



BIDDING DOCUMENT

FOR

**CONSTRUCTION OF 1904 OF FLATS ALONGWITH OTHER AMENITIES,
AT NAMOKESHIA MOUZA IN RANIGANJ AREA, ASANSOL UNDER RCFA
PROJECT AT RANIGANJ FOR REHABILITATION**

**SUPERINTENDING ENGINEER, WEST CIRCLE,
(ERSTWHILE HOUSING CONSTRUCTION CIRCLE NO. II),
HOUSING DIRECTORATE,
PURTO BHAVAN (GR. FLOOR), SREE PALLY,
DISTRICT – PURBA BURDWAN**

e-NIT Reference No. WBHOUSING/SE/HCC-II/e-NIT-15/2017-2018

OFFICE OF THE SUPERINTENDING ENGINEER

WEST CIRCLE ERSTWHILE HOUSING CONSTRUCTION CIRCLE - II

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Memo No. 16/1W – 372

Dated : 05/01/2018

e-NOTICE INVITING TENDER

**No. 15 OF 2017-2018 OF THE SUPERINTENDING ENGINEER,
WEST CIRCLE, HOUSING DIRECTORATE**

(ERSTWHILE HOUSING CONSTRUCTION CIRCLE NO. II)

TENDER REFERENCE NO. WBHOUSING/SE/HCC-II/e-NIT-15/2017-2018

The Superintending Engineer, West Circle, Housing Directorate (erstwhile Housing Construction Circle No. II),
invites e-tender for the work detailed in the table below. (Submission of Bid through **online**)

Sl. No.	Name of work	Estimated Amount	Earnest Money / Bid Security	Cost of Tender Documents	Period of completion	Name of concerned Division	Eligibility of Bidder
		(In Rs.)	(In Rs.)	(In Rs.)			
1	Construction of 1904 of flats alongwith other amenities, at Namokeshia Mouza in Raniganj area, Asansol under RCFA Project at Raniganj for rehabilitation	1174102264/-	Rs. 23482045/- In the shape of Bank Guarantee from any Nationalized Bank (Section 4, Form - 19)	15005/- <i>Each Set in form of Cash / Bank Draft in favour of Executive Engineer, Burdwan Division, Housing Directorate, Payable at Durgapur</i>	365 (Three hundred Sixty Five) Days	Executive Engineer, Burdwan Division	As per bidding documents

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SECTION - 1

NOTICE INVITING e-TENDER

from eligible bidders for Construction of 1904 of flats alongwith other amenities, at Namokeshia Mouza in Raniganj area, Asansol under RCFA Project at Raniganj for rehabilitation

Issued by:
**Superintending Engineer, West Circle (Erstwhile Housing Construction Circle
 No. II),
 Housing Directorate,**

Address.: Purto Bhavan (Gr. Floor), Sree pally, District – Purba Burdwan



0342-2646311,

Email ID – sehcc2@gmail.com

e-NIT Reference No. WBHOUSING/SE/HCC-II/e-NIT-15/2017-2018

Introduction: -

1. Eastern Coalfield Limited (ECL) has taken a decision to deal with fire, subsidence and rehabilitation in the lease hold area of ECL, particularly in coal mine area at Raniganj and Durgapur. A Master Plan was prepared by Central Mine Planning & Design Institute Limited. This rehabilitation work in phased manner would be carried out in Durgapur and Asansol Sub Division area for more than 33000 (appx.) families. ECL with the consent of GOI entrusted the project for rehabilitation work to Asansol Durgapur Development Authority (ADDA). Subsequently, it was decided that Housing Department, Government of West Bengal will be the executive agency for this rehabilitation project. After detailed discussion with ADDA, Housing Department, Government of West Bengal came to know that an area of 239.55 acres of land would be required for carrying out construction activities. Housing Department, Government of West Bengal **with assistance of** ADDA and other stake holders has identified various plots of lands where construction activity can be carried out for the purpose of rehabilitation project. Now the area under Namokeshia Mouza is taken into consideration and the present part of project is based on a land of 26.55 acre in Namokeshia Mouza. In the composite planning, 1904 flats can be accommodated. Each block will consist of 16 nos. flat each having a built up area of 39.13 Sq.m. All the infrastructures i.e. School building 1 (one) No., Market Complex 2 (two) Nos., Community Hall 1 (one) no. have been taken into consideration..

2. Housing Department, Government of West Bengal now has decided to engage an eligible company for the purpose of carrying Construction of 1904 of flats alongwith other amenities, at Namokeshia Mouza in Raniganj area, Asansol under RCFA Project at Raniganj for rehabilitation. In terms thereof, Superintending Engineer, West Circle (erstwhile Housing Construction Circle No. II), Housing Directorate on behalf of the Housing Department, Government of West Bengal hereby invites bids through 'e-tendering' from eligible bidders for "Construction of 1904 of flats alongwith other amenities, at Namokeshia Mouza in Raniganj area, Asansol under RCFA Project at Raniganj for rehabilitation" in 2-BID SYSTEM as per the Schedule of Requirements given in Section - 5 (Employer's Requirements) hereof. Location of Project Site and related Bid Data is provided below :

Location of Project Site	Time of Completion (Days)
Namokeshia	365 days

2. Superintending Engineer, West Circle (erstwhile Housing Construction Circle No. II), Housing Directorate and/or Housing Department, Government of West Bengal shall appoint independent consultant for carry out supervision of construction and bill processing till completion of the project for implementation of master plan at RCFA for mouza Namokeshia Raniganj. The scope of work of the consultant is as follows:
- Construction Supervision in all stages and bill processing till completion of the project including certifying the requires test.
 - Preparation & submission of As-built Drawings (Both for Civil, S&P, Drainage, Water supply network, Roads and pavement network & Electrical Works) and obtaining Completion Certificate from concerned Sanctioning Authorities and/or Power Supply Authority, as per requirement.
 - The entire Planning, Designing, Drawings, Cost Estimates, etc. of the scheme must be as per requirement and satisfaction of department. Necessary approval of the "Approval Committee" of the department formed for this purpose must be obtained on all such documents before finalization.
 - Special attention shall be given to energy savings devices/designs with maximum natural lighting and ventilation, renewable energy sources and eco-friendly features and cutting edge technology with green feature.
 - The consultancy firm will must have to set up the site office in around vicinity of site in Asansol within 15 days after receipt of Notice to proceed with the work till finalization of the project.

- (f) The Consultancy service will cover the construction period of the project for taking measurement and preparing etc. Activities required for preparation & submission of As-built drawing and obtaining Completion Certificate from concerned authorities during & after the construction period will be the responsibility of the Consultant.
4. The Selected Bidder act in tandem with such consultant for completion of the Project. The scope of the Selected Bidder is reflected in the Section – 5 : Employer’s Requirement.
 5. Intending bidders may download the Bidding Documents from the websites <https://wbtenders.gov.in> directly and appropriate Earnest Money / Bid Security of an amount as mentioned in Page No. 3 hereinabove may be furnished by way of a **bank guarantee in favour of “Executive Engineer, Burdwan Division, Housing Directorate”** issued by any scheduled bank and also to be documented through e-filing (scan copy is to be submitted). The original part of online submission of EMD (Earnest Money Deposit) / Bid Security should be submitted physically to the office of Superintending Engineer, West Circle, Housing Directorate or Housing Department, Government of West Bengal under sealed cover within the prescribed date and time limit stated in Sl. 10 of this e-NIT. However, Superintending Engineer, West Circle, Housing Directorate will not be held responsible for late delivery or loss of the Bank Guarantee so mailed through post/courier. Technical Bid and Financial Bid both will have to be submitted concurrently duly digitally signed in the website <https://wbtenders.gov.in>. Bidding Documents may be downloaded from the website and Technical Bid/Financial Bid submitted as per the Schedule stated in Sl. 10.
 6. The documents submitted by the bidders should be properly indexed & digitally signed. Both Technical Bid and Financial Bid in respect of each of this bid are to be submitted in technical (statutory & non-statutory folder) and financial folder concurrently duly digitally signed in the website <https://wbtenders.gov.in>. The Technical Bid and Financial Bid are to be submitted online on or before the date and time mentioned in Sl. 10 of this e-NIT.
 7. The Financial Bid of the bidders will be considered only if the Technical Bid (both statutory and non- statutory documents) of the bidder is found qualified by the Tender Evaluation Committee constituted by Housing Department, Government of West Bengal. The decision of the Tender Evaluation Committee will be final and absolute in this respect. The list of responsive / technically qualified and non-responsive bidders will be displayed in the websites referred to in Sl. 4 of the e-NIT, on the scheduled date and time.

8. Eligibility criteria for participation in the tender

- (i) The Tender Evaluation Committee constituted by Housing Department, Government of West Bengal will determine the eligibility of each bidder. The bidders shall have to meet the minimum eligibility criteria regarding:
 - (a) Financial Capacity
 - (b) Technical Capability comprising of personnel and equipment capability
 - (c) Experience/Credentials.
 - (ii) The eligibility of a bidder will be ascertained on the basis of the digitally signed documents in support of the minimum criteria as mentioned in (a), (b) and (c) above. If any document submitted by a bidder is either manufactured or false, in such cases the eligibility of the bidder will be rejected outright at any stage without any prejudice to the rights of Superintending Engineer, West Circle, Housing Directorate.
 - (iii) The bidders shall have to meet the following eligibility criteria:
 - (a) The bidder shall be a reputed construction company within the meaning of Companies Act, 2013 / Public Sector Undertaking – subject to ITB 4.5.
 - (b) Bidder(s) must have satisfactorily completed:
 - a) Minimum one big housing project or any other building works of Rs. 180 Crores or upto three housing project totaling Rs. 180 Crores, out of which 1 (one) shall be of a minimum value of Rs. 80 Crores at any place(s) in India during the last 7 (seven) financial years ending on the last day of the month previous to the one in which the tender is invited (Civil & Electrical composite tender).
 - b) Intending tenderers should produce credentials of one single running work of similar nature which has been completed to the extent of 80% or more & value of which is not less than the Rs. 180 Crore (Civil & Electrical composite tender).
- B) For Electrical works:-
- i) The bidder must have valid Electrical Contractor License with full time engagement of an Electrical Supervisor holding Supervisor competency on the parts 1,2,3,4,5,6(A),6(B), 7(A), 7(B), 11 & 12 or equivalent National Supervisors' Certificate of Competency. [Self-attested scan copy of valid "Electrical Contractors License", "Supervisors' Certificate of Competency", & Authentic Notarised documents regarding engagement of Electrical Supervisor as submitted to the Licensing Board, Govt. of West Bengal" required as Non statutory Documents].
 - ii) The prospective tenderers must have sufficient credential to participate in the Tender as per Notification bearing No. 04-A/PW/O/10C-02/14 dated 18.03.2015 of Accounts Branch, PWD, Govt. of W.B. [Non Statutory Documents].
- N.B. Executed amount, Date of completion of project & detail communicational address of Client (Phone number preferred) must be indicated in the credential certificate. The BOQ/Work Schedule must be uploaded alongwith Completion Certificate as Non Statutory Documents.
- N.B. Executed amount, Date of completion of project & detail communicational address of Client (Phone number preferred) must be indicated in the credential certificate. The BOQ/Work Schedule must be uploaded alongwith Completion Certificate as Non Statutory Documents. (c) Minimum Average Annual Turnover of Rs. 500 Crores during the last 3 (three) financial years (i.e. 2014-2015, 2015-2016 and 2016-2017), as certified by a Chartered Accountant.

For projects in the private sector, completion certificate along with TDS certificates evidencing payment of at least 60% of the completed similar works shall have to submitted.

- (c) Minimum Average Annual Turnover of Rs. 325 Crores during the last 3 (three) financial years (i.e. 2014-2015, 2015-2016 and 2016-2017), as certified by a Chartered Accountant.
- (d) A bidder shall be a company within the meaning of the Companies Act, 2013 or any amendment, substitution thereof and shall operate in conformity with the provisions of laws in India.
- (e) Participation in the form of Joint venture/Consortium / Special Purpose Vehicle will not be allowed.
- (f) The bidder is not barred/ blacklisted by any Department, Statutory Authority, public sector undertaking or body corporate under the Government of India or any State Government from participating in any project or bid and the bar subsists as on the date of the deadline for bid submission or thereafter during process of evaluation.
- (g) The other eligibility criteria including eligibility criteria for technical personnel and Plants & Equipments are described in Clause 2 of Section 3 – Evaluation and Qualification Criteria.

9. Bids shall remain valid for a period not less than 180 days after the deadline/last date for Financial Bid submission as specified in Sl. 10 of this e-NIT. Bids valid for a shorter period shall be rejected as non-responsive. If the bidder withdraws the bid during the period of bid validity the EMD / Security Deposit will be forfeited forthwith without assigning any reasons thereof as liquidated damages representing a genuine pre-estimate of the damages likely to be suffered by Superintending Engineer, West Circle, Housing Directorate and/or the Housing Department, Government of West Bengal if such withdrawal occurs.

10. Important Information Date & Time Schedule:

Sl. No.	Particulars	Date & Time
1.	Date of uploading of Bidding Documents online) (Publishing Date)	05/01/2018
2.	Documents download start date (Online)	05/01/2018 after 6.55 pm
3.	Documents download end date (Online)	07/02/2018 at 5 pm
4.	Date of Pre Bid Meeting with the intending bidders In the MINI CONFERENCE HALL under Housing Department, 1, K.S. Roy Road, New Secretariat Building 3 rd Floor, Block – C, Kolkata – 700001.	19/01/2018 at 12.00 Noon
5.	Bid submission start date (Online)	20/01/2018 after 5 pm
6.	Bid submission closing (Online)	07/02/2018 at 5 pm
7.	(a) Last date of submission of Earnest Money Deposit (Offline)	06/02/2018 upto 4pm
8.	Bid opening date for Technical Bid (Online)	09/02/2018 at 5 pm
9	Technical Presentation	To be notified later
10.	Date & Place for opening of Financial Proposal (Online)	To be notified during uploading of Technical Evaluation Sheet of bidders
11.	Date of uploading of list of bidders along with financial bids (Online),	Within 48 (forty eight) hours after opening of Financial Bid

11. In the event, any of the specified dates as above being declared a holiday by Superintending Engineer, West Circle, Housing Directorate or the Housing Department, Government of West Bengal or on any account, office of Superintending Engineer, West Circle, Housing Directorate or the Housing Department, Government of West Bengal being closed, the event of specified date will be extended to the next working day.
12. All standards, technical specifications and codes of practice referred to shall be the latest editions of Indian Standard Codes including all applicable official amendments. The Selected Bidder shall make available at site all relevant Indian Standard Codes of practice as applicable.

13. Wherever Indian Standards do not cover some particular aspects of design/ construction, prevailing Indian practice in construction industry shall be followed.
14. In case of discrepancy among standard codes of practice, technical specifications and provisions in Employer's Requirements, the order of precedence shall be as below:
 - a) Provisions in Employer's Requirements
 - b) Technical Specifications in Employer's Requirements,
 - c) Standard codes of practice.
 - d) In case of discrepancy in reference to standard codes of practice, the order of precedence shall be IS then IRC.
15. All the sites are located within West Bengal. The bidder, at its own responsibility and risk is encouraged to visit and examine the site of work and its surroundings and obtain all information that may be necessary for preparing the bid and entering into a contract for the work as mentioned in the e-NIT, before submitting its bid. The bidder shall bear its own expenses for visiting the sites. However, a bidder may conduct a due diligence exercise of the site and would be deemed to have familiarised itself with the status of infrastructural facilities and other conditions appearing at the site before submitting its bid.
16. The selected bidder/contractor shall have to compete the project in accordance with the building plan as prepared by the Consultant appointed in terms of sl. 3 and as may be approved by competent authority. No changes in the building plan shall be allowed unless required by the employer or competent authority or applicable law or as may be directed by any statutory authority at the time of granting final sanction/completion certificate/no objection/permission. Copy of the site map, master plan of lay out design, building plan sanctions obtained from the competent authorities are enclosed herewith for consideration of the intending bidders.
17. Superintending Engineer, West Circle, Housing Directorate reserves the right to reject any or all applications for participating in bidding process and to accept or reject any or all offer without assigning any reason whatsoever and is not liable for any cost that might have incurred by any bidder at the stage of bidding.

18. The EMD/Bid Security deposited in favour of Executive Engineer, Burdwan Division, Housing Directorate will be returned to the unsuccessful bidders, duly discharged, upon 15 days of signing of the Agreement by the Selected Bidder and submission of Performance Security (10% of the contract price) by such Selected Bidder, whichever is later upon prior application to Superintending Engineer, West Circle, Housing Directorate for return of such discharged Bank Guarantee.
19. Prospective bidders are advised to note carefully the minimum qualification criteria as mentioned in 'Instructions to Bidders' (ITB) and various conditions in General Conditions of Contract and other bidding documents as per ITB 6.1 before tendering the bids.
20. Conditional/incomplete bids will not be accepted under any circumstances.
21. The bidders shall have to comply with the provisions of the (a) Contract Labour (Regulation & Abolition) Act, 1970 (b) Apprentices Act, 1961 and (c) Minimum Wages Act, 1948 or the notifications thereof or any other laws relating to and the rules made and order issued thereunder from time to time pursuant to Clause 6 of the General Conditions of Contract.
22. In case of ascertaining authority of intending bidders at any stage of bidding process or execution of work, necessary registered irrevocable Power of Attorney is to be produced as and when asked for by Superintending Engineer, West Circle, Housing Directorate.
23. During scrutiny, if it come to notice of Superintending Engineer, West Circle, Housing Directorate or the Housing Department, Government of West Bengal that credentials or any record is found incorrect/ manufactured/ fabricated, the bidder would not allowed to participate in the tender and its application will be rejected outright without any prejudice to the rights of the Superintending Engineer, West Circle, Housing Directorate.
24. Superintending Engineer, West Circle, Housing Directorate reserves the right to cancel the bidding process due to unavoidable circumstances without assigning any reason, whatsoever, to the bidders and no claim in this respect will be entertained.
25. Before issuance of Notification of Award, Superintending Engineer, West Circle, Housing Directorate or its authorized representative may verify all credentials and other documents, if found necessary. After verification, if it is found that the documents submitted by the lowest bidder is either manufactured or false in that case, Notification of Award will not be issued in favour of the said bidder under any circumstances and the EMD/Bid Security deposited by the bidder will be forfeited by Superintending Engineer, West Circle, Housing Directorate without assigning any

reason thereof as liquidated damages representing a genuine pre-estimate of the damages likely to be suffered by Superintending Engineer, West Circle, Housing Directorate and Housing Department, Government of West Bengal on account of submission of such manufactured / false documents.

