both the parties to a transaction, the Divisional Officer, to whom the supplies are made or on whose behalf the services are rendered, will make payments only on receipt of a claim from the other Division. In other words, the Divisional Officers will not be responsible for the settlement of both outward and inward claims (i.e. net amount of credit and debit transactions).

(3) Clearance of the balance under Cash Settlement Suspense Account :

The transactions under this "Suspense" Head should be abstracted in part II of the Division-wise Register (Form I) and the figures of monthly debits and credits agreed with those shown in the Monthly Account. At the close of the year, there should normally be no balance under this "Suspense" head. With this object in view, a vigilant watch should be kept over the outstanding towards the close of the year and steps taken to have such transactions settled by the 31st March. The Register should be reviewed by the Divisional Officer monthly with a view to see that the settlements are not unduly delayed.

In order to ensure that the outstanding at the close of the year are reduced to the minimum, the transactions occurring in March may be settled in stages as indicated below :

(a)	Transactions taking place during the period from 1st to 15th March.	Claims to be preferred before 20th March.
(b)	Transactions taking place during the period from 16th to 23rd March.	Claims to be preferred before 25th March

Note : Though the stock accounts are normally closed at the end of the month, the Abstracts of stock Receipts and Issues may be prepared and closed in stages, so as to ensure that the stock transactions pertaining to March are also settled in stages as indicated above.

(4) Review of Registers :

The Division-wise Register of transactions adjusted under the head "Cash Settlement Suspense Account" and the Register of claim Received, should be submitted to the Divisional Officer monthly to enable him to see that

- (a) The Registers are properly maintained.
- (b) There are no inward claims outstanding for more than 10 days without sufficient reasons; and
- (c) Prompt action is taken by the office to send the outward claims.

**II. Settlement of Inter-Divisional transactions Consequent on Advance payments
by Cheque/Bank Drafts by Indenting Divisions
(See Rule 637)**

With effect from.....all inter-divisional transactions on account of stores supplied, services rendered or works executed, the system of advance payment by the Indenting Division will be followed subject to the observance of the following procedure:

- (1) The Divisions which want the stores supplied, services to be rendered or works to be executed, after obtaining the proforma invoice for supply of stores/rendering of services, etc. will be required to make advance payment. The expenditure will be debited by the said Division under a new Sub-Head "Stores/Services Advance" under the Minor Head "Suspense" or Sub-Head "Works" below Revenue or Capital Major Heads concerned by notionally reducing the budget provision to the extent of advance payment. Such advance payments made to other Divisions will not be mixed up with advance payments to the Contractors/Suppliers.
- (2) Supplying Division, on receipt of the Cheque/Bank Draft, should Minus Debit the same under a new sub-head "Stores/Services Rendered", under the same Minor Head "799- Suspense" below the relevant Major Head "2059-Public Works", or "2215-Water Supply and Sanitation", or "2701-Major and Medium Irrigation", "3054-Roads & Bridges" etc.. as the case may be. After actual delivery of the Stores or completion of work, Sub-Head "Stores/Services Rendered" will be debited by credit to Stock or the other head concerned, as the case may be. Excess deposit, if any, will be refunded, before the close of the financial year.
- (3) The invoice-cum-bill, received from the Supplying Division, should be adjusted in the same month by the Indenting Division debiting the value of the bill to "Stock" or "Works", as the case may be, with a corresponding Minus Debit to Sub-Head "Stores/Services Advance" under the head of account to which the same stands debited originally, thus clearing that Sub-Head to that extent.
- (4) Since advance payment, contemplated above, will have no separate Budget provision, it should be ensured by Divisions involved that such transactions are settled within the same financial year.
- (5) By application of this accounting procedure, the operation of Suspense Heads "Cash Settlement Suspense Account" and "Material Purchase Settlement Suspense Account" will be dispensed with.
- (6) Accounting Procedure for clearance of old balances under "Material Purchase Settlement Suspense Account", and "Cash Settlement Suspense Account" as on 31.3.1997 will remain unchanged.

(Authority Para 4 B of F. 18(4)92/TA/237 dated 16-3-93, followed by O.M.No. 18(4)92/TA/169 dated 23-3-94 from the Controller General of Accounts, Department of Expenditure, Ministry of Finance, Government of India).