26. Where an individual holds a digital certificate in his own name duly issued to him in respect of a bidder of which he is a director, such individual person shall, while uploading the bid for and on behalf of such bidder, shall upload a copy of Power of Attorney.
27. Courts at Kolkata shall alone have jurisdiction (to the exclusion of all other Courts) to entertain all disputes arising out of the Bid.
28. Arbitration will not be allowed vide gazzatte notification no. 558/SPW-13th December, 2011.
29. Guiding schedule of rates – For building works : Current Schedule of rates for concerned District P.W.D. with effect from 01.11.2017 for Building, Sanitary & Plumbing works P.W (R) SOR, P.W.D. (Electrical) SOR alongwith up to date Corrigenda & Addenda.

SECTION - 2

INSTRUCTIONS TO BIDDERS (ITB)

A. General

1. Scope of Bid
 - 1.1 In connection with the Notice Inviting e-Tender for **Construction of 1904 of flats alongwith other amenities, at Namokeshia Mouza in Raniganj area, Asansol under RCFA Project at Raniganj for rehabilitation**, Superintending Engineer, West Circle, Housing Directorate having its office at Purto Bhavan, Sree Pally, Burdwan (hereinafter referred to as "the Employer") issues the present Bidding Documents for the procurement of Works as specified in Section 5 (Employer's Requirements). The name, identification and number of contracts of the National Competitive Bidding (NCB) are given below. The tender is invited online and submission of tender will also be online as detailed in the e-NIT.
 - 1.2 Throughout the Bidding Documents:
 - (a) the term "in writing" means communicated in written form and delivered against receipt;
 - (b) the terms 'bid' and 'tender' and their derivatives (bidder/tenderer, bid/tender, bidding/tendering, etc.) are synonymous.
 - (c) except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular; and
 - (d) "day" means calendar day.
2. General guidance for e-tendering
 - 2.1 Registration of bidder

Any bidder willing to take part in the process of e-tendering will have to be enrolled & registered with the State Government e-procurement system, on <https://wbtenders.gov.in>. The bidder is to click on the link for e-tendering as given on the web portal and if required, may contact e-procurement Help Desk at Jalasampad Bhavan, 7th Floor, DVC Cell, Salt Lake, Phone: (033)2334-6098.

Digital Signature Certificate (DSC)
 - 2.2 Each bidder is required to obtain a Class-II or Class-III Digital Signature Certificate (DSC) for submission of tenders, from the approved service provider of the National Informatics Centre

(NIC). Details are available on the website <https://wbtenders.gov.in>. DSC is given as a USB e-token.

The bidder can search and download the e-NIT and Bidding Documents electronically once it logs on to the website <https://wbtenders.gov.in>. This is the only mode of collection of Bidding Documents.

The bidders are also advised to upload relevant documents such as certificates, purchase order details etc. well in advance under the “My Documents” Tab at <https://wbtenders.gov.in> so that those can later be selected and attached during bid submission. This is likely to ensure hassle free upload of bid documents.

There is no upper limit on the size of the file to be uploaded. However, the speed of upload is dependent on the memory available in the client system as well as the network bandwidth used. In order to reduce the file size, bidders are advised to scan the documents in 75-100 DPI so that the optimal clarity is maintained.

The Employer will not be responsible for any delay or the difficulties faced during the submission of bids online by the bidders due to local connectivity or other issues.

3. Corrupt Practices

3.1 The Employer requires that bidders, suppliers, contractors under contracts with the Employer, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the Employer:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “corrupt practice”/“bribery” means the offering, giving receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party or influencing the process procuring goods or services or executing contracts;
 - (ii) “fraudulent practice”/“fraud” means any act or omission, including a misrepresentation of information or facts, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation or to influence the process procuring

goods or services or executing contracts, to the detriment of the Employer or other participants;

(iii) "coercive practice" means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;

(iv) "collusive practice" means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party or designed to result in bids at artificial prices that are not competitive;

(v) "restrictive practice" means forming a cartel or arriving at any understanding or arrangement among bidders with the objective of restricting or manipulating a full and fair competition in the bidding process.

- (b) will reject a proposal to award a contract if it determines that the bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract in question; and
- (c) will sanction a party or its successor, including declaring ineligible, either indefinitely or for a stated period of time, to participate in any tender/bidding process of the Employer if it at any time determines that the firm has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for, or in executing, a contract of the Employer.
- (d) will cancel or terminate a contract if it determines that a bidder /party has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for, or in executing, a contract with the Employer.
- (e) will normally require a contractor of the Employer to allow the Employer or any person that the Employer may designate, to inspect or carry out audits of the contractor's accounting records and financial statements in connection with the Contract.

4. Eligible Bidders

4.1 The prospective bidders shall have to meet the following eligibility criteria :

(a) The bidder shall be a reputed construction company within the meaning of Companies Act, 2013 / Public Sector Undertaking—subject to ITB 4.5.

b) Bidder(s) must have satisfactorily completed:

Minimum one big housing project or any other building works of Rs. 180 Crores or upto three housing project totaling Rs. 180 Crores, out of which 1 (one) shall be of a minimum value of Rs. 80 Crores at any place(s) in India during the last 7 (seven) financial years ending on the last day of the month previous to the one in which the tender is invited (Civil & Electrical composite tender).

Intending tenderers should produce credentials of one single running work of similar nature which has been completed to the extent of 80% or more & value of which is not less than the Rs. 180 Crore (Civil & Electrical composite tender).

B) For Electrical works:-

i) The bidder must have valid Electrical Contractor License with full time engagement of an Electrical Supervisor holding Supervisor competency on the parts 1,2,3,4,5,6(A),6(B), 7(A), 7(B), 11 & 12 or equivalent National Supervisors' Certificate of Competency. [Self-attested scan copy of valid "Electrical Contractors License", "Supervisors' Certificate of Competency", & Authentic Notarised documents regarding engagement of Electrical Supervisor as submitted to the Licensing Board, Govt. of West Bengal" required as Non statutory Documents].

The prospective tenderers must have sufficient credential to participate in the Tender as per Notification bearing No. 04-A/PW/O/10C-02/14 dated 18.03.2015 of Accounts Branch, PWD, Govt. of W.B. [Non Statutory Documents].

N.B. Executed amount, Date of completion of project & detail communicational address of Client (Phone number preferred) must be indicated in the credential certificate. The BOQ/Work Schedule must be uploaded alongwith Completion Certificate as Non Statutory Documents.

N.B. Executed amount, Date of completion of project & detail communicational address of Client (Phone number preferred) must be indicated in the credential certificate. The BOQ/Work Schedule must be uploaded alongwith Completion Certificate as Non Statutory Documents. (c) Minimum Average Annual Turnover of Rs. 500 Crores during the last 3 (three) financial years (i.e. 2014-2015, 2015-2016 and 2016-2017), as certified by a Chartered Accountant.

For projects in the private sector, completion certificate along with TDS certificates evidencing payment of at least 60% of the completed similar works shall have to submitted

c) Minimum Average Annual Turnover of Rs. 325 Crores during the last 3 (three) financial years (i.e. 2014-2015, 2015-2016 and 2016-2017), as certified by a Chartered Accountant.

d) A bidder shall be a company within the meaning of the Companies Act, 2013 or any amendment, substitution thereof and shall operate in conformity with the provisions of laws in India.

e) Participation in the form of Joint venture/Consortium / Special Purpose Vehicle will not be allowed.

f) The bidder is not barred/ blacklisted by any Department, Statutory Authority, public sector undertaking or body corporate under the Government of India or any State Government from participating in any project or bid and the bar subsists as on the date of the deadline for bid submission or thereafter during process of evaluation.

g) The other eligibility criteria including eligibility criteria for technical personnel and Plants & Equipments are described in Clause 2 of Section 3 – Evaluation and Qualification Criteria.

4.2

A bidder shall have to furnish the following documents:

a) Income Tax, Professional Tax (P.T.) Clearance Certificate, P.T. (Deposit Challan), PAN Card, GST Registration Certificate along with Income Tax Return Acknowledgement Receipt for Assessment Year 2016-2017, 2015-16, 2014-15, 2013-2014 and 2012-2013.

(b) Tax Audit Report in Form 3CD along with Balance Sheet & Profit and Loss A/c. for the last 5 (five) years (year just preceding the current financial year will be considered as year-1) viz. 2012-2013, 2013-2014, 2014-2015, 2015-2016 and 2016-2017.

(c) Financial Statement in Form 17 FIN - I of Section 4 (Bidding Forms) digitally signed by the bidder.

(d) Declaration in Form - 9 of Section 4 (Bidding Forms) regarding structure and organization duly digitally signed by the bidder.

4.3

The Employer considers a conflict of interest to be a situation in which a party has an interest that could improperly influence that party's performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations, and that such conflict of interest may contribute to or constitutes a prohibited practice by the Employer which requires that bidders, suppliers, and contractors under contracts with the Employer, observe the highest standard of ethics and will take appropriate actions if it determines that a conflict of interest has flawed the integrity of any procurement process. Consequently all bidders found to have a conflict of interest shall be disqualified. A bidder may be considered to be in a conflict of interest with one or more parties in this bidding process if, including but not limited to:

- (a) they have controlling shareholders in common;
- (b) they receive or have received any direct or indirect subsidy from any of them;
- (c) they have the same legal representative for purposes of this bid;
- (d) they 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 Employer regarding this bidding process; or
- (e) participation by a bidder in more than one bid (not meaning thereby more than one package) will result in the disqualification of all bids in which the party is involved.

4.4 A bidder that is under a declaration of ineligibility and/or blacklisting by the Employer in accordance with ITB 3 or by any Department, Statutory Authority, public sector undertaking or body corporate under the Government of India or any State Government from participating in any project or bid and the bar subsists as on the date of the deadline for bid submission or thereafter during process of evaluation, shall be disqualified provided such declaration of ineligibility and/or blacklisting has not been challenged by the bidder and such declaration is stayed and/or kept in abeyance and/or set aside by any competent court of law and/or by any other judicial authority.

4.5 Bidders shall provide such evidence of their continued eligibility satisfactory to the Employer, as the Employer shall reasonably request.

5. Eligible Personnel
Materials, Equipment
and Services

5.1 The bidder must have the requisite numbers of Technical Personnel, Plants and Equipment as enumerated in Forms 4, 7 and 9 of Section 4 (Bidding Forms). The materials, equipment and services to be supplied under the Contract may have their origin in any country except prohibited by any statute.

5.2 For purposes of ITB 5.1 above, "origin" means the place where the materials and equipment are mined, grown, produced or manufactured, and from which the services are provided. Materials and equipment are produced when, through manufacturing, processing, or substantial or major assembling of components, a commercially recognized product results that differs substantially in its basic characteristics or in purpose or utility from its components.

5.3 The bidders are cautioned to read the specifications carefully, as there may be special requirements. The specifications are the

minimum requirements for the products. The products offered must meet or exceed requirements mentioned in the technical specifications. The products shall conform to strength, quality and workmanship to the accepted standards of the relevant industry. Modifications of or additions to basic standard products of less size or capability to meet these requirements will not be acceptable.

B. Contents of Bidding Documents

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| 6. Sections of Bidding Documents | <p>6.1 The Bidding Documents consist of Parts I, II, and III, which include all the Sections indicated below, and should be read in conjunction with any Addenda issued in accordance with ITB 8.</p> <p><u>PART I Bidding Procedures</u></p> <p>Section 1 - Notice Inviting e-Tender (e-NIT)</p> <p>Section 2 - Instructions to Bidders (ITB)</p> <p>Section 3 - Evaluation and Qualification Criteria (EQC)</p> <p>Section 4 - Bidding Forms (BDF)</p> <p><u>PART II Requirements</u></p> <p>Section 5 - Employer's Requirements (ERQ)</p> <p><u>PART III Conditions of Contract and Contract Forms</u></p> <p>Section 6 - General Conditions of Contract (GCC)</p> <p>Section 7 - Contract Forms (COF)</p> <p>The Employer is not responsible for the completeness of the</p> <p>6.2 Bidding Documents and their Addenda, if they were not obtained directly from the source stated by the Employer in the e-NIT.</p> <p>The bidder is expected to examine all instructions, forms, terms,</p> <p>6.3 and specifications in the Bidding Documents. Failure to furnish all information or documentation required by the Bidding Documents may result in the rejection of the bid.</p> |
| 7. Clarification of Bidding Documents, Site Visit, Pre-Bid Meeting | <p>7.1 A prospective bidder requiring any clarification of the Bidding Documents shall contact the Employer in writing by sending an e-mail to the Employer's e-mail address sehcc2@gmail.com raise its queries during the pre-bid meeting if provided for in</p> |

accordance with ITB 7.4 and 7.5.

The Employer may in its sole discretion upload in the website hosting the Bidding Documents, its responses to bidders' queries. Should the Employer deem it necessary to amend the Bidding Documents, as a result of a request for clarification, it shall do so following the procedure under ITB 8.

The bidder is advised to visit and examine the sites of Works and its surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the bid and entering into a contract for construction of the Works. The costs of visiting the site shall be at the bidder's own expense. The bidder and any of its personnel or agents will be granted permission by the Employer to enter upon its premises and lands for the purpose of such visit, but only upon the express condition that the bidder, its personnel and agents will release and indemnify the Employer and its personnel and agents from and against all liability in respect thereof and will be responsible for death or personal injury, loss of or damage to property, and any other loss, damage, costs and expenses incurred as a result of the inspection.

The bidder's designated representative is invited to attend a pre-bid meeting at MINI CONFERENCE HALL under Housing Department, 1, K.S.Roy Road, New Secretariat Building, 3rd Floor, Block – C, Kolkata – 700001. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.

The bidder is requested, as far as possible, to submit any questions in writing, to reach the Employer not later than two days before the meeting.

Minutes of the pre-bid meeting, including the text of the questions raised, without identifying the source, and the responses given, together with any responses prepared after the meeting, may be uploaded in the e-tender portal i.e.

<https://wbenders.gov.in> within 7 (seven) days from the date of pre-bid meeting. Any modification to the Bidding Documents that may become necessary as a result of the pre-bid meeting shall be made by the Employer exclusively through the issue of

appropriate addendum/ corrigendum pursuant to ITB 8 and not through the minutes of the pre-bid meeting.

7.7 Non-attendance at the pre-bid meeting will not be a cause for disqualification of a bidder.

7.8 At any time prior to the deadline for submission of bids and in case of the extension of deadline for the submission of bids up to bid opening, the Employer may amend the Bidding Documents by issuing appropriate addenda/ corrigenda.

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| 8. Amendment of Bidding Documents/ Extension of deadlines | 8.1 | Any addendum/ corrigendum issued shall be part of the Bidding Documents and shall be uploaded in the e-tender portal i.e. https://wbtennders.gov.in . |
| | 8.2 | To give prospective bidders reasonable time in which to take an addendum into account in preparing their bids or for other causes and consideration, the Employer may, at its discretion, extend the deadline for the submission of bids. |

C. Preparation of Bids

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| 9. Costs of Bidding | 9.1 | The bidder shall bear all costs associated with the preparation and submission of its bid and the Employer shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process. |
| 10. Language of Bid | 10.1 | The bid, as well as all correspondence and documents relating to the bid exchanged by the bidder and the Employer, shall be written in English only. Supporting documents and printed literature that are part of the bid may be in another language provided they are accompanied by an accurate translation of the relevant passages in English, in which case, for purposes of interpretation of the bid, such translation shall govern. |
| 11. Documents comprising the Bid | 11.1 | Bids are to be submitted online following the process mentioned in Sl. Nos. 3, 4, 5 and 6 of e-NIT in two folders at a time for each package, in respect whereof bid is being submitted, one being the Technical Proposal / Technical Bid and the other being the Financial Proposal / Financial Bid before the prescribed date and time duly signed with a valid Digital Signature Certificate (DSC). |

The documents are to be uploaded scanned for viruses and duly digitally signed so that the documents will get encrypted (transformed into non readable formats). The folder must be identifiable in respect of each of the packages for which the bidder is submitting a bid.

- 11.2 The Technical Bid shall comprise of the scanned copies of the following documents in one folder :

Statutory cover of Technical Bid containing:

To be filled in FORM folder:

- (i) Letter of Technical Bid in form of Affidavit as given in Form - 1 of Section - 4 (Bidding Forms)
- (ii) Experience profile of the bidder, as per format given in Form - 2 of Section - 4 (Bidding Forms)
- (iii) Power of Attorney in favour of signatory of the bid, as per format given in Form - 5 of Section - 4 (Bidding Forms)
- (iv) List of plants and machineries as given in Form - 4, (Section 4 - Bidding Forms)
- (v) Information regarding current litigation, debarment / expelling of the bidder or abandonment of work by the bidder during the last 3 (three) years as per format given in Form - 14 of Section - 4 (Bidding Forms)
- (vi) Declaration by the bidder as per format given in Form - 2 of Section - 4 (Bidding Forms)
- (vii) Qualification Information (duly filled in by the bidder), as per format given in Form - 16 (Form ELL-1) of Section - 4 (Bidding Forms)
- (viii) Letter of Financial Bid, as per format given in Form - 3 of Section - 4 (Bidding Forms)

To be filled in DRAFT folder:

- (i) Bank Guarantee as in Form- 19 towards Earnest Money Deposit (EMD)/ Bid Security as prescribed in the e-NIT, drawn in favour of "Executive Engineer, Burdwan Division, Housing Directorate".

To be filled in e-NIT folder:

- (i) Notice Inviting e-Tender (Section - 1) and Instructions to Bidders (Section - 2) (uploaded with digital signature).
- (ii) General Conditions of Contract (Section - 6) (uploaded with digital signature).
- (iii) Employer's Requirements (Section - 5) (uploaded with digital signature).

Non-statutory (My Documents) cover containing**To be filled in CERTIFICATE folder:**

- (a) Copy of Certificate of Incorporation, Memorandum and Articles of Association
- (b) Copy of GST Registration Certificate;
- (c) Copy of PAN Card;
- (d) Copy of Income Tax Clearance Certificate for last 5 (five) years.

To be filled in FINANCIAL INFO folder:

- (a) Copy of Income Tax Returns for the financial years 2012-2013, 2013-2014, 2014-2015, 2015-2016 and 2016-2017;
- (b) Form FIN - 1 of Form- 17
- (c) Form FIN - 2 of Form- 17 (Annual Turnover during last three financial years)
- (d) Form FIN-3 of Form - 17
- (e) Form FIN-4 of Form - 17

To be filled in P/L AND BALANCE SHEET 2012-2013 folder:

Profit & Loss Account and Balance Sheet for financial year 2012-2013 along with Tax Audit Form in Form 3CD

To be filled in P/L AND BALANCE SHEET 2013-2014 folder:

Profit & Loss Account and Balance Sheet for financial year 2013-2014 along with Tax Audit Form in Form 3CD

To be filled in P/L AND BALANCE SHEET 2014-2015 folder:

Profit & Loss Account and Balance Sheet for financial year 2014-2015 along with Tax Audit Form in Form 3CD

To be filled in P/L AND BALANCE SHEET 2015-2016 folder:

Profit & Loss Account and Balance Sheet for financial year 2015-2016

To be filled in P/L AND BALANCE SHEET 2016-2017 folder:

Profit & Loss Account and Balance Sheet for financial year 2016-2017 along with Tax Audit Return in Form 3CD

To be filled in CREDENTIAL 1 folder:

Value of construction works of similar nature completed as per format in Form - 18 in Section - 4 (Bidding Forms) during the last 7 financial years supported by certificate by the client/ TDS

To be filled in MANPOWER folder:

- a) Details of technical personnel in the payrolls of the bidder as per format in Forms PER-1 and PER-2 of Form - 8 of Section - 4 (Bidding Forms)
- b) Details of personnel in the payrolls of the bidder comprising of the design team / copy of agreement with company rendering industrial design services

To be filled in EQUIPMENT folder:

- a) Details of plants and machineries owned/ taken on hire as per format in Form - 6 of Section - 4 (Bidding Forms)
- b) Details of equipment for testing of materials and concrete at site laboratory as per format in Form - 7 of Section - 4 (Bidding Forms)
- c) Details of Equipment as per Form - 9 of Section - 4 (Bidding Forms)

In case of failure to submit any of the above mentioned documents (for both statutory and non statutory cover) in respective folders, the Corporation shall be entitled to summarily reject the bid.

- 11.3 The Financial Bid shall comprise of the Bill of Quantity (BOQ) in the specified format, being the cost for Construction of 1904 of flats alongwith other amenities, at Namokeshia Mouza in Raniganj area, Asansol under RCFA Project at Raniganj for rehabilitation inclusive of all taxes and charges.

N.B. - (1) The bidder is to quote the rate online in the space marked for quoting rate in the BOQ.

(2) Only downloaded copies of the above documents are to be uploaded, virus scanned and digitally signed by the bidder.

(3) The rate quoted also include costs of i) buildings including sanitary & plumbing works & electrical works, ii) school building 1(one) no. including sanitary & plumbing works & electrical works, iii) market complex 2 (two) nos. including sanitary & plumbing works & electrical works, iv) community hall 1 (one) no. including electrical works. In other words, no money over and above the total rate quoted in the BOQ will be paid by the Employer to the Selected Bidder/ Contractor and the bidder should accordingly bid for the Project.

(4) Variation in consumption in contrary to BOQ will be taken careof accordingly.

12. Letters of Bid and Schedules

12. The Technical Bid and Financial Bid shall be prepared using the relevant forms furnished in Section - 4 (Bidding Forms). The forms must be completed without any alterations to the text, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested.

13. Bid Prices and Discounts

- 13.1 The prices quoted by the bidder in the Financial Bid shall conform to the requirements specified below.
- 13.2 The price to be quoted in the in the Financial Bid, in accordance with ITB 11.3, shall be the total price of the bid.
- 13.3 The price quoted by the bidder is not subject to any discount or adjustment.
- 13.4 All duties, taxes including GST and other levies payable by the Selected Bidder under the Contract, or for any other cause, shall be considered to be included in the Financial Bid submitted by the bidder. The Financial Bid submitted by the bidder shall be

final and shall not be adjusted and/or increased for change in any duty / tax / other levies or outgoings and/or any levy of any additional duty or tax or other levies which are not earlier payable. In other words, the Selected Bidder will not be paid anything more than the Financial Bid, which is all inclusive.

However, the Employer will assist (on a no recourse basis and in good faith, based on the selected bidder's representations and in good faith thereof) the Selected Bidder / Contractor to obtain any lawful exemptions from payments of Duties or Taxes on Plant and Materials which are to be incorporated as a part of the Permanent Works by issue of a appropriate certificate in the requisite format certifying the estimated quantities of Plant/ Materials that are to be incorporated into the Works. The responsibility for obtaining any such exemptions from the competent authority will remain with the Selected Bidder and the Employer shall in no way be responsible for admissibility of the claims or eligibility of the Selected Bidder.

Variation of GST or any other Tax to be allowed after approval of Finance Department, Govt of West Bengal.

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| 14. Currencies of Bid and Payment | 14.1 | The unit rates and the prices shall be quoted by the bidder entirely in Indian National Rupees (INR) only. The Employer shall be entitled to reject any bid, if the same has been submitted in any other currency. |
| 15. Documents Comprising the Technical Proposal | 15.1 | To establish its qualifications to perform the Contract, the bidder shall furnish as part of the Technical Bid, a technical proposal including a statement of work methods, equipment, personnel, schedule and any other information as stipulated in Section – 4 (Bidding Forms) in sufficient detail to demonstrate the adequacy of the bidder's proposal to meet the work requirements and the completion time. |
| | 15.2 | The bidder will have to present before the Tender Evaluation Committee (TEC, which is an expert technical body), work program, modalities of execution in terms of modern mechanical construction equipment with image display conforming to |

technical specifications and Employer's Requirements. The TEC will take into consideration various factors, collectively and holistically, especially factors having a direct bearing on 'time-bound completion' nature of the Works. If the TEC in their subjective assessment finds any discrepancy in bidder's capability to render the Works satisfactorily based on their presentation and other factors which are corroborative of their stated credentials such as financial strength, experience in similar work, personnel & establishment, plant & equipment or other factors which have a bearing on the bidder's capability to perform the contract, if awarded, the overall evaluation weightage will be calibrated for such bidder accordingly.

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| 16. Documents Establishing the Qualifications of the Bidder | 16.1 | To establish its qualifications to perform the Contract in accordance with Section - 3 (Evaluation and Qualification Criteria) the bidder shall provide the information requested in the corresponding information sheets included in Section - 4 (Bidding Forms). |
| 17. Period of Validity of Bids | 17.1 | Bids shall remain valid for a period of not less than 180 days after the bid submission deadline date prescribed by the Employer. A bid valid for a shorter period shall be rejected by the Employer as non responsive. |
| | 17.2 | In exceptional circumstances, prior to the expiration of the bid validity period, the Employer may request bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. If a bid security is requested to be extended in accordance with ITB 18, it shall also be extended 28 (twenty-eight) days beyond the deadline of the extended validity period. A bidder may refuse the request without forfeiting its EMD / Bid Security. A bidder granting the request shall not be required or permitted to modify its bid. |
| 18. Bid Security | 18.1 | The bidder shall upload along with scanned copy of its bid in the e-tender portal i.e. www.wbtenders.gov.in , the appropriate folders, as part of its bid, a scanned copy of payment of Earnest Money/Bid Security of the amount as indicated in Sl. 3 |

of the e-NIT. The bidder shall submit the original Earnest Money / Bid Security along with a forwarding letter to the appropriate authority to be notified by the Employer on or before the last date of submission of bid.

- 18.2 The Bid Security shall be in the form of a Bank Guarantee from a scheduled bank in favour of Executive Engineer, Burdwan Division, Housing Directorate.
- 18.3 Any bid not accompanied by an enforceable and compliant Bid Security required in accordance with ITB 17.1, shall be rejected by the Employer as non responsive.
- 18.4 The Bid Security of bidders shall be refunded as promptly as possible upon the Selected Bidder's furnishing of the Performance Security pursuant to ITB 38.
- 18.5 The Bid Security may be forfeited as liquidated damages representing a genuine pre-estimate of the damages likely to be suffered by Superintending Engineer, West Circle, Housing Directorate and/or Housing Department, Government of West Bengal :
 - (a) If a bidder withdraws its bid during the period of bid validity, except as provided in ITB 17.2 ;
 - (b) If a bidder engages in a corrupt practice, fraudulent practice, coercive practice, collusive practice or restrictive practice as specified in ITB 3.1;
 - (c) If the bidder is declared disqualified in terms of ITB 4.3;
 - (d) If the Selected Bidder fails to:
 - i) sign the Contract in accordance with ITB 37.1;
 - ii) furnish a Performance Security in accordance with ITB 38.1
 - (e) If the bidder is otherwise in breach of the terms of the Bidding Documents.

19. Format and Signing of Bid

- 19.1 The bid shall be digitally signed by a person or persons duly authorized to sign on behalf of the bidder as stated in Sl. 3 of the e-NIT.

D. Submission and Opening of Bids

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| 20. Submission of Bids | 20.1 | <p>Bids are to be submitted online as stated in Sl. No. 6 of the e-NIT in two folders at a time, one being Technical Proposal / Technical Bid and the other being Financial Bid before the prescribed date and time with Digital Signature Certificate (DSC). The documents are to be uploaded scanned for viruses and duly signed, digitally so that the documents will get encrypted (transformed into non readable formats).</p> <p>In addition, the bidders shall submit a physical copy of all documents so uploaded, at the office of the Employer before the bid submission date, to facilitate evaluation of the bids.</p> |
| 21. Deadline for Submission of Bids | 21.1 | <p>Complete bids (including Technical and Financial) must be uploaded in the e-tender website i.e. https://wbtenders.gov.in not later than the date as mentioned in the e-NIT under Sl. 10.</p> |
| | 21.2 | <p>The Employer may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Documents in accordance with ITB 8, in which case all rights and obligations of the Employer and bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.</p> |
| 22. Bid Opening | 22.1 | <p>The Technical Bid will be opened online by the authority receiving tenders or by its authorized representative at time, date and the place specified in the e-NIT under Sl. 10 in the manner specified in the e-NIT. The authority receiving tenders or its authorized representative, shall decrypt all Technical Bids submitted by the bidders and copy it in any storage device such as a compact disc, pen drive or hard drive. The manner of online opening of Financial Bid will be same as Technical Bid opening.</p> |

- 22.2 All folders containing the Technical Bids shall be opened one at a time, and the following recorded:
- (a) the name of the bidder;
 - (b) the presence of a Bid Security, if required;
 - (c) the presence of e-NIT Acceptance Form as per Form - 21 in Section - 4 (Bidding Forms) and
 - (d) any other details as the Employer may consider appropriate.
- Only Technical Bids recorded at bid opening shall be considered for evaluation.
- 22.3 If the Bid Security or the e-NIT Acceptance Form is not present as part of the Technical Bid of any bidder, the Employer will not go into detailed evaluation of the Technical Bid of such bidder and will summarily reject such Technical Bid. The Employer shall prepare a record of the opening of Technical Bids. A copy of the record shall be uploaded on the website <https://wbtenders.gov.in>.
- 22.4 At the end of the evaluation of the Technical Bids, the Employer will upload on the website <https://wbtenders.gov.in> the name of the bidders who have submitted substantially responsive Technical Bids and who have been determined as being qualified for award in terms of ITB 35.
- 22.5 The Employer shall conduct the opening of the Financial Bid of all bidders who have submitted substantially responsive Technical Bids and who have been determined as being qualified in terms of ITB 27. All folders containing Financial Bids shall be opened one at a time and the following recorded:
- (a) the name of the bidder;
 - (b) the Financial Bid;
 - (c) any other details as the Employer may consider appropriate.
- Only Financial Bids recorded during the opening of Financial Bids shall be considered for evaluation. No bid shall be rejected at the time of opening of Financial Bids except when the Financial Bid is not in accordance with the Bidding Documents.

E. Evaluation and Comparison of Bids

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| 23. Confidentiality | <p>23.1 Information relating to the examination, evaluation, comparison, and post qualification of bids and recommendation of award of Contract, shall not be disclosed to bidders or any other persons not officially concerned with such process until information on award of Contract is communicated to all bidders.</p> <p>23.2 Any attempt by a bidder to influence the Employer in the evaluation of the bids or award of Contract decisions may result in the rejection of its bid.</p> |
| 24. Clarification of Bids | <p>24.1 To assist in the examination, evaluation and comparison of the Technical Bid and Financial Bids, the Employer may, at its discretion, ask any bidder for a clarification of its bid. Any clarification submitted by a bidder that is not in response to a request by the Employer shall not be considered. The Employer's request for clarification and the response shall be in writing. No change in the substance of the Technical Bid or, prices in the Financial Bid shall be sought, offered, or permitted.</p> <p>24.2 If a bidder does not provide clarifications of its bid by the date and time set in the Employer's request for clarification, its bid may be rejected.</p> |
| 25. Deviations, Reservations, and Omissions | <p>25.1 During the evaluation of bids, the following definitions apply:</p> <p>(a) "Deviation" is a departure from the requirements specified in the Bidding Documents;</p> <p>(b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Documents; and</p> <p>(c) "Omission" is the failure to submit part or all of the information or documentation required in the Bidding Documents.</p> |
| 26. Preliminary Examination of Technical Bids | <p>26.1 The Employer shall examine the Technical Bid to confirm that all documents and technical documentation requested in ITB 11.2 have been provided, and to determine the completeness of each document submitted. If any of these documents or information is missing, the bid may be rejected.</p> |

27. Responsiveness of Technical Bid
- 27.1 The Employer's determination of a bid's responsiveness is to be based on the contents of the bid itself, as defined in ITB 11.
- 27.2 A substantially responsive Technical Bid is one that meets the requirements of the Bidding Documents without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that,
- (a) if accepted, would:
 - (i) affect in any substantial way the scope, quality, or performance of the Contract; or
 - (ii) limit in any substantial way, inconsistent with the Bidding Documents, the Employer's rights or the bidder's obligations under the proposed Contract; or
 - (b) if rectified, would unfairly affect the competitive position of other bidders presenting substantially responsive bids.
- 27.3 The Employer shall examine the technical aspects of the bid submitted to confirm that all requirements of Section - 5 (Employer's Requirements) have been met without any material deviation or reservation.
- 27.4 If a bid is not substantially responsive to the requirements of the Bidding Documents, it shall be rejected by the Employer and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.
28. Nonconformities, Errors, and Omissions
- 28.1 Provided that a bid is substantially responsive, the Employer may waive any nonconformity in the bid that does not constitute a material deviation, reservation or omission.
- 28.2 Provided that a Technical Bid is substantially responsive, the Employer may request that the bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities in the Technical Bid related to documentation requirements. Requesting information or documentation on such nonconformities shall not be related to any aspect of the Financial Bid. Failure of the bidder to comply with the request may result in the rejection of its bid.
29. Qualification of the Bidder
- 29.1 The Employer shall determine to its satisfaction during the evaluation of Technical Bids whether bidders meet the qualifying criteria as specified in Section - 3 (Evaluation and Qualification

Criteria).

- 29.2 The determination shall be based upon an examination of the documentary evidence of the bidder's qualifications submitted by the bidder, pursuant to ITB 15.1.