III - Originating Credits

- (1) **Action in the originating Divisions :** All transactions involving payments on account of cash recoveries etc. made by one Division on behalf of another Division will be accounted for initially under the Head "P.W. Deposits-Miscellaneous Deposits"

pending settlement in cash. The details of such transactions will be simultaneously posted in a register (Form-2). At the end of the month, a Cheque/Bank Draft will be drawn for the amount due and sent to Division concerned alongwith a copy of Form 2, which will have interleaved perforated copies to be posted by carbon process. On the cheque being issued, the entry will appear on the payment side of the Divisional Cash Book as debit to "P.W. Deposits", thus clearing the original credit to this head.

- (2) **Action in the Responding Division :** The Cheque/Bank Draft, when received in a Division, will be credited to the appropriated Head/Work in the Divisional Cash Book and sent to the treasury for making necessary adjustments on the lines indicated in paragraph I (1) above.

Form No. 1
(Referred to in Rule I (1))

**Division-wise Register of transactions adjusted under the
Head "Cash Settlement Account"**

PART-I - DETAILS

Name of Division ----- Month -----

S. No.	Reference to Stock Account Vouchers/ Transfer Entry Order	Particulars of transaction	Value of stores issued or services rendered	Date of Receipt of payment & number & date of cheque received	Remarks (including indication of the Voucher sent in support of the debits)
1	2	3	4	5	6

Balance B.F.

Total value of stores issued or services rendered.
Total Debit

@ less credit received during the month

@ Here give reference to the number and date of cheque

Closing Balance

No. -----

Date -----

Copy alongwith vouchers forwarded to the Executive Engineer Division. A sum of Rs. (as detailed above) is due from him on account of stores issued or services rendered to his Division during and to end of19..... He is requested to send within ten days of receipt of this claim/Cheque/Bank Draft for the total amount drawn in favour of the undersigned.

Executive Engineer

..... Division

Part - II

**Abstract Account of Debits, Credits and Balances outstanding under the Head
"Cash settlement Suspense Account"**

S. No.	Name of Division	Opening Balance	April			And so on for the remaining months of the year	Remarks
			Debits	Credits	Closing Balance		
1	2	3	4	5	6	- - - -	

Total

Certified that the figures of total debits and credits have been reconciled with the Monthly Account.

Divisional Accountant

**FORM NO. 2
(Referred to in Rule No. 11 (1))**

Division-wise Register of Cash recoveries etc. made on behalf of other Divisions.

Name of Division : -----

S. No.	Particulars of transaction	Amount	Authority	Remarks
1	2	3	4	5

Copy forwarded to the Executive Engineer.....Division with the remarks that a sum of Rs.....as per details given above, is due to him on account of cash recoveries etc. made in this Division on his behalf. A Cheque/ Bank Draft No _____ dated _____ for Rs _____ (in figures) Rupees _____ (in words) is sent herewith in settlement of his account. The receipt of Cheque/Bank Draft may please be acknowledged.

Executive Engineer.

.....Division.

Enclosure: Cheque/Bank Draft. No _____

Annexure A : Compliance with the Code of Integrity and No Conflict of Interest

Any person participating in a procurement process shall -

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

Conflict of Interest:-

The Bidder participating in a bidding process must not have a Conflict of Interest.

A Conflict of Interest is considered to be a situation in which a party has interests that could improperly influence that party's performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations.

- i. A Bidder may be considered to be in Conflict of Interest with one or more parties in a bidding process if, including but not limited to:
 - a. have controlling partners/ shareholders in common; or
 - b. receive or have received any direct or indirect subsidy from any of them; or
 - c. have the same legal representative for purposes of the Bid; or
 - d. have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the Bid of another Bidder, or influence the decisions of the Procuring Entity regarding the bidding process; or
 - e. the Bidder participates in more than one Bid in a bidding process. Participation by a Bidder in more than one Bid will result in the disqualification of all Bids in which the Bidder is involved. However, this does not limit the inclusion of the same subcontractor, not otherwise participating as a Bidder, in more than one Bid; or
 - f. the Bidder or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the Goods, Works or Services that are the subject of the Bid; or
 - g. Bidder or any of its affiliates has been hired (or is proposed to be hired) by the Procuring Entity as engineer-in-charge/ consultant for the contract.