30. Evaluation Criteria

- 30.1 The bidders complying with the qualifying criteria specified in Section - 3 (Evaluation and Qualification Criteria), will be duly intimated and they will be asked to appear before the Tender Evaluation Committee (TEC) which is to be notified later and satisfy the TEC with respect to their work program, modalities of execution, specification of finishing items of the proposed building, image display of carrying out the construction with modern mechanical equipment (as specified) at different stages and various information relating to the proposal of the bidder with respect to the package under consideration. This presentation will need clarity and compatibility with the credentials and documents that have been submitted at the time of participating in the bid. The Employer will need reflection of convincing and reassuring commitment from bidders at the time of presentation about their ability to carry out the work at the locations geographically apart from each other simultaneously at one point of time with the assistance of modern mechanical equipment and in a synchronized way to eliminate entirely, any possibility of delay of activities during the scheduled time of completion of the Works.

30.2 MARKING METHODOLOGY

SI No.	Criteria	Maximum Marks	Range of Parameter & Corresponding mark
1.	Average Annual Turn Over (Rs. in crores) of the bidder during the last 3 FY 2014- 2015, 2015-2016 and 2016-2017, certified by a Chartered Accountant	20	500 Crores to 1,000 Crores = 10
			1,001 Crores to 1,500 Crores = 15
			>1,500 Crores = 20
2.	Value of Construction works of similar nature completed during the last 7 Financial Years supported by certificate by the client/ TDS	20	250 Crores to 1,000 Crores = 10
			1,001 Crores to 1,500 Crores = 15

			>1,500 Crores = 20
3.	No of technical personnel under the permanent pay roll of the bidder certified by HR/Personnel-branch i. No. of Graduate Engineers ii. No. of Diploma Engineers iii. Others as per Clause 2.4	20	150 nos. - 500 nos. = 10 501 nos. - 1,000 nos. =15 >1,001nos = 20
4.	Value of Plant & Machineries as per Clause 2.5 either owned by the bidder or taken on lease, supported by declaration	20	200 Crores to 300 Crores = 10 301 Crores to 400 Crores = 15 > 401 Crores = 20
5.	Technical presentation	20	
6.	Total mark (Technical Score)	100	

Financial Bids of the bidders complying with the qualifying criteria specified in Section - 3 and securing a Technical Score of 50 and above would only be opened (technically qualified bidder).

The Financial Bid of bidders, who do not meet the qualifying criteria prescribed in ITB 4.1 will not be opened and considered. The Financial Bids of bidders whose Technical Score is less than 50 will also not be opened and considered. An affirmative determination as aforesaid (viz. securing minimum Technical Score) shall be a prerequisite for the opening and evaluation of a bidder's Financial Bid. A negative determination shall result in the disqualification of the bid, in which event the Employer shall not

open the Financial Bid of the bidder.

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| 31. Preliminary Examination of Financial Bids | 31.1 | The Employer shall examine the Financial Bid to confirm that all documents and schedules requested in ITB 11.3 have been provided, and to determine the completeness of each document submitted. If any of these documents or information are missing, the bid may be rejected. |
| 32. Evaluation of Financial Bids | 32.1 | The Employer shall consider the Financial Bid of the bidder. No other evaluation criteria or methodologies shall be permitted. |
| 33. Comparison of Financial Bids | 33.1 | All technically qualified bidders shall be at par. |
| | 33.2 | The Employer shall compare the Financial Bids of technically qualified bidders to determine the lowest Financial Bid. |
| | 33.3 | The Financial Bids will be opened alphabetically. Upon decryption of the price quotations a table shall be prepared containing particulars of Financial Bids submitted. |
| 34. Employer's right to accept any bid, and to reject any or all bids. | 34.1 | The Employer reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to award of contract, without thereby incurring any liability to bidders. In case of annulment, all bids submitted and specifically, bid securities, shall be promptly returned to the bidders. |

F. Award of Contract

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| 35. Award Criteria | 35.1 | The Employer shall award Contract in respect of in respect of work or in its sole discretion (based on the recommendation of the TEC), separate contract in respect of each of the sites comprised in the Bidding Documents, to the bidder (who is technically qualified having achieved adequate marks as required hereunder), whose offer has been determined to be the lowest evaluated bid (L1 bidder) and which is substantially responsive to the Bidding Documents, provided further that the bidder is determined to be qualified to perform the Contract satisfactorily. |
|--------------------|------|---|

35.2 In the event, the Financial Bids of 2 (two) or more L1 bidders in a particular package, who are qualified and whose Technical Bids are at par, are the same (the “**tie bidders**”), the Employer shall at its discretion:

- (a) Either hold an *inter se* auction amongst such tie bidders to quote further lower bids and shall declare such of them who has offered the lowest bid in such auction to be the Selected Bidder. Bidders’ representatives who choose to attend the Financial Bid opening should therefore be duly authorized to participate in such auction. In the event, a tie bidder is not represented on the Financial Bid opening date or the authorized representative of such bidder does not or is unwilling to participate in such auction, the auction would be held amongst the remaining tie bidders and if there be only one remaining tie bidder, the latter will be declared as the Selected Bidder provided that such remaining tie bidder offers a lower bid than that already offered in its Financial Bid. In the event the lowest bidder withdraws or is not declared as the Selected Bidder, the Employer may invite fresh bids for the package; or
- (b) Invite fresh bids, without holding any *inter se* auction amongst such tie bidders or splitting the package in question.

36. Notification of Award

- 36.1 The bidder whose bid has been accepted will be notified of the award by the Employer prior to expiration of the bid validity period by uploading in the e-tender portal and www.wbmsc.gov.in or by e-mail or facsimile confirmed by registered letter. This letter (hereinafter and in the Conditions of Contract called the “Letter of Acceptance/Notification of Award”) will state the sum that the Employer will pay the Contractor in consideration of the execution and completion of the Works by the Contractor as prescribed by the Contract (hereinafter and in the Contract called the “Tendered Amount”).
- 36.2 The Employer, may in its sole discretion, instead of awarding one contract to the L1 bidder, award separate contracts to the L1 bidder in respect of each sites separately. If the Employer decides to do so, the Employer will state the sum that the

Employer will pay to such Selected Bidder in consideration of the execution and completion of the Works by the Selected Bidder in respect of each site, which shall be equal to the quoted price in respect of each site contained in the Financial Bid of the Selected Bidder. It is clarified that aggregate of contract price in respect of the two sites shall be the Financial Bid of the Selected Bidder in respect of the entire package.

- 36.3 Until a formal contract is prepared and executed in respect of both the sites or each site, as the case may be, the Notification of Award shall constitute a notification of commencement of Works, subject only to the furnishing of a Performance Security in accordance with the provisions of ITB 38.1, whereupon the Contract shall come into force.

The Employer shall hand over the sites to the Selected Bidder, within 7 days from the Letter of Acceptance.

37. Signing of Contract

- 37.1 Promptly after notification, the Employer shall send the Selected Bidder in respect of each package, the Form of Agreement either to be executed for each package or site wise. Each page of the Agreement should be signed by the Employer's Representative and the Contractor's authorized signatory. If there are any corrections, cuttings, omissions, over writings, insertions, etc. (after issue of Bidding Documents) their number should be clearly mentioned on each page of the Agreement before signing.
- 37.2 Within 21 days of receipt of the Form of Contract Agreement, the Selected Bidder shall sign with date separate contracts, for both sites or for each of the sites, as the case may be and return it to the Employer. The Contract shall only come into existence, when the Performance Security is furnished in terms of ITB 38.1.
- 37.3 No payment for the Works done will be made to the Selected Bidder till the Agreement is signed by the Selected Bidder and Performance Security along with the Manufacturer's Authorization Forms, duly filled in and signed have been submitted by the Selected Bidder.

38. Performance Security

- 38.1 Within 10 days of the receipt of Notification of Award from the Employer, the selected bidder shall furnish the Performance

Security in accordance with the conditions of contract (10% of the Contract Price), using for that purpose the Performance Security Form included in Section 7 (Contract Forms), or another form acceptable to the Employer. If separate contracts are awarded in respect of each site to the selected bidder of such package, then the selected bidder has to submit Performance Security separately for each of the sites.

- 38.2 Failure of the Selected Bidder to submit the above mentioned Performance Security or to sign the Agreements in respect of each package, shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security as liquidated damages representing a genuine pre-estimate of the damages likely to be suffered by Superintending Engineer, West Circle, Housing Directorate and Housing Department, Government of West Bengal on such failure of the Selected Bidder. In that event, the Employer may award the Contract to the next lowest evaluated bidder whose offer is substantially responsive and is determined by the Employer to be qualified to perform the Contract satisfactorily at the price at which the Selected Bidder was awarded the Contract or the Employer, may, at its discretion go in for fresh tenders.

39. Mobilisation Advance
- 39.1 Mobilisation Advance not exceeding 10% of the Contract Price may be given, if requested by the Selected Bidder/Contractor in writing within 30 days of the handing over of the site. In such a case, the Contractor shall execute Bank Guarantee from a scheduled bank as per form given in Section 7 (Contract Forms), aggregating to the full amount of mobilisation advance before such advance is released. The Employer shall pay the Mobilization Advance to the Contractor, in following 3 tranches :-
- i) First tranche of 4% of the Mobilization Advance shall be paid by the Employer to the Contractor on completion of site clearance including removal of all encumbrances, cutting of trees, removal of overhead wires, underground utilities and other utilities, construction of site office of the Contractor, construction of labour camp and making arrangements for water supply;

- ii) Second tranche of 4% of Mobilization Advance will be paid by the Employer to the Contractor upon mobilization of Plants and Machineries by the Contractor at the site;
- iii) The third tranche of 2% shall be paid upon completion of construction of the Employer's temporary site office at the site, which shall be fully furnished and equipped with all materials, furniture's and equipments including air-conditioner, computer, fax, printers etc. to the satisfaction of the Employer.

39.2 The Mobilisation Advance above shall bear interest @ 4% (four percent) p.a. Repayment of the Mobilisation Advance shall commence from payment of the 3rd Running Account Bill and shall be entered as a deduction from First Interim Payment Certificate @ 10% of the value of Interim Certificate, until the total amount of Mobilisation Advance has been repaid by the Contractor, always provided that the complete recovery of Mobilisation Advance shall be made before 90% completion of Works or three-fourth of completion period as originally specified in the Contract, whichever occurs first.

Recovery of Mobilisation Advance at any intermediate stage shall be effected, if necessary, by encashment of part Bank Guarantees if the appropriate pro-rata amount of Mobilisation Advance is not available from the Works done by the Contractor.

If the circumstances are considered reasonable by the Employer's Representative, the period mentioned for request by the Contractor in writing for grant of mobilization advance may be extended in the discretion of the Employer's Representative.

The said Bank Guarantees for Mobilisation Advance shall initially be made for the full amount and valid for the Contract period, and be kept renewed from time to time to cover the balance amount and likely period of complete recovery.

SECTION – 3

EVALUATION AND QUALIFICATION CRITERIA (EQC)

- Without Prequalification -

This section contains all the criteria that the Employer shall use to evaluate bids and qualify Bidders. In accordance with the ITB, no other method, criteria and factors shall be used. The bidder shall provide all the information requested in the forms included in Section 4 (Bidding Forms).

1. Evaluation

In addition to the criteria listed in ITB 30, the following criteria shall apply:

1.1. Adequacy of Technical Proposal

Evaluation of the bidder's Technical Bid will include an assessment of the bidder's technical capacity to mobilize key equipment and personnel for the Contract consistent with its proposal regarding work methods, scheduling and material sourcing in sufficient detail and fully in accordance with the requirements stipulated in Section 5 (Employer's Requirements) and Section 3 (Evaluation and Qualification Criteria).

2. Qualification Eligibility

2.1 Eligibility

Criteria Requirement	Compliance Requirements	Documents Submission Requirements
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2.1.1 Nationality

Nationality in accordance with ITB 4.1	Must meet requirement	Form ELI-1 with attachments
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2.1.2 Conflict of Interest

No conflict of interest in accordance with ITB 4.3	Must meet requirement	Letter of Technical Bid
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2.1.3 Eligibility

Not having been declared ineligible by any Department, Authority or body corporate of Government of India or any State Government, as described in ITB 4.4	Must meet requirement	Letter of Technical Bid
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2.2 Financial Situation

Criteria Requirement	Compliance Requirements	Documents Submission Requirements
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2.2.1 Historical Financial Performance

Submission of audited balance sheets, other financial statements for the last five years to demonstrate the current soundness of the bidder's financial position and its prospective long term profitability. Using Forms FIN - 1 in Section 4 (Bidding Forms) the bidder must	Must meet requirement	Forms ELI-1, with attachments of Section 4
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demonstrate that the bidder's net worth is positive		
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2.2.2 Average Annual Turnover

Minimum Average Annual Turnover of INR 500 Crores within the last 3(three) years	Must meet requirement	Form FIN-2 of Form - 17
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2.2.3 Financial Resources

The bidder must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means, other than any contractual advance payments to meet the overall cash flow requirement.	Form FIN- 2 of Form - 17
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2.3 Experience

Criteria Requirement	Compliance Requirements	Documents Submission Requirements
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2.3.1 General Construction Experience

Experience under construction contracts in the role of contractor for at least the last 10 (ten) years prior to the application submission deadline in the field of construction of buildings	Must meet requirement	Form EXP-1 of Form 18
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2.3.2 Specific Construction Experience Contracts of Similar Size and Nature

Minimum one big housing project or any other building works of Rs. 180 Crores or upto three housing project totaling Rs. 180 Crores, out of which 1 (one) shall be of a minimum value of Rs. 80 Crores at any place(s) in India during the last 7 (seven)	Must meet requirement	Form 2 of Section 4
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financial years ending on the last day of the month previous to the one in which the tender is invited (Civil & Electrical composite tender).		
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2.4 Personnel

The bidder must engage the following technical personnel (having minimum 8-year experience for diploma holder and 5-year experience for degree holder) in their pay- roll of full time engagement per site.

- I. 4-Graduate Civil Engineers for day to day management/ supervision /Inspection of progress of work
- II. 6-Diploma Civil Engineers for day to day management/ supervision/ inspection of progress of work
- III. 1-Graduate Architect
- IV. 4-Surveyors
- V. 3-Quantity Surveyors
- VI. 1-Senior(Graduate) Safety Engineers
- VII. 1-Junior(Diploma) Safety Engineers
- VIII. 1-Graduate Mechanical Engineer
- IX. 1-Diploma Mechanical Engineers
- X. 2-Graduate Electrical Engineers
- XI. 4-Diploma Electrical Engineers

Apart from engineers cited above to be deputed at site for overseeing different phases of construction, a team of Key Personnel of following criteria is pre-requisite. Three lead project engineers on behalf of the bidder should be named in the contract with which day to day interactions shall be made by the representative(s) of the employer for execution and supervision of the works.

KEY PERSONNEL OF THE PROJECT TEAM

The bidder shall be required to form a multi-disciplinary team for this assignment with qualified and experienced key personnel and other required supporting staff for delivering the final output. The design as well as architectural team should have the requisite experience and expertise for design of similar works as offered by the bidder and accepted by the Employer.

The resumes of the following Key Personnel would have to be got approved by the Employer or his representative(s) at the time of negotiation of contract but prior to signing of contract.

A. Team Leader & Building Design Engineer:

A Post Graduate in Structural Engineering (Civil) with 10-year or a Graduate Engineer (Civil) with 15-year of minimum experience in design & supervision of building works and through experience in RCC / PSC / steel-concrete composite superstructure with different types of foundation including pile foundation for buildings.

B. Soil Mechanics & Foundation Engineer

A Post Graduate degree in Soil Mechanics & Foundation Engineering having 10-year experience or Graduate Civil engineer having a minimum 15-year experience out of which at least 5-year of experience in supervising soil mechanics & foundation work for major building works, design of foundations of all types including pile foundation for building structures and construction of major buildings.

C. Architect

A Graduate Architect having a minimum 10-year experience out of which 5-year experience for preparation of hospital building planning detailing for major building.

The bidder shall provide details of the proposed personnel and their experience records in the relevant Information Forms included in Section 4 (Bidding Forms).

2.5 Equipment

The bidder must demonstrate that it has the key equipment for the Project to be executed at 2/3-site which is geographically apart.

Availability (either owned or leased having validity for the period till completion of project) of the following key and critical equipment required for a single site of a package:

Sl.	List of Plants & Machineries	Requirement
1	Cement concrete batch mix plant arrangement (capacity 30 cum per hour)	1 no.
2	Field testing equipment	1 set
3	Tower crane up to 25 m (G+4) height	2 nos.
4	Construction elevator	8 nos.
5	Latest model of Theodolite + Leveling machine	4 nos.
6	Truck & tipper	6 nos.
7	Vibrator / equipment	20 nos.
8	Concrete pump	6 nos.
9	Mechanical excavator (Collar mounted)	2 nos.
10	Steel staging & shuttering material	250000 sqft

The bidder shall provide further details of proposed items of equipment using the relevant form in Section 4 (Bidding Forms).

The bidder is to provide their own estimate of the number of equipment, commensurate with their work plan and methodology.

The bidder to fill up the table based on its assessment of requirement of the project to be completed within the stipulated time period.

The bidder shall give an undertaking to mobilize additional plant and equipment as will be found necessary during execution of the work to meet the target completion date, without any additional cost to the Employer.

SECTION - 4**BIDDING FORMS (BDF)****FORM 1****LETTER OF TECHNICAL BID IN FORM OF AFFIDAVIT**

(To be furnished on non-judicial stamp-paper of appropriate value, duly notarised)

Name of Contract:

Construction of 1904 of flats alongwith other amenities, at Namokeshia Mouza in Raniganj area, Asansol under RCFA Project at Raniganj for rehabilitation.

To

Superintending Engineer, West Circle,
Housing Directorate,
Government of West Bengal

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Documents, including Addenda issued in accordance with Instructions to Bidders (ITB) 8.
- (b) We offer to execute in conformity with the Bidding Documents the following works:

- (c) Our Bid consisting of the Technical Bid and the Financial Bid shall be valid for a period of 270 days from the date fixed for the bid submission deadline in accordance with the Bidding Documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
- (d) If our bid is accepted, we commit to obtain a performance security in accordance with the Bidding Documents.
- (e) Our company has been incorporated in accordance with the laws of India and governed by them.
- (f) Our company, including its suppliers, do not have any conflict of interest in accordance with ITB 4.3;

Our company is participating as a bidder having satisfied the eligibility criteria in accordance with ITB 4.1;

- (g) Our company, its affiliates or subsidiaries, including any suppliers for any part of the contract, is not ineligible / blacklisted by Superintending Engineer, West Circle, Housing Directorate, Housing Department, Government of West Bengal, any Department, Statutory Authority, public sector undertaking or body corporate under the Government of India or any State Government from participating in any project or bid and the bar subsists as on the date of the deadline for bid submission in terms of the Bidding Documents.
- (h) We agree to permit Superintending Engineer, West Circle, Housing Directorate and officials of Housing Department, Government of West Bengal or its representative to inspect our accounts and records and other documents relating to the bid submission and to have them audited by auditors appointed by the Superintending Engineer, West Circle, Housing Directorate or Housing Department, Government of West Bengal.
- (i) We understand that:
 - (i) Superintending Engineer, West Circle, Housing Directorate can amend the scope and value of the contract bid under this project.
 - (ii) Superintending Engineer, West Circle, Housing Directorate reserves the right to reject any application without assigning any reason.
- (j) All the statements made in the attached documents are true and correct. In case of any information submitted proved to be false or concealed, the application may be rejected and no objection /claim will be raised by the bidder company.

Enclo:

1. Statutory Documents
2. Non Statutory Documents
3. Forms & Annexure duly filled up, signed & notarized (where applicable)

Date:

Place:

For.....(name of bidder)

(Signature)

.....(name of authorized signatory)

.....(designation)

FORM 2**DECLARATION BY THE BIDDER**

(Affidavit on Non-Judicial Stamp Paper of Rs.10/- duly attested by Notary / Magistrate)

This is to certify that We, M/s. _____, in submission of this offer confirm that:-

We have inspected the site of work and have made ourselves fully acquainted with local conditions in and around the site of work. We have carefully gone through the Instructions to Bidders (ITB) and all the documents, Forms & Annexures, etc. mentioned therein alongwith the drawing, plans and other documents attached. We have also carefully gone through the ITB, Employer's Requirements, General Conditions of Contract, Forms & annexures etc. to be submitted duly filled up & notarized in the form of Affidavit, where applicable, and time of completion (which is sacrosanct) of work: **"Construction of 3024 nos. of flat alongwith other amenities, in at Bijaynagar and Daskeary (J.L. No. 02) Mouza in Raniganj Area, Asansol, District – Paschim Burdwan under R.C.F.A.. project at Raniganj for rehabilitation"**:

- i) Our bid is offered taking due consideration of all factors including site information and conditions of each and every proposed sites stated in the detailed Instructions to Bidders to execute the work up to the standards as laid out in Employer's Requirements and other sections of ITB.
- ii) We understand that we require approval at different stages of the work from the Employer / Employer's Representative, such approval do not absolve owning up of responsibility incumbent to us for adequacy of standard of work & its safety, maintaining prescribed specification of the work.
- iii) We promise to abide by all the stipulations of the Contract documents and carry out and complete the work to the satisfaction of the Employer.
- iv) We also agree to procure Plants and Machineries at our cost required for the work. We also submit that we have Organizational Structure comprising adequate Technical Personnel in the line of requirement of ITB. We also agree to accomplish the job entrusted to us in the stipulated time laid out in ITB except situations not under our control.
- v) We have not made any misleading or false representation in the forms, statements and attachments in proof of the qualification requirements;
- vi) We do not have records of poor performance such as abandoning the work, not properly completing the contract, inordinate delays in completion, litigation history or financial failures etc.
- vii) There is no subsisting order of ban/ blacklisting passed by any Department, Authority or body corporate of the Government of India or any State Government.
- viii) We have submitted all the supporting documents and furnished the relevant details as per prescribed format.
- ix) List of Similar Works satisfying Qualification Criterion as indicated hereinafter, does not include any work which has been carried out by us through a subcontractor on a back to back basis.

- x) The information and documents submitted with the bid by us are correct and we are fully responsible for the correctness of the information and documents submitted by us.
- xi) We understand that in case any statement/information/document furnished by us or to be furnished by us in connection with this offer, is found to be incorrect or false, our EMD/Bid Security in full will be forfeited as liquidated damages representing a genuine pre-estimate of the damages likely to be suffered by Superintending Engineer, West Circle, Housing Directorate and/or Housing Department, Government of West Bengal on such account and business dealing will be banned.

Date:
Place:

For.....(name of bidder)
(Signature)
.....(name of authorized signatory)
.....(designation)

PROFORMA

Similar nature of work done				Work in progress			
Sl. No.	Name of the work with Tender No.	Employer & Contact no.	Estimated Amount	Sl. No.	Name of the work with Tender No.	Employer & Contact no.	Estimated Amount

Note:

1. In support of having completed above works attach self-attested copies of the completion certificate from the owner/client indicating the name of work, the description of work done by the bidder, date of start, date of completion (contractual & actual), value of contract as awarded and as executed by the bidder and value of material supplied free by the client.
2. Such credential certificates issued by Govt. Organizations/ Semi Govt. Organizations / Public Sector Undertakings / Autonomous Bodies / Municipal Bodies / Public Ltd. Cos. shall only be accepted for assessing the eligibility of a bidder. For projects in private sector, appropriate TDS Certificates evidencing the value of work, must be submitted.
3. Information must be furnished for works carried out by the bidder in his own name as a prime contractor or proportionate share as member of a joint venture. In the latter case details of contract value including extent of financial participation by partners in that work should be furnished.
4. If a bidder has got a work executed through a subcontractor on a back to back basis, the bidder cannot include such a work for his satisfying the Qualification Criterion even if the client has issued a Completion Certificate in favour of that bidder.
5. Only similar works completed during the previous years which meet the Qualification Criteria need be included in this list.

Date:

Place:

For.....(name of bidder)

(Signature)

.....(name of authorized signatory)

.....(designation)

FORM 3**LETTER OF FINANCIAL BID**

Name of Contract:

Construction of 1904 of flats alongwith other amenities, at Namokeshia Mouza in Raniganj area, Asansol under RCFA Project at Raniganj for rehabilitation

To

 Superintending Engineer, West Circle,
 Housing Directorate,
 Government of West Bengal

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Documents, including Addenda issued in accordance with instructions to Bidders (ITB) 8;
- (b) We offer to execute in conformity with the Bidding Documents the following Works : -

- (c) The total price of our bid is the sum total of the costs mentioned in the Bill of Quantity;
- (d) Our bid shall be valid for a period of 180 days from the date fixed for the bid submission deadline in accordance with the Bidding Documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
- (e) If our bid is accepted, we commit to obtain a performance security in accordance with the Bidding Documents.
- (f) We understand that this bid, together with your written acceptance thereof included in your Notification of Award, shall constitute a binding contract between us, until a formal contract is prepared and executed; and
- (g) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.

Date:
 Place:

For.....(name of bidder)
 (Signature)
(name of authorized signatory)
(designation)

FORM 4**DEPLOYMENT OF MINIMUM NO. OF PLANT AND MACHINERY BY THE CONTRACTOR**

(To be furnished as affidavit in Non-Judicial Stamp paper of appropriate value duly notarized)

Whereas it is entirely the responsibility of the bidder to deploy sufficient plant and modern mechanical equipment to ensure compliance with the Contract, the following list is an indicative list of the minimum number of plant and machinery which the bidder must provide per site by way of undertaking in the form of AFFIDAVIT to this effect is to be submitted.

Sl no.	List of Plants &Machineries	Requirement
1	Cement concrete batch mix plant arrangement (capacity 30 cum per hour)	1 no.
2	Field testing equipment	1 set
3	Tower crane up to 25 m (G+4) to 50 m (G+9) height	2 nos.
4	Construction elevator	8 nos.
5	Latest model of theodolite + leveling machine	4 nos.
6	Truck & tipper	6 nos.
7	Vibrator / equipment	20 nos.
8	Concrete pump	6 nos.
9	Mechanical excavator	2 nos.
10	Steel staging & shuttering material	250000 sqft

FORM 5**POWER OF ATTORNEY IN FAVOUR OF SIGNATORY OF THE BID***(To be executed on non-judicial stamp paper of appropriate value)*

KNOW ALL MEN BY THESE PRESENTS THAT WE,[insert the name of the bidder]..... a company within the meaning of the Companies Act, 2013 and having its registered office at[insert address](hereinafter referred to as the bidder) acting through[insert name of the person giving the Power of Attorney].....presently holding the position of (insert designation of the person giving the Power of Attorney) having been authorized by the Board of Directors of the company, inter alia, to execute contracts in the name of and for and on behalf of the company do hereby constitute, appoint and authorize (insert name, designation and residential address of the person to whom the Power of Attorney is being given)..... as our true and lawful attorney to do in our name and on our behalf all such acts, deeds, things necessary and incidental for submission of our bid against Bid Reference No. ____ dated _____ floated by Superintending Engineer, West Circle, Housing Directorate. We hereby further authorize the above attorney for signing and submission of the bid and all other documents, information related to the bid including undertakings, letters, certificates, declarations, clarifications, acceptances, guarantees, any amendments to the bid and such documents related to the bid, and providing responses and representing us in all the matters before Superintending Engineer, West Circle, Housing Directorate in connection with the bid for the said tender till the completion of the bidding process. We accordingly hereby nominate, constitute and appoint above named person, as the lawful attorney to do all or any of the acts specifically mentioned immediately herein above.

We do hereby agree and undertake to ratify and confirm whatever either of the said Attorney shall lawfully do or cause to be done under and by virtue of this Power of Attorney and the acts of the attorney to all intents and purposes are done as if the same had been done on behalf of the company if these presents had not been made.

IN WITNESS WHEREOF WE, _____, THE ABOVE NAMED PRINCIPAL
HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS _____ DAY OF _____
, 20**.

For _____
(Signature, name, designation and address)

Witnesses:

- 1.
- 2.

[Notarised]

Accepted

(Signature)

(Name, Title and Address of the Attorney)

FORM 6**MACHINERIES (In favour of owner / lessee)**

(Original document of own possession and / or arranged through lease deed to be annexed)

(If already engaged anticipated date of release of such machineries to be annexed with an undertaking)

Name of Machine / Instrument	Make	Type	Capacity	Motor / Engine No.	Machine No.	Possession Status		Date of release if Engaged
						Idle	Engaged	
1	2	3	4	5	6	7	8	9

For each item of equipment the application should attach copies of

- (i) Document showing proof of full payment
- (ii) Receipt of Delivery
- (iii) Road Challan from Factory to delivery spot is to be furnished.

For.....(name of bidder)
(Signature)

.....(name of authorized signatory)
.....(designation)

FORM 7**EQUIPMENT FOR TESTING OF MATERIALS & CONCRETE AT SITE LABORATORY****(indicative only)**

All necessary equipment for conducting necessary tests shall be provided at the site laboratory by the bidder at his own cost. The following minimum laboratory equipments shall be set up at site office laboratory:

Sl. No.	Equipments	Quantity
1	Cube testing machine	2 Nos.
2	Slump Cone	6 Nos.
3	Tensile Briquette testing machine	2 Nos.
4	Vicats apparatus with Desk Pot	2 Nos.
5	Megger& earth resistance tester	4 Nos.
6	Pumps and pressure gauges for hydraulic testing of pipes	4 Nos.
7	Weighing scale platform type 100 kg capacity	4 Nos.
8	Graduated glass cylinder	As per requirement
9	Sets of sieves for coarse aggregate [40,20,10,4.75 mm]	4 Nos.
10	Sets of sieves for fine aggregate [4.75; 2.36, 18; 600; 300 & 150 micron	4 Nos.
11	Core cutter for soil compaction with accessories	2 Nos.
12	Cube moulds size 150mm x 150mm x 150mm	18 Nos.
13	Cube moulds size 150mm x 150mm x 150mm	90 Nos.
14	Moisture content rapid moisture meter standard	4 Nos.
15	Hot Air Oven Tem. Range 500C to 3000C	2 Nos.

16	Electronic balance 600g x 0.01g, 10lg and 50kg	3 Nos.
17	Physical balance weight up to 5kg	1 Nos.
18	Digital thermometer up to 1500 C	2 Nos.
19	Poker Thermometer (Concrete Road) 00C to 500 & 1500C	2 Nos.
20	Measuring Jars 100ml, 200ml, 500ml	2 Nos. set of each size.
21	Gauging trowels 100mm & 200mm with wooden handle	4 Nos.
22	Spatula 100mm & 200mm with long blade wooden handle	2 Nos. set of each size.
23	Vernirecallipers 12" and 6" sizes	2 Nos. each
24	Digital PH motor least count 01mm	1 No.
25	Digital Micrometer least count .01mm	1 No.
26	Digital paint thickness meter for steel 500 micron range	2 Nos.
27	GI tray 600 x 450 x 50mm, 450x300x40mm, 300xc250x40mm	2 Nos.
28	Electric Morter mixer 0.25 Cum capacity	1 No.
29	Rebound hammer test Digital rebound hammer	1 No.
30	Screw gauge 0.1mm – 10mm, least count 0.05	2 Nos.
31	Water testing Kit	2 Nos.
32	Aggregate impact value testing machine with blow counter	As per requirement
33	Crushing value apparatus	As per requirement
34	Thickness gauge for measuring flakiness index	As per requirement
35	Elongation gauge	As per requirement

36	Measuring Cylinder 3,5,10 & 15 litre Cylinder	As per requirement
37	Pycnometer	2 Nos.
38	Motorized Sieve shaker	2 Nos.

Any other equipment for laboratory tests at site will be the way it is outlined in relevant BIS and / or as directed by the Employer's Representative. Quality control engineer shall monitor collection of Sample and conducting regular testing at site maintaining propriety and the very best standard followed in industry of construction.

All relevant IS Codes, special publications as per latest amendment/edition, latest edition of WB PWD SOR, WB PW(Road)D SOR and CPWD SOR shall be made available at site by the contractor at his own cost.

Personnel

Bidders should provide the names of suitably qualified personnel to meet the requirements specified in Section 3 (Evaluation and Qualification Criteria). The data on their experience should be supplied using the Form below for each candidate.

For.....(name of bidder)
 (Signature)
(name of authorized signatory)
(designation)

FORM 8**STRUCTURE AND ORGANISATION**

- A.1** Name of Bidder :
- A.2** Office Address :
- Telephone No. and Cell Phone No. :
- Fax No :
- E mail :
- A.3** Details of Bank Accounts :
- i) Name of Bank :
- ii) Name of Branch and Address with Phone No. :
- iii) Account No :
- iv) MICR No :
- v) IFSC Code :
- A.4** Attach an Organization -chart showing the
structure of the company and names of
Key personnel and technical staff along with
their Bio-data. :
-

For.....(name of bidder)

(Signature)

.....(name of authorized signatory)

.....(designation)

Form PER-1: Proposed Personnel

1.	Title of position*
	Name
2.	Title of position*
	Name
3.	Title of position*
	Name
4.	Title of position*
	Name

*As listed in Section 3 (Evaluation and Qualification Criteria).

Form PER-2: Resume of Proposed Personnel

Position		
Personnel information	Name	Date of birth
	Professional qualifications	
Present employment	Name of employer	
	Address of employer	
	Telephone	Contact (manager/ personnel officer)
	Fax	E-mail
	Job title	Years with present employer

Summarize professional experience in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

[illegible]

FORM 9**EQUIPMENTS**

The bidder shall provide adequate information to demonstrate clearly that it has the capability to meet the requirements for the key equipment listed in Section 3 (Evaluation and Qualification Criteria) A separate Form shall be prepared for each item of equipment listed, or for alternative equipment proposed by the bidder.

Item of Equipment		
Equipment Information	Name of manufacturer	Model and Power rating
	Capacity	Year of manufacture
Current Status	Current Location	
	Details of Current commitments	
Source	Indicate source of the equipment <input type="checkbox"/> Owned <input type="checkbox"/> Rented <input type="checkbox"/> Leased <input type="checkbox"/> Specially manufactured	

Omit the following information for equipment owned by the bidder

Owner	Name of owner	
	Address of owner	
	Telephone	Contact name and title
	Fax	Telex
Agreements	Details of rented/lease/manufactures specific to the project	

FORM 10

SITE ORGANISATION

(to be provided by the bidder)

FORM 11

METHOD STATEMENT

(to be provided by the bidder)

FORM 12

MOBILIZATION SCHEDULE

(to be provided by the bidder)

FORM 13

CONSTRUCTION SCHEDULE

(to be provided by the bidder)

FORM 14**INFORMATION REGARDING CURRENT LITIGATION,
DEBARRING/EXPELLING OF TENDERER OR ABANDONMENT OF WORK BY
TENDERER DURING LAST 03 (THREE) YEARS**

1. a) Is the Applicant currently involved in any litigation : YES /NO
relating to the contract works.

b) If yes, give details with reasons :

2. a) Has the Applicant been debarred / expelled by any : YES /NO
Agency in India, during the last 3 (three) years.

b) If yes, give details with reasons :

3. a) Has the Applicant abandoned / suspended any: YES /NO
contract during the last 3 (three) years.

b) If yes, give details with reasons :

Note: If any information in this Form is found to be incorrect or concealed, pre-qualification application will be summarily rejected.