Annexure B : Declaration by the Bidder regarding Qualifications

Declaration by the Bidder

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

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

Date:

Place:

Signature of bidder

Name :

Designation:

Address:

Annexure C : Grievance Redressal during Procurement Process

The designation and address of the First Appellate Authority is _____

The designation and address of the Second Appellate Authority is _____

(1) Filing an appeal

If any Bidder or prospective bidder is aggrieved that any decision, action or omission of the Procuring Entity is in contravention to the provisions of the Act or the Rules or the Guidelines issued thereunder, he may file an appeal to First Appellate Authority, as specified in the Bidding Document within a period of ten days from the date of such decision or action, omission, as the case may be, clearly giving the specific ground or grounds on which he feels aggrieved:

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

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

- (2) The officer to whom an appeal is filed under para (1) shall deal with the appeal as expeditiously as possible and shall endeavour to dispose it of within thirty days from the date of the appeal.
- (3) If the officer designated under para (1) fails to dispose of the appeal filed within the period specified in para (2), or if the Bidder or prospective bidder or the Procuring Entity is aggrieved by the order passed by the First Appellate Authority, the Bidder or prospective bidder or the Procuring Entity, as the case may be, may file a second appeal to Second Appellate Authority specified in the Bidding Document in this behalf within fifteen days from the expiry of the period specified in para (2) or of the date of receipt of the order passed by the First Appellate Authority, as the case may be.

(4) Appeal not to lie in certain cases

No appeal shall lie against any decision of the Procuring Entity relating to the following matters, namely:-

- (a) determination of need of procurement;
- (b) provisions limiting participation of Bidders in the Bid process;
- (c) the decision of whether or not to enter into negotiations;
- (d) cancellation of a procurement process;
- (e) applicability of the provisions of confidentiality.

(5) Form of Appeal

- (a) An appeal under para (1) or (3) above shall be in the annexed Form along with as many copies as there are respondents in the appeal.
- (b) Every appeal shall be accompanied by an order appealed against, if any, affidavit verifying the facts stated in the appeal and proof of payment of fee.

- (c) Every appeal may be presented to First Appellate Authority or Second Appellate Authority, as the case may be, in person or through registered post or authorised representative.

(6) Fee for filing appeal

- (a) Fee for first appeal shall be rupees two thousand five hundred and for second appeal shall be rupees ten thousand, which shall be non-refundable.
- (b) The fee shall be paid in the form of bank demand draft or banker's cheque of a Scheduled Bank in India payable in the name of Appellate Authority concerned.

(7) Procedure for disposal of appeal

- (a) The First Appellate Authority or Second Appellate Authority, as the case may be, upon filing of appeal, shall issue notice accompanied by copy of appeal, affidavit and documents, if any, to the respondents and fix date of hearing.
- (b) On the date fixed for hearing, the First Appellate Authority or Second Appellate Authority, as the case may be, shall,-
 - (i) hear all the parties to appeal present before him; and
 - (ii) peruse or inspect documents, relevant records or copies thereof relating to the matter.
- (c) After hearing the parties, perusal or inspection of documents and relevant records or copies thereof relating to the matter, the Appellate Authority concerned shall pass an order in writing and provide the copy of order to the parties to appeal free of cost.
- (d) The order passed under sub-clause (c) above shall also be placed on the State Public Procurement Portal.

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

Appeal Noof

Before the (First / Second Appellate Authority)

1. Particulars of appellant:

(i) Name of the appellant:

(ii) Official address, if any:

(iii) Residential address:

2. Name and address of the respondent(s):

(i)

(ii)

(iii)

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

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

5. Number of affidavits and documents enclosed with the appeal:

6. Grounds of appeal:

.....
.....
..... (Supported by an affidavit)

7. Prayer:

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

Place

Date

Appellant's Signature

Annexure D : Additional Conditions of Contract

1. Correction of arithmetical errors

Provided that a Financial Bid is substantially responsive, the Procuring Entity will correct arithmetical errors during evaluation of Financial Bids on the following basis:

- i. if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Procuring Entity there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;
- ii. if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
- iii. if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (i) and (ii) above.