For.....(name of bidder)

(Signature)

.....(name of authorized signatory)

.....(designation)

FORM 15

Not Required

FORM 16**BIDDERS QUALIFICATION**

To establish its qualifications to perform the contract in accordance with Section 3 (Evaluation and Qualification Criteria) the Bidder shall provide the information requested in the corresponding Information Sheets included hereunder.

Form ELI - 1 :Bidder's Information Sheet

	Bidder's Information
Bidder's legal name	
Bidder's year of constitution	
Bidders's Registered address	
Bidder's authorized representative (name, address, telephone numbers, fax numbers, e-mail address)	
Attached are copies of the following original documents.	
<input type="checkbox"/> 1. Articles of incorporation or constitution of the legal entity named above, in accordance with ITB 4.1 and 4.2	
<input type="checkbox"/> 2. Authorization to represent the company named in above, in accordance with ITB 20.2.	
<input type="checkbox"/> 3. In case of a government-owned entity, any additional documents not covered under 1 above required to comply with ITB 4.5.	

FORM 17**Form FIN-1 : Financial Situation**

Each bidder must fill in this form

Financial Data for Previous 5 years				
Year 1	Year 2	Year 3	Year 4	Year 5

Information from Balance Sheet

1.	Total Assets					
2.	Total liabilities (secured loans, unsecured loans and current liabilities)					
3.	Misc. expenditure to the extent not written off					
4.	Net worth (1-2 – 3)					
A.	Investments¹					
B.	Current Assets					
i.	Inventories					
ii.	Sundry debtors					
iii.	Cash & Bank and other current assets ²					
iv.	Loans & Advances ³					
	Total Current Assets					
C.	Current liabilities and provisions					
i.	Current liabilities and provisions					
ii.	Provisions					
iii.	Unsecured loans ⁴					
	Total Current liabilities and provisions					
D.	Working Capital Limits and					

	Utilisation					
1.	Fund based Limit ⁵					
2.	Non Fund based Limit ⁶					
	Utilised as on last day of Financial year ⁷					
3.	Fund based Limit					
4.	Non Fund based Limit					
5.	Fund based limit available (1 - 3)					
6.	Non Fund based limit available(2-4)					
7.	Total Working Capital Limit Available (5 + 6)					
E.	Total Cash Flow available (A+B - C+D)					
	Information from Income Statement					
	Total Revenue					
	Profit before taxes					
	Profits after taxes					
1.	Investments shall include only those investments which are unencumbered as certified by the Statutory Auditor.					
2.	Cash & Bank and other current assets will not include margin money deposit, earnest money deposit, retention money, money lying in any escrow account, unbilled revenue.					
3.	Loans and advances shall not include tax deducted at source and advance tax, deposits lying with statutory authorities or deposits lying under any judicial order.					
4.	Amounts repayable within one year shall be included.					
5.	Secured loans, lease rentals payable within one year and debentures, preference shares payable within one year shall be included.					
6.	Credit Limits should supported by Certificate from the Lead Bank					
7.	Utilisation of working capital limits should be supported by certificate of the Statutory Auditor.					
	Attached are copies of financial statements (balance sheets including all related notes and income statements) for the last 5 years as indicated above, complying with the following conditions.					

	All such documents reflect the financial situation of the bidder or partner to a JV and not sister or parent company
i)	Historical statements must be audited by a certified accountant
ii)	Historical statements must be complete, including all notes to the Financial Statements.
iii)	Historical financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).

Form FIN-2 : Average Annual Turnover

Each bidder must fill in this form

Annual Turnover Data for the last 3 years			
Year			Amount in INR
Average Annual Turnover			

The information supplied should be the Annual Turnover of the bidder in terms of the amounts billed to clients for each year for work in progress or completed, converted to INR at the rate of exchange at the end of the period reported.

We further certify that the said turnover have been calculated in accordance to the formula specified in the Bidding Documents.

Name of Chartered Accountant:

Seal of Chartered Accountant:

[Signature]
[Name of Chartered Accountant]
{Registration No.]

Form FIN-3: Financial Resources

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines, of credit, and other financial means, net of current commitments, available to meet the total construction cash flow demands of the subject contract or contracts as indicated in Section 3 (Evaluation and Qualification Criteria)

Financial Resources		
No.	Source of Financing	Amount (INR equivalent)
1.		
2.		
3.		

Form FIN-4:

Current Contract Commitments/Works in Progress

Bidders should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

Current Contract Commitments					
No.	Name of Contract	Employer's Contract Address, Tel, Fax	Value of Outstanding Work [Current INR Equivalent]	Estimated Completion Date	Average Monthly Invoicing Over Last Six Months [INR/month)]
1					
2					
3					
4					
5					

Note: If bidders are bidding for more than one package in terms of ITB 4.1, then financial capacity for such bidding, may be appropriately indicated in the forms FIN -1, FIN - 2, FIN - 3 and FIN - 4.

FORM 18

Form EXP-1: General Construction Experience

Each bidder must fill in this form

General Construction Experience				
Starting Month Year	Ending Month Year	years	Contract Identification and Name, Name and Address of Employer, Brief Description of the Works Executed by the bidder and the Value of the Contract	Role of bidder

FORM 19

EMD/BID SECURITY BANK GUARANTEE

[Bank's Name and Address of Issuing Branch or Office]

Beneficiary: **[●]Executive Engineer, Burdwan Division, Housing Directorate
Payable at Durgapur**

Date:

Bid Security No:

We have been informed thatname of the bidder..... (hereinafter called "the Bidder") has submitted to you its bid dated..... (hereinafter called "the Bid") for the execution of contract for **Construction of 1904 of flats alongwith other amenities, at Namokeshia Mouza in Raniganj area, Asansol under RCFA Project at Raniganj for rehabilitation** under Bid Reference No.: _____ (the "NIT")

Furthermore, we understand that, according to your conditions, bids must be supported by a Bid Security.

At the request of the bidder, we [Bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of Rs. [●]/- (Rupees [●]only) upon receipt by us of your first demand in writing accompanied by a written statement stating that the bidder is in breach of its obligation(s) under the bid conditions, because the bidder :

- (a) Withdraws its bid during the period of bid validity specified by the bidder, except as provided in ITB 16.2;
- (b) Engages in a corrupt, fraudulent, coercive, collusive or restrictive practice as specified in ITB 3.1;
- (c) Declared disqualified in terms of ITB 4.3;
- (d) Fails to:
 - i) sign the Service Agreement in accordance with ITB 36.1;
 - ii) furnish a Performance Security in accordance with ITB 37.1;
- (e) Otherwise in breach of the terms of the Bidding Documents.

This guarantee will expire: (a) if the Bidder is the Selected Bidder, upon receipt of copies of Agreement signed by the Bidder and the Performance Security issued to you upon the instruction of the Bidder, and (b) if the Bidder is not the Selected Bidder, upon the earlier

of (i) our receipt of a notice from you that the Agreement has been signed with the Selected Bidder, or (ii) 180 days from the date hereof.

This Guarantee will not be discharged due to the change in the constitution of the Bank or the Bidder.

This Guarantee will neither be cancelled nor revoked by the Bank without the written authorization of Superintending Engineer, West Circle, Housing Directorate.

Consequently, any demand for payment under this Guarantee must be received by us at the office on or before that date.

[Bank's seal and authorized
signature(s)]

FORM 20
(FORM OF NOTIFICATION OF AWARD)
(BY SPEED POST / ACK. DUE)

(On the letter head of Superintending Engineer, West Circle, Housing Directorate)

No. : _____ /

Dated :

To

Name & Address of the bidder

Dear Sirs,

Sub: Bid Reference No.: _____ for **Construction of 1904 of flats alongwith other amenities, at Namokeshia Mouza in Raniganj area, Asansol under RCFA Project at Raniganj for rehabilitation**

Ref: Your tender dated _____ and letter dated _____ .

This is to notify you that your bid for the work under reference has been accepted by the Competent Authority of _____ for a total Contract Price of Rs. _____/- (Rupees _____ only).

Pursuant to clause _____ of the Contract, you are required to furnish irrevocable Performance Security for an amount equivalent to 10% (ten percent) of the Contract Price. The Guarantee of an amount of Rs. _____/- (Rupees _____ only) is thus required to be submitted within 7 days of issue of this Notification of Award.

The time of _____ weeks/ days allowed for execution of the Project will be reckoned from the date of this Notification of Award.

You are requested to contact _____ (complete designation and address of the project-in-charge) for carrying out the contract.

You are also requested to attend this office within 7 days from the date of issue of this letter for execution of the formal agreement. It may be noted that no payment shall be made for any work carried out by you till the Agreement is executed and till such time the Performance Security has been submitted by you.

This Notification of Award is being sent to you in duplicate and you are requested to return without delay one copy of the letter duly signed and stamped, in token of your acknowledgement.

Kindly note that this Notification of Award shall constitute a binding contract between us pending execution of formal Agreement.

Your letter referred to above shall form part of the Contract.

Yours faithfully,

Superintending Engineer, West Circle, Housing Directorate

FORM 21

e-NIT ACCEPTANCE FORM

(To be affirmed on stamp paper of appropriate value before Notary/ Magistrate)

AFFIDAVIT

This is to certify that we, M/s. _____, in submission of this bid confirm that all the terms and conditions of the Bidding Documents (Bid Reference No. [●] dated [●]) and all its Sections, viz. the e-NIT, the ITB, the Employer's Requirements, the Bidding Forms, the GCC, the Contract Forms and all Corrigenda and clarifications issued to the Bidding Documents are read and accepted without any modification or conditions.

For [Name of bidder]

Place:

[Name of authorized signatory]

[Designation]

Affix rubber stamp of bidder]

[Date]

[Note: Technical evaluation of the bid will only be taken up after scrutiny of Form – 21 duly notarized]

Form - 22

Calculation of Bid Capacity

Information of audited financial statements for the last year to demonstrate the current soundness of the Bidder's financial position :

The Bidder's Net worth for the last year calculated on the basis of capital, profit & free reserve available to the firm should be positive.

1. Bidders, who meet the minimum qualification criteria, will be qualified only if their available bid capacity at the expected time of bidding is more than the total estimated cost of the works. The available bid capacity will be calculated as under:

Assessed Available Bid Capacity = $(A \times N \times 2 - B)$ where

A = Maximum value of engineering works in respect of projects executed in any one year during the last 5 (five) years (updated to the price level of the year indicated in table below under note) taking into account the completed as well as works in progress. The projects include turnkey project / item rate contract / construction works.

N = Number of years (i.e. _____ year) prescribed for completion of the works for which Bids are invited.

B= Financial Liability of the bidder to be incurred for existing commitments & on-going works during the period of the subject contract.

To calculate the value of 'A'

- i) A table containing value of Engineering Works in respect of Projects (Turnkey projects/item rate contract/construction works) undertaken by the bidder during the last 5 (five) years is as follows :

Sl. No.	Year	Value of Engineering Works undertaken w.r.t. Projects (Rs. In Crores)
1	Year - 5	
2	Year - 4	
3	Year - 3	
4	Year - 2	
5	Year - 1	

- ii) Maximum value of projects that have been undertaken during the F.Y. _____ out of the last 5 years & value thereof is Rs. _____ Crores. (Rupees _____). Further, value updated to the price level of the year indicated in Table is as follows:

Rs. _____ Crores x _____ (Updation Factor as per Table annexed)

Rs. _____ Crores (Rupees _____).

Table indicating the factory for the year for updation to the price level is indicated as under

Sl. No.	F.Y. / Calendar year	Updation factor
1	Year - 1	1.0
2	Year - 2	1.05
3	Year - 3	1.10
4	Year - 4	1.15
5	Year - 5	1.20

- iii) Net worth for the last year of _____ (name of the company)

.....
.....
Signature, name & designation of
Authorised Signatory

For & on behalf of
..... (Name of the
Applicant)

.....
.....
Name of the Statutory firm

Seal of the audit firm
(Signature, name & designation &
membership No. of authorised
signatory)

To calculate the value of 'B'

1. A table # containing of all the existing commitments & on-going workings to be completed during the next_____ years (prescribed time for completion of the works for which Bids are invited) is as follows:-

Sl. No.	Name of work / Project	Name of the Employer	Percentage of participation of Bidder in the Project	Stipulated period of completion as per Agreement / LOA with the start date	Value of Contract as per Agreement / LOA Rs. ____	Value of work completed Rs. ____	Balance value of work to be completed Rs. ____	Anticipated date of completion	Financial liability to incurred for the said work/project during the period of the subject contract Rs. ____
1	2	3	4	5	6	7	8	8	10

.....

 Signature, name & designation of
 Authorised Signatory

For & on behalf of
 (Name of the
 Applicant)

Note :

1. All the documents to be submitted in support of Annexure – P must be duly signed & sealed by the applicant / bidder & authenticated by Statutory Auditor's firm.
2. In case of a Joint Venture, Lead Member of such joint venture shall be required to meet 60% of required Bid Capacity & each of the Joint Venture Members shall be required to meet atleast 30% of requirement of BID Capacity. Bid capacity of all members in total should be atleast 100% of required Bid capacity (Not allowed in this e-NIT).

Section - 5 :

Employer's Requirements (BOQ)

SECTION - 6

GENERAL CONDITIONS OF CONTRACT (GCC)

1

General Provisions

1.1

Definitions

In the Conditions of Contract (“these Conditions”), the following words and expressions shall have the meanings stated. Words indicating persons or parties include corporations and other legal entities, except where the context requires otherwise.

1.1.1

The Contract

1.1.1.1 **“Contract”** means the Agreement, these Conditions, the Employer’s Requirements, the Tender, and the further documents (if any) which are listed in the Contract Agreements.

1.1.1.2 **“Agreement”** means the Agreement referred to in Sub- Clause 1.6 [Agreement], including any annexed memoranda.

1.1.1.3 **“Employer’s Requirements”** means the document entitled Employer’s Requirements, as included in the Contract, and any additions and modifications to such document in accordance with the Contract. Such document specifies the purpose, scope, and/or design and/or other technical criteria, technical specifications, technical requirements for the Works.

1.1.1.4 **“Tender”** means the Contractor’s signed offer for the Works and all other documents which the Contractor submitted therewith (other than these Conditions and the Employer’s Requirements, if so submitted), as included in the Contract.

1.1.1.5 **“Performance Guarantees”** and **“Schedule of Payments”** mean the documents so named (if any), as included in the Contract.

1.1.2

Parties and Persons

1.1.2.1 **“Party”** means the Employer or the Contractor, as the context requires.

1.1.2.2 **“Employer”** means West Bengal Housing Department and/or Superintending Engineer, West Circle, Housing Directorate and includes its successors-in-interest and/ or assigns.

1.1.2.3 **“Contractor”** means the person(s) named as contractor in the Agreement and the legal successors in title to this person(s).

- 1.1.2.4 **“Employer’s Representative”** means the person named by the Employer in the Contract or appointed from time to time by the Employer under Sub-Clause 3.1 [The Employer’s Representative], who acts on behalf of the Employer.
- 1.1.2.5 **“Contractor’s Representative”** means the person named by the Contractor in the Contract or appointed from time to time by the Contractor under Sub-Clause 4.3 [Contractor’s Representative], who acts on behalf of the Contractor.
- 1.1.2.6 **“Employer’s Personnel”** means the Employer’s Representative, the assistants referred to in Sub-Clause 3.2 [Other Employer’s Personnel] and all other staff, labour and other employees of the Employer’s and of the Employer’s Representative, and any other personnel notified to the Contractor, by the Employer or the Employer’s Representative, as Employer’s Personnel. Employer’s Representative is authorized to carry out on behalf of the Employer general supervision, day to day instructions along with approval of materials and workmanship. In case of dispute, the decision of Employer’s Representative is final and binding.
- 1.1.2.7 **“Contractor’s Personnel”** means the Contractor’s Representative and all personnel whom the Contractor utilises on Site, who may include the staff, labour and other employees of the Contractor and any other personnel assisting the Contractor in the execution of the Works.

1.1.3

Dates, Tests, Periods and Completion

- 1.1.3.1 **Deleted**
- 1.1.3.2 **“Commencement Date”** means the date notified under Sub-Clause 8.1 [Commencement of Works], unless otherwise defined in the Contract Agreement.
- 1.1.3.3 **“Time for Completion”** means the time for completing the Works or a Section (as the case may be) under Sub-Clause 8.2 [Time for Completion], (with any extension under Sub-Clause 8.5 [Extension of Time for Completion]), calculated from the Commencement Date.
- 1.1.3.4 **“Tests on Completion”** means the tests which are specified in the Contract or agreed by both Parties or instructed as a Variation, and which

are carried out under Clause 9 [Tests on Completion] before the Works or a Section (as the case may be) are taken over by the Employer.

1.1.3.5 **"Taking-Over Certificate"** means a certificate issued under Clause 10 [Employer's Taking Over].

1.1.3.6 **"Tests after Completion"** means the tests (if any) which are specified in the Contract and which are carried out under Clause 12 [Tests after Completion] after the Works or a Section (as the case may be) are taken over by the Employer.

1.1.3.7 **"Defects Notification Period"** means the period for notifying defects in the Works or a Section (as the case may be) under Sub-Clause 11.1 [Completion of Outstanding Work and Remedying Defects], calculated from the date on which the Works or Section is completed as certified under Sub-Clause 10.1 [Taking Over of the Works and Sections]. This period shall be three year.

1.1.3.8 **"Performance Certificate"** means the certificate issued under Sub-Clause 11.9 [Performance Certificate].

1.1.3.9 **"day"** means a calendar day and **"year"** means 365 days.

1.1.4

Money and Payments

1.1.4.1 **"Contract Price"** means the agreed amount stated in the Agreement for the execution and completion of the Works and the remedying of any defects, and includes adjustments (if any) in accordance with the Contract.

1.1.4.2 **"Cost"** means all expenditure reasonably incurred (or to be incurred) by the Contractor, whether on or off the Site, including overhead and similar charges, but does not include profit.

1.1.4.3 **"Final Statement"** means the statement defined in Sub-Clause 14.11 [Application for Final Payment].

1.1.4.4 **Deleted.**

1.1.4.5 **"Currency"** means Indian National Rupees (INR).

1.1.4.6 **Deleted.**

1.1.4.7 **"Defects Liability Period"** means three years from the date of issuance of Taking Over Certificate

1.1.4.8 **"Statement"** means a statement submitted by the Contractor as part of an application for payment under Clause 14 [Contract Price and Payment].

1.1.5

Works and Goods

1.1.5.1 **"Contractor's Equipment"** means all apparatus, machinery, vehicles and other things required for the execution and completion of the Works and the remedying of any defects. However, Contractor's Equipment excludes Temporary Works, Employer's Equipment (if any), Plant, Materials and any other things intended to form or forming part of the Permanent Works.

1.1.5.2 **"Goods"** means Contractor's Equipment, Materials, Plant and Temporary Works, or any of them as appropriate.

1.1.5.3 **"Materials"** means things of all kinds (other than Plant) intended to form or forming part of the Permanent Works, including the supply-only materials (if any) to be supplied by the Contractor under the Contract.

1.1.5.4 **"Permanent Works"** means the permanent works to be executed by the Contractor under the Contract.

1.1.5.5 **"Plant"** means the apparatus, machinery and vehicles intended to form or forming part of the Permanent Works.

1.1.5.6 **"Section"** means a part of the Works specified as a Section (if any).

1.1.5.7 **"Temporary Works"** means all temporary works of every kind (other than Contractor's Equipment) required on Site for the execution and completion of the Permanent Works and the remedying of any defects.

1.1.5.8 **"Works"** mean the Permanent Works and the Temporary Works, or either of them as appropriate.

1.1.5.9 **Deleted**

1.1.5.10 **"Project"** means the Scope of Works provided under Clause 1.2 of Volume 1, Section 2 of the Request for Proposal.

1.1.5.11 **"Services"** means and include services ancillary to the performance of Works including without limiting to transportation and supply at the point of consignee and such other obligations as required under this Contract.

1.1.6

Other Definitions

1.1.6.1 **"Contractor's Documents"** means the calculations, computer programs and other software, drawings, manuals, models and other documents of a technical nature supplied by the Contractor under the Contract; as described in Sub-Clause 5.2 [Contractor's Documents].

1.1.6.2 **"Country"** means India.

1.1.6.3 **Deleted.**

1.1.6.4 **"Force Majeure"** is defined in Clause 19 [Force Majeure].

1.1.6.5 **"Laws"** means all national (or state) legislation, statutes, ordinances and other laws, and regulations and bye-laws of any legally constituted public authority.

1.1.6.6 **"Performance Security"** means the security (or securities, if any) under Sub-Clause 4.2 [Performance Security].

1.1.6.7 **"Site"** means the places where the Permanent Works are to be executed and to which Plants and Materials are to be delivered, and any other places as may be specified in the Contract as forming part of the Site.

1.1.6.8 **"Variation"** means any change to the Employer's Requirements or the Works, which is instructed or approved as a variation under Clause 13 [Variations and Adjustments].

1.2

Interpretation

In the Contract, except where the context requires otherwise:

- (a) words indicating one gender include all genders;
- (b) words indicating the singular also include the plural and words indicating the plural also include the singular;
- (c) provisions including the word "agree", "agreed" or "agreement" require the agreement to be recorded in writing, and
- (d) "written" or "in writing" means hand-written, type-written, printed or electronically made, and resulting in a permanent record. The marginal words and other headings shall not be taken into consideration in the interpretation of these Conditions.

1.3**Communications**

Wherever these Conditions provide for the giving or issuing of approvals, certificates, consents, determinations, notices and requests, these communications shall be:

- (a) in writing and delivered by hand (against receipt), sent by mail or courier, or transmitted using any of the agreed systems of electronic transmission; and
- (b) delivered, sent or transmitted to the address for the recipient's communications as stated in the Contract. However:
 - (i) if the recipient gives notice of another address, communications shall thereafter be delivered accordingly; and
 - (ii) if the recipient has not stated otherwise when requesting an approval or consent, it may be sent to the address from which the request was issued.

Approvals, certificates, consents and determinations shall not be unreasonably withheld or delayed.

1.4

Law and Language

The Contract shall be governed by the laws of India only.

The language in the contract shall be English only. The language for communication for the purpose of this Contract shall be English only.

In addition to this, any document, which is in any language other than English, shall be translated to English and certified.

If there are versions of any part of the Contract which are written in more than one language, the version which is in English shall prevail.

The Contractor shall familiarize himself with the local laws and administration of West Bengal and comply by them.

1.5

Priority of Documents

The documents forming the Contract are to be taken as mutually explanatory of one another. For the purposes of interpretation, the priority of the documents shall be in accordance with the following sequence:

- (a) the Agreement,
- (b) these General Conditions of Contract,
- (c) the Employer's Requirements,
- (e) the bidding documents and any other documents forming part of the Contract.

1.6

Agreement

The Contract shall come into full force and effect on the date stated in the Agreement. The costs of stamp duties and similar charges (if any) imposed by law in connection with entry into the Agreement shall be borne by the Contractor.

1.7

Deleted.

1.8

Care and Supply of Documents

Each of the Contractor's Documents shall be in the custody and care of the Contractor, unless and until taken over by the Employer. Unless otherwise stated in the Contract, the Contractor shall supply to the Employer six copies of each of the Contractor's Documents.

The Contractor shall keep, on the Site, a copy of the Contract, publications named in the Employer's Requirements, the Contractor's Documents, and Variations and other communications given under the Contract. The Employer's Personnel shall have the right of access to all these documents at all reasonable times.

If a Party becomes aware of an error or defect of a technical nature in a document which was prepared for use in executing the Works, the Party shall promptly give notice to the other Party of such error or defect.

1.9

Confidentiality

Both Parties shall treat the details of the Contract as private and confidential, except to the extent necessary to carry out obligations under it or to comply with applicable Laws.

The Contractor shall not publish, permit to be published, or disclose any particulars of the Works in any trade or technical paper or elsewhere without the previous agreement of the Employer.

1.10

Employer's Use of

Contractor's Documents As between the Parties, the Contractor shall retain the copyright and other intellectual property rights in the Contractor's Documents and other documents made by (or on behalf of) the Contractor.

The Contractor shall be deemed (by signing the Contract) to give to the Employer a non-terminable transferable non-exclusive royalty-free licence to copy, use and communicate the Contractor's Documents, including making and using modifications of them. This licence shall:

- (a) apply throughout the actual or intended working life (whichever is longer) of the relevant parts of the Works,
- (b) entitle any person in proper possession of the relevant part of the Works to copy, use and communicate the Contractor's Documents for the purposes of completing, operating, maintaining, altering, adjusting, repairing and demolishing the Works, and
- (c) in the case of Contractor's Documents which are in the form of computer programs and other software, permit their use on any computer on the Site and other places as envisaged by the Contract, including replacements of any computers supplied by the Contractor.

The Contractor's Documents and other documents made by (or on behalf of) the Contractor shall not, without the Contractor's consent; be used, copied or communicated to a third party by (or on behalf of) the Employer for purposes other than those permitted under this Sub-Clause.

1.11

Contractor's Use of

Employer's Documents As between the Parties, the Employer shall retain the copyright and other intellectual property rights in the Employer's Requirements and other documents made by (or on behalf of) the Employer. The Contractor may, at his cost, copy, use, and obtain communication of these documents for the purposes of the Contract.

They shall not, without the Employer's consent, be copied, used or communicated to a third party by the Contractor, except as necessary for the purposes of the Contract.

1.12

Confidential Details

The Contractor shall not be required to disclose, to the Employer, any information which the Contractor described in the Tender as being confidential. The Contractor shall disclose any other information which the Employer may reasonably require in order to verify the Contractor's compliance with the Contract.

1.13

Compliance with Laws The Contractor shall, in performing the Contract, comply with applicable Laws. Unless otherwise stated:

- (a) the Contractor shall have obtained (or shall obtain) the planning, zoning or similar permission for the Permanent Works, and any other permissions described in the Employer's Requirements as having been (or being) obtained by the Contractor; and the Contractor shall indemnify and hold the Employer harmless against and from the consequences of any failure to do so. However, the Employer shall assist and/or facilitate (without any recourse or liability) obtaining of all permits, licences, approval, clearances, No Objection Certificates and the like, as required by the Laws and shall sign such documents as may be required by statute. The cost for obtaining the sanctions and/or permission in respect of such permit, licence, approval, No Objection Certificate, clearance and the like, shall be paid by the Contractor, which shall be reimbursed by the Employer within 60 days from the date of submission of necessary documents claiming reimbursement including supporting documents; and
- (b) the Contractor shall give all notices, pay all taxes, duties and fees, and obtain all permits, licences and approvals, as required by the Laws in relation to the planning, execution and completion of the Works and the remedying of any defects; and the Contractor shall indemnify and hold the Employer harmless against and from the consequences of any failure to do so. However, the Employer shall assist and/or facilitate (without any recourse or liability) obtaining of all permits, licences and approval, as required by the Laws and shall sign such documents as may be required by statute.

2

The Employer

2.1

Right of Access to the Site

The Employer shall give the Contractor right of access to, and possession of, all parts of the Site within 7 days of the issuance of Letter of Acceptance / Notification of Award. The right and possession may not be exclusive to the Contractor. However, the Employer may withhold any such right or possession until the Performance Security has been received.

If the Contractor suffers delay as a result of a failure by the Employer to give any such right or possession within such time, the Contractor shall give notice to the Employer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.5 [Extension of Time for Completion].

After receiving this notice, the Employer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

However, if and to the extent that the Employer's failure was caused by any error or delay by the Contractor, including an error in, or delay in the submission of, any of the Contractor's Documents including submission of Performance Security, the Contractor shall not be entitled to such extension of time.

2.2

Permits, Licences or Approvals

It will be the duty of the Contractor to apply for and obtain any permits, licences, approvals, clearances or No Objection Certificates required by the Laws of the Country, which the Contractor is required to obtain under Sub-Clause 1.13 [Compliance with Laws] for commencement of construction, completion of construction, delivery of goods including clearance through customs, installation of goods, supply, installation and commissioning of goods. It is made clear that such list is not exhaustive and is merely indicative in nature. Upon obtaining of such permits, licenses, approvals, clearance or no objection certificate from the appropriate authority, the Contractor shall provide a copy of such permits, licenses, approvals, clearance or no objection certificate to the Employer. It is made clear that failure to do so, the Employer shall be entitled to take action in terms of Clause 4.23 of these Conditions the delivery of Goods, including clearance through customs.

2.3

Employer's Personnel

The Employer shall be responsible for ensuring that the Employer's Personnel and the Employer's other contractors on the Site:

- (a) co-operate with the Contractor's efforts and
- (b) take actions similar to those which the Contractor is required to take under Sub-Clause 4.8 [Safety Procedures] and under Sub-Clause 4.24 [Protection of the Environment].

2.4

Deleted.

2.5

Employer's Claims

If the Employer considers himself to be entitled to any payment under any Clause of these Conditions or otherwise in connection with the Contract, and/or to any extension of the Defects Notification Period, he shall give notice and particulars to the Contractor.

The notice shall be given as soon as practicable after the Employer became aware of the event or circumstances giving rise to the claim. A notice relating to any extension of the Defects Notification Period shall be given before the expiry of such period.

The particulars shall specify the Clause or other basis of the claim, and shall include substantiation of the amount and/or extension to which the Employer considers himself to be entitled in connection with the Contract. The Employer shall then proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) the amount (if any) which the Employer is entitled to be paid by the Contractor, and/or (ii) the extension (if any) of the Defects Notification Period in accordance with Sub-Clause

11.3[Extension of Defects Notification Period.

The Employer may deduct this amount from any moneys due, or to become due, to the Contractor. The Employer shall only be entitled to set off against or make any deduction from an amount due to the Contractor, or to otherwise claim against the Contractor, in accordance with this Sub-Clause or with sub-paragraph (a) and/or (b) of Sub-Clause 14.6 [Interim Payments].

Whenever any claim or claims for payment of a sum of money arises out of or under the Contract or against the Contractor, the Employer's Representative or the Employer shall be entitled to withhold and also have a lien to retain such sum or sums in whole or in part from the Security Deposit and Performance Guarantee, if any deposited by the Contractor, pending finalization or adjudication of any such claim. In the event of the Performance Guarantee, being insufficient to cover the claimed amount or amounts, the Employer's Representative or the Employer shall be entitled to withhold and have a lien to retain to the extent of such claimed amount or amounts referred to above, from any sum or sums found payable or which may at any time thereafter become payable to the Contractor under the same Contract or any other Contract with the Employer's Representative of the Employer or any Contracting person through the Employer's Representative pending finalization of/adjudication of any such claim.

It is an agreed term of the Contract that the sum of money or moneys so withheld or retained under the lien referred by the Employer's Representative or the Employer will be kept withheld or retained as such by the Employer's Representative or the Employer till the claim arising out of or under the Contract is determined by the arbitrator (if the Contract is governed by the arbitration clause) or by the competent court, as the case may be and that the Contractor will have no claim for interest or damages whatsoever on any account in respect of such withholding or retention under the lien referred to above and duly notified as such to the Contractor. For the purpose of this clause, where the Contractor is a limited company, the Employer's Representative or the Employer shall be entitled to withhold and also have a lien to retain towards such claimed amount or amounts in whole or in part from any sum found payable to any limited company.

3

The Employer's Administration

3.1

The Employer's Representative

The Employer may appoint an Employer's Representative to act on his behalf under the Contract. In this event, he shall give notice to the Contractor of the name, address, duties and authority of the Employer's Representative.

The Employer's Representative shall carry out the duties assigned to him, and shall exercise the authority delegated to him, by the Employer. Unless and until the Employer notifies the Contractor otherwise, the Employer's Representative shall be deemed to have the full authority of the Employer under the Contract, except in respect of Clause 15 [Termination by Employer].

If the Employer wishes to replace any person appointed as Employer's Representative, the Employer shall give the Contractor not less than 14 days' notice of the replacement's name, address, duties and authority, and of the date of appointment.

3.2

Other Employer's Personnel

The Employer or the Employer's Representative may from time to time assign duties and delegate authority to assistants, and may also revoke such assignment or delegation. These assistants may include a resident engineer, and/or independent inspectors appointed to inspect and/or test items of Plant and/or Materials. The assignment, delegation or revocation shall not take effect until a copy of it has been received by the Contractor.

Assistants shall be suitably qualified persons, who are competent to carry out these duties and exercise this authority, and who are fluent in the language for communications defined in Sub-Clause 1.4 [Law and Language].

3.3

Delegated Persons

All these persons, including the Employer's Representative and assistants, to whom duties have been assigned or authority has been delegated, shall only be authorised to issue instructions to the Contractor to the extent defined by the delegation. Any approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test, or similar act by a delegated person, in accordance with the delegation, shall have the same effect as though the act had been an act of the Employer. However:

- (a) unless otherwise stated in the delegated person's communication relating to such act, it shall not relieve the Contractor from any responsibility he has under the Contract, including responsibility for errors, omissions, discrepancies and non-compliances;
- (b) any failure to disapprove any Works, Plants or Materials shall not constitute approval, and shall therefore not prejudice the right of the Employer to reject the Works, Plants or Materials; and
- (c) if the Contractor questions any determination or instruction of a delegated person, the Contractor may refer the matter to the Employer, who shall promptly confirm, reverse or vary the determination or instruction.

3.4

Instructions

The Employer may issue to the Contractor instructions which may be necessary for the Contractor to perform his obligations under the Contract. Each instruction shall be given in writing and shall state the obligations to which it relates and the Sub-Clause (or other term of the Contract) in which the obligations are specified. If any such instruction constitutes a Variation, Clause 13 [Variations and Adjustments] shall apply.

The Contractor shall take instructions from the Employer, or from the Employer's Representative or an assistant to whom the appropriate authority has been delegated under this Clause.

3.5

Determinations

Whenever these Conditions provide that the Employer shall proceed in accordance with this Sub-Clause to agree or determine any matter, the Employer shall consult with the Contractor in an endeavour to reach agreement. If agreement is not achieved, the Employer shall make a reasonable determination in accordance with the Contract, taking due regard of all relevant circumstances and after giving an opportunity to the Contractor of being heard.

The Employer shall give notice to the Contractor of each agreement or determination, with supporting particulars. Each Party shall give effect to each agreement or determination, unless the Contractor gives notice, to the Employer, of his dissatisfaction with a determination within 14 days of receiving it. Either Party may then refer the dispute to arbitration in accordance with Sub-Clause 20.3 [Arbitration].