If the Bidder that submitted the lowest evaluated Bid does not accept the correction of errors, its Bid shall be disqualified and its Bid Security shall be forfeited or its Bid Securing Declaration shall be executed.

2. Procuring Entity's Right to Vary Quantities

(i) At the time of award of contract, the quantity of Goods, works or services originally specified in the Bidding Document may be increased or decreased by a specified percentage, but such increase or decrease shall not exceed twenty percent, of the quantity specified in the Bidding Document. It shall be without any change in the unit prices or other terms and conditions of the Bid and the conditions of contract.

(ii) If the Procuring Entity does not procure any subject matter of procurement or procures less than the quantity specified in the Bidding Document due to change in circumstances, the Bidder shall not be entitled for any claim or compensation except otherwise provided in the Conditions of Contract.

(iii) In case of procurement of Goods or services, additional quantity may be procured by placing a repeat order on the rates and conditions of the original order. However, the additional quantity shall not be more than 25% of the value of Goods of the original contract and shall be within one month from the date of expiry of last supply. If the Supplier fails to do so, the Procuring Entity shall be free to arrange for the balance supply by limited Bidding or otherwise and the extra cost incurred shall be recovered from the Supplier.

3. Dividing quantities among more than one Bidder at the time of award (In case of procurement of Goods)

As a general rule all the quantities of the subject matter of procurement shall be procured from the Bidder, whose Bid is accepted. However, when it is considered that the quantity of the subject matter of procurement to be procured is very large and it may not be in the capacity of the Bidder, whose Bid is accepted, to deliver the entire quantity or when it is considered that the subject matter of procurement to be procured is of critical and vital nature, in such cases, the quantity may be divided between the Bidder, whose Bid is accepted and the second lowest Bidder or even more Bidders in that order, in a fair, transparent and equitable manner at the rates of the Bidder, whose Bid is accepted.

Annexure E

Clause 1: Fair Wage Clause

- (a) The Contractor shall pay not less than fair wages/minimum wages to labours engaged by him on the work as revised from time to time by the Government, but the Government shall not be liable to pay any thing extra for it except as stipulated in price escalation clause (clause 45) of the agreement.

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

- (b) The Contractor shall, notwithstanding the provision of any contract to the contrary, cause to be paid fair wages to labourers indirectly engaged on the work, including any labour engaged by his sub-contractors in connection with the said work as if the labourers have been immediately or directly employed by him.
- (c) In respect of all labourers, immediately or directly employed on the work, for the purpose of the Contractor's part of this agreement, the Contractor shall comply with or cause to be complied with the Public Works Department Contractor's Labour Regulations made, or that may be made by the Government, from time to time, in regard to payment of wages, wage period, deductions from wages, recovery of wages not paid, and unauthorised deductions, maintenance of wages register, wage card, publication of scale of wages and other terms of employment, inspection and submission of periodical returns and other matters of a like nature.
- (d) The Engineer-in-charge shall have the right to deduct from the money due to the Contractor any sum required or estimated to be required for making good the loss suffered by a worker or workers, by reasons of non-fulfilment of the conditions of the contract, for the benefit of the worker or workers, non-payment of wages or of deductions made there from, which are not justified by the terms of the contract, or as a result of non-observance of the aforesaid regulations.
- (e) Vis-à-Vis the Municipal Corporation Jaipur, the Contractor shall be primarily liable for all payments to be made and for the observance of the regulations aforesaid, without prejudice to his right to claim indemnity from his subcontractors,
- (f) The regulations, aforesaid, shall be deemed to be part of this contract and any breach, thereof, shall be breach of the contract.

Clause 2: Contractor to engage technical staff

The Contractor shall engage the technical staff, as follows, on the contract works:-

- (a) For works costing Rs. 100 lac and above- One Graduate Engineer.
- (b) For works costing between Rs. 50 lac to Rs. 100 lac- One qualified diploma holder having experience of not less than 3 years.
- (c) For works costing between Rs. 15 lac and Rs. 50 lac- One qualified diploma holder.

The technical staff should be available at site, whenever required by Engineer-in-charge to take instructions.