4

The Contractor

4.1

Contractor's General Obligations

The Contractor shall plan, execute and complete the Works in accordance with the Contract, and shall remedy any defects in the Works. When completed, the Works shall be fit for the purposes for which the Works are intended as defined in the Contract.

The Contractor, after obtaining any necessary consent from any relevant authority, shall submit to the Employer, proposals showing the layout of pedestrian routes, lighting, signs, and guarding any road opening or traffic diversion which may be required in connection with the execution of the Works and which the Contractor intends to construct. Any consent given by the Employer to such proposals shall not relieve the Contractor of any obligation under the Contract or absolve the Contractor from any liability for or arising from such proposals or the implementation thereof.

The Contractor's proposals for erection of all ancillary and Temporary Works shall be in

conformity with the proposals submitted along with the tender and modifications thereto as approved by the Employer.

The Contractor shall have to complete the project in accordance with the building plan as prepared by the Consultant appointed / to be appointed by the Employer and as may be approved by competent authority. No changes in the building plan shall be allowed unless required by the Employer or competent authority or applicable law or as may be directed by any statutory authority at the time of granting final sanction/completion certificate/no objection/permission. However, this shall not relieve the Contractor of his responsibility for the adequacy of such works.

No extra payment will be made for complying with the provisions of this clause and the cost of the work under this element shall be deemed to be included in the Financial Bid.

The Contractor shall provide the Plants and Contractor's Documents specified in the Contract, and all Contractor's Personnel and services, whether of a temporary or permanent nature, required in and for this plan, design, execution, completion and remedying of defects.

The Works shall include any work which is necessary to satisfy the Employer's Requirements, or is implied by the Contract, and all works which (although not mentioned in the Contract) are necessary for stability or for the completion, or safe and proper operation, of the Works.

The Contractor shall be responsible for the adequacy, stability and safety of all Site operations, of all methods of construction and of all the Works.

The Contractor shall, whenever required by the Employer, submit details of the arrangements and methods which the Contractor proposes to adopt for the execution of the Works. No significant alteration to these arrangements and methods shall be made without this having previously been notified to the Employer.

The Contractor shall survey and fix the alignment, set out the buildings maintaining vertical & horizontal clearances and keeping in view important site references and obligatory locations in consultation with the Employer. GTS bench mark, temporary bench marks and three control points on all straights & other details shall be obtained by the Contractor. However, the Employer shall assist and/or facilitate (without any recourse or liability) in such obtaining of GTS bench mark, temporary bench marks etc.

The Contractor shall establish at his cost, at suitable points, additional reference lines and bench marks as may be necessary. The Contractor shall remain responsible for the sufficiency and accuracy of all his benchmarks and reference lines. It shall take precautions to see that lines, points and bench marks fixed by the Employer are not disturbed by its work and shall make good any damage thereto.

4.2

Performance Security

The Contractor shall obtain (at his cost) a Performance Security for proper performance, equal to 10% (Ten Percent) of Contract value on the eve of signing the Agreement.

The Performance Security should be submitted in the form of a Bank Guarantee from a scheduled bank.

The Contractor shall ensure that the Performance Security is valid and enforceable until the Contractor has executed and completed the Works and remedied any defects. If the terms of the Performance Security specify its expiry date, and the Contractor has not become entitled to receive the Performance Certificate by the date 28 days prior to the expiry date, the Contractor shall extend the validity of the Performance Security until the Works have been completed and all defects have been remedied.

The Employer shall not make a claim under the Performance Security, except for amounts to which the Employer is entitled under the Contract in the event of:

- (a) failure by the Contractor to extend the validity of the Performance Security as described in the preceding paragraph, in which event the Employer may claim the full amount of the Performance Security,
- (b) failure by the Contractor to pay the Employer an amount due, as either agreed by the Contractor or determined under Sub-Clause 2.5 [Employer's Claims] or Clause 20 [Claims, Disputes and Arbitration], within 42 days after the signing of the Contract or determination,
- (c) failure by the Contractor to remedy a default within such reasonable period as may be specified by the Employer in its notice after receiving the Employer's notice requiring the default to be remedied, or
- (d) circumstances which entitle the Employer to termination under Sub-Clause 15.2 [Termination by Employer], irrespective of whether notice of termination has been given.

The Employer shall return the Performance Security to the Contractor within 21 days after the Contractor has become entitled to receive the Performance Certificate.

4.3

Contractor's Representative

The Contractor shall appoint the Contractor's Representative and shall give him all authority necessary to act on the Contractor's behalf under the Contract.

Unless the Contractor's Representative is named in the Contract, the Contractor shall, prior to the Commencement Date, submit to the Employer for consent the name and particulars of the person the Contractor proposes to appoint as Contractor's Representative. If consent is withheld or subsequently revoked, or if the appointed person fails to act as Contractor's Representative, the Contractor shall similarly submit the name and particulars of another suitable person for such appointment.

The Contractor shall not, as far as practicable, without the prior consent of the Employer, revoke the appointment of the Contractor's Representative or appoint a replacement.

The Contractor's Representative shall, on behalf of the Contractor, receive instructions under Sub-Clause 3.4 [Instructions].

The Contractor's Representative may delegate any powers, functions and authority to any competent person, and may at any time revoke the delegation. Any delegation or revocation shall not take effect until the Employer has received prior notice signed by the Contractor's Representative, naming the person and specifying the powers, functions and authority being delegated or revoked.

The Contractor's Representative and all these persons shall be fluent in the language for communications defined in Sub-Clause 1.4 [Law and Language].

4.4 Deleted.

4.5 Deleted.

4.6 Deleted.

4.7 Deleted.

4.8 Safety Procedures

4.8.1. Codes etc to be complied with

The Contractor shall ensure and arrange at his cost fire and the safety provisions, as per safety code of Indian Standards Institution, safety manuals of the Employer, if any, and such provisions as are locally in force from time to time for all labour, directly or indirectly employed in the works for performance of this Contract. The Contractor will indemnify the Employer from any consequence arising due to Contractor's failure in respect of safety provisions.

Following Codes may be referred to in this connection:

IS 5916 Safety code for construction involving use of hot bituminous materials.

IS 7293 Safety code for working with construction machinery

IS 7969 Safety code for handling and storage of building materials.

IS 8989 Safety code for erection of concrete framed structures.

IS 13415 Protective barriers in and around buildings - Code of Safety

IS 13416 Preventive measures against hazards at work places - Recommendations (Parts - 1 to 5)

4.8.2 First Aid & Industrial Injuries

4.8.2.1 First aid facilities at easily accessible place shall be provided by the Contractor as per the applicable labour laws or Rules of the Authority controlling the area where work is carried out.

4.8.2.2. The Contractor shall make arrangements with hospitals for ambulance service and for treatment of industrial injuries to meet eventualities leading to the need for such facilities. The Employer's Representative shall be informed of their telephone numbers and addresses of the Hospitals.

4.8.2.3 Details of all critical industrial injuries shall be reported promptly to the Employer's Representative.

4.8.2.4 Report shall cover type, nature, cause, physician's report and action for prevention of those types again.

4.8.3 General Safety Rules

4.8.3.1 Smoking within plant, restricted areas, closed areas, near storage place of lubricant oil and fuel etc. is strictly prohibited.

4.8.3.2 The Contractor shall erect and maintain barricades required in connection with its operation to guard or protect

(a) Excavation

(b) Hoisting/lifting

(c) Slab openings

(d) Hazardous areas

(e) Employer's existing property likely to be subjected to damage by the Contractor's operations

(f) Unloading spots

4.8.4

Accidents - Precautions at Worksite

No materials on the sites shall be so stacked or placed as to cause danger or inconveniences to any person or to the public. The Contractor shall provide all necessary fencing and lights to protect the public from accidents and shall be bound to bear expenses of defense of every suit, action or other proceedings 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 or proceeding, to any such person or which may, with the consent of the Contractor be paid to compromise any claim by any such person.

4.8.5

Electrical Equipments - Precautions

All temporary and permanent electrical installations, power distribution and supply required for execution of Works shall be carried out conforming to existing industrial and domestic safety rules and regulations. Important specific points to be noted are as under,

(i) Meter room and main switches should be freely accessible at all times and fully protected against all weather conditions.

(ii) Power distribution system shall be identifiable with display marking on switches.

(iii) All power distribution shall be carried out with coated, adequately insulated and of appropriate current/load rating cables. It shall be securely routed for this purpose. No loose, naked, hanging wires shall be permitted.

(iv) Over load protection devices shall be installed whenever and wherever heavy current/load consuming construction plant or machinery susceptible to hazard is in use and as directed by the Employer's Representative.

(v) Metallic plugs and sockets shall be used in field work. Switch board shall be in close proximity so as to have quick control over the supply.

(vi) Proper and adequate earthing connection should be provided for all installations, plant and machinery and distribution system.

(vii) Hand lamps and inspection lamps shall be adequately insulated and guarded with wire mesh and should have proper plugs for use.

(viii) Security and illuminatory light shall be secured firmly and protected to withstand all weather conditions.

4.8.6 Maintenance of Safety Devices

All scaffoldings, ladders and other safety devices mentioned or described herein shall be maintained in a safe condition and no scaffold, ladder or equipment shall be altered or removed while it is in use. Adequate maintenance facilities shall be provided at or near places at work.

4.8.7 Personal Safety

- (a) All necessary personal safety equipment as considered adequate by the Employer's Representative shall be available for use of persons employed on the Site and maintained in a condition suitable for immediate use and the Contractor shall take adequate steps to ensure proper use of equipment by those concerned.
- (b) Workers employed on mixing asphaltic materials, cement, and lime mortars/concrete shall be provided with protective footwear and protective gloves.
- (c) Those engaged in handling any materials which are injurious to eyes shall be provided with protective goggles.
- (d) Workers employed on erection works, etc. shall be provided with helmets, safety belts etc.
- (e) Workers employed on concrete finishing, welding, painting and other works above 2 metres height shall be provided with a suitable safety belt, as per the applicable Factory Rules.

4.8.8 Storing Fuel, Oil and Lubricant

The Contractor shall take approval from the Safety Officer of the Employer for storing the lubricants, oil and fuel at site for running the machinery required for the construction.

4.8.9 Fire Extinguishing

Suitable and sufficient number of fire extinguishers for all types of fire, shall be provided at work site. In addition, sufficient number of fire buckets filled with water and sand shall also be provided. The fire fighting equipment as outlined above shall be

dispersed in a suitable and purposeful manner.

4.8.10 Fire Precautions

The Contractor shall comply with regulations of the controlling authority in force at the Site of the Works relating to the precautions to be taken against fire hazards.

4.8.11 Protection arrangements at work site

Adequate protection against any form of damage or deterioration shall be provided for in all sections of the Works. This shall include protective tapes, casings, guard rails and the likes, which shall be provided as necessary. Particular care shall be taken to protect finished surfaces during the execution of adjacent in-situ work. The Contractor shall carry out all steps necessary and comply with the directions and instructions of the Employer's Representative to his satisfaction.

4.8.12 Safety Arrangements for labour

The Contractor shall, at his own expense, arrange for the safety provisions as given above and as required by the Employer's Representative, in respect of all labour directly or indirectly employed for performance of the work and shall provide all facilities in connection therewith. In case the Contractor fails to make arrangements to provide necessary facilities as aforesaid, the Employer's Representative shall be entitled to do so and recover the cost thereof, from the Contractor.

4.8.13 Safety Manual

The Contractor shall submit a Safety Manual indicating the safety measures proposed to be adopted in light of above provisions, for approval of the Employer's Representative.

4.8.14 Accidents - Reporting

The Contractor shall, within twenty four (24) hours of the occurrence of any accident on, or about the Site, or in connection with the execution of the Works, report such accident to the Employer's Representative and to the appropriate authority wherever such report is required by law. The Contractor will indemnify the Employer from all accident cases.

4.8.15 Security Measures

The Contractor shall be responsible at his cost for security of Works for the duration

of the Contract and shall provide and maintain continuously adequate security personnel to fulfill these obligations. The requirements of security measures shall include, but not limited to, maintenance of Law and order at Site, provision of all lighting, guard, flagmen, and other measures necessary for protection of Works within the camps and elsewhere at Site, for all materials delivered to the Site and all persons employed in connection with the Works continuously throughout working and non-working periods including nights, Sundays, holidays, for the duration of the Contract. At work Sites in close proximity of traffic corridors where public are likely to come close to the work area, suitable fencing as directed by the Employer's Representative should be provided.

4.8.16

The Contractor shall not disturb the ongoing activities of adjacent properties. It shall take care that his activities do not result in any kind of accidents, spread of any infection etc in the Site.

4.9

Quality Assurance

The Contractor shall institute a quality assurance system / manual to demonstrate compliance with the requirements of the Contract. The system shall be in accordance with the details stated in the Contract. The Employer shall be entitled to audit any aspect of the system. The Employer, at its sole discretion, may direct the Contractor to send the sample for quality check to any national or regional institution in respect of each of the sites. The system / manual should cover the following items as minimum :

- i) Q.A. Plan for Basic Construction Materials indicating the details of tests to be undergone before use in works.
- ii) Q.A. Plan for site activities indicating the details of tests to be conducted at the various stages of construction for various activities.
- iii) In house/on site testing facilities to be developed for materials, site activities and calibration of equipments.
- iv) Site documents to be maintained including records of results of tests for materials and workmanship, inventory record on availability of vital materials and their consumption vis-à-vis design requirements, site inspection records, quality audit record, safety audit record, site progress record, etc.
- v) Check lists for source approval of materials etc., check lists for site activities and proforma for recording results of tests.
- vi) Method statements for important construction activities.

Details of all procedures and compliance documents shall be submitted to the Employer for information before each execution stage is commenced. When any document of a technical nature is issued to the Employer, evidence of the prior approval by the Contractor himself shall be apparent on the document itself.

Compliance with the quality assurance system shall not relieve the Contractor of any of his duties, obligations or responsibilities under the Contract.

4.10

Site Data

The Employer shall have made available to the Contractor for his information, prior to signing of the Contract, all relevant data in the Employer's possession in respect of the Site. Such relevant data shall be indicative only and not exhaustive.

The Contractor shall be responsible for verifying and interpreting all such data. The Employer shall have no responsibility for the accuracy, sufficiency or completeness of such data. The Employer reserves the right to obtain reports on soil testing or other site data from independent agencies, tally the same with the reports submitted by the Contractor and to appoint any committee comprising of such persons as may be decided by the Employer for determining the tolerance limit of variance and suggest necessary changes, which shall be binding on the Contractor.

The responsibility of Contractor under this sub-clause is full and final and no claim by the Contractor for additional payment or extension of time shall be allowed on the ground of any misunderstanding or misapprehension by the Contractor or that incorrect or insufficient information was given to the Contractor or that he failed to obtain correct and sufficient information.

4.11

Sufficiency of the Contract Price

The Contractor shall be deemed to have satisfied himself as to the correctness and sufficiency of the Contract Price.

Unless otherwise stated in the Contract, the Contract Price covers all the Contractor's obligations under the Contract and all things necessary for the proper planning, design, execution and completion of the Works and the remedying of any defects.

4.12

Unforeseeable Difficulties

Except as otherwise stated in the Contract:

- (a) the Contractor shall be deemed to have obtained all necessary information as to risks, contingencies and other circumstances which may influence or affect the Works;
- (b) by signing the Contract, the Contractor accepts total responsibility for having foreseen all difficulties and costs of successfully completing the Works; and
- (c) the Contract Price shall not be adjusted to take account of any unforeseen difficulties or costs.

4.13

Rights of Way and Facilities

The Contractor shall bear all costs and charges for special and/or temporary rights-of-way which he may require, including those for access to the Site. The Contractor shall also obtain, at his risk and cost, any additional facilities outside the Site which he may require for the purposes of the Works.

4.14

Avoidance of Interference

The Contractor shall not interfere unnecessarily or improperly with:

- (a) the convenience of the public, or
- (b) the access to and use and occupation of all roads and footpaths, irrespective of whether they are public or in the possession of the Employer or of others.

The Contractor shall indemnify and hold the Employer harmless against and from damages, losses and expenses (including legal fees and expenses) resulting from any such unnecessary or improper interference.

The Contractor shall maintain a safe environment for patients, personnel and public around, if any.

The Contractor shall ensure that its employees do not leave the Site at any time without the permission of the Employer's Representative.

The Contractor shall ensure that the vehicles, machines and equipments, which it uses, are safe and do not cause any harm to patients, students, personnel or public around, if any.

All equipment shall operate under all conditions of load without any sound or vibration, which is objectionable and beyond the limits specified by the relevant laws.

Existing roads and other public roads may be used by the Contractor at his risk and cost to carry out construction activities, with prior approval of the competent authority. The Contractor's heavy construction traffic or tracked equipment shall not travel on any

public road or bridge, unless the Contractor has made arrangements with the authority concerned and has obtained the approval of the Employer's Representative to such arrangements. The Contractor shall include in his price the cost of strengthening any such public road or bridge if he considers it would be necessary. The Contractor shall repair any damage to the road or bear the cost thereof due to movement of contractor's plants and equipment, vehicles etc. to the specifications and satisfaction of road authorities as well as of Employer's Representative.

The Contractor shall plan transportation of construction materials to work site in accordance with traffic regulations enforced by local traffic authorities from time to time and in such a way that road accidents are avoided and minimum inconvenience is caused.

No claim whatsoever shall be entertained on this account. The transportation of certain equipments and materials and launching