Clause 3 :

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

Clause 4: Safety Code

The Contractor shall follow the safety code of electricity Strictly.

Clause 5:

Near Relatives barred from tendering

The Contractor shall not be permitted to tender for works in Circle, in which his near relative is posted as Divisional Accountant or as an officer in any capacity between the grades of the Superintending Engineer and Assistant Engineer (both inclusive). He shall also intimate the names of persons, who are working with him in any capacity, or are subsequently employed by him and who are near relatives to any gazetted officer in the Organization/Department. Any breach of this condition by the Contractor would render him liable to be removed from the approved list of contractors of the Department. If such facts is noticed (a) before sanction of tender, his offer shall be declared invalid and earnest money shall be forfeited, (b) after sanction of the tender then the tender sanctioning authority may at his discretion forfeit his earnest money, performance guarantee, security deposit and enlistment deposit and the work/remaining work may allot to any registered contractor on the same rates as per rules.

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

Clause 6: Retired Gazetted Officers barred for 2 years

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

Clause 7: Quality Control

The Municipal Corporation Jaipur shall have right to exercise proper Quality Control measures. The Contractor shall provide all assistance to conduct such tests and shall bear the cost of all tests.

Clause 8:

The work (whether full constructed or not) and all materials, machines, tools and plant, scaffolding,

temporary buildings and other things connected therewith, shall be at the risk of the contractor until the work has been delivered to the Engineer- in -charge, and a certificate from him, to the effect, obtained.

Clause 9: Death of Contractor

Without prejudice to any of the rights or remedies under the contract, if the Contractor dies the legal heirs of the Contractor or the Chief Engineer or duly authorised Engineer shall have the option of terminating the contract without any compensation.

Clause 10 : Force Majeure

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

Clause 11: General Discrepancies and errors:

In case of percentage rate tenders, if there is any typographical or clerical error in the rates shown by the department in the "G" Schedule. the rates as given in the basic Schedule of Rates of the Department for the area shall be taken as correct.

Clause 12 : Post payment Audit & Technical Examination:

The Government shall have right to provide a system of per-check of Contractor's bill by a specified Organization, and payment by an Engineer or an Accounts Officer/ Sr. Accounts Officer/ Chief Accounts Officer/ Financial Advisor, as the Government may in its absolute discretion prescribe. Any over-payments/ excess payment detected, as a result of such per-check post-check of Contractor's bill, can be recovered from the contractor's bills in the manner, herein before provided and the Contractor will refund such over/ excess payments.

Clause 13 : Check Measurements:

The department reserves to itself, the right to prescribe a scale of check measurement of work in general, or specific scale for specific works of by other special orders (about which the decision on the department shall be final) Checking of measurement by superior officer shall supersede measurements by the subordinate officer and the former will become the basis of the payment. Any over/excess payment detected, as a result of such check measurement or otherwise at any stage up to the date of completion and the defect removal period specified else-where in this contract, shall be recoverable from the Contractor, as any other dues payable to the Government.

Clause 14: Check Measurements:

The Contractor in course of the work should understand that all materials e.g. stone, bricks, steel and other materials obtainable in the work by dismantling etc. will be considered as the property of the Government and will be disposed off to the best advantage on the Government. As per direction of the Engineer-in-Charge.

Clause 15: Recovery from Contractors:

Whenever any claim against the Contractor for the payment of a sum of money arises out of or under the contract, the Department shall be entitled to recover such sum by appropriation in part or whole of the Performance Guarantee and / or Security Deposit. Security Deposit at the time of enlistment of the Contractor. In the event of the security being insufficient, or if no security has been taken, thereafter, may become due to the Contractor, under this or any other contract with the Governor of Rajasthan. Should this sum be not sufficient to cover the full amount recoverable the Contractor shall pay to the Department on demand the balance remaining dues.

The department shall, further, have the right to affect such recoveries under Public Demands Recovery Act.

Clause 16: Jurisdiction of Court:

In the event of any dispute arising between the parties hereto, in respect or any of the matters comprised in this agreement, the same shall be settled by a competent court having jurisdiction over the place, where agreement is executed any by no other court, after completion of proceedings under Clause 23 of this contract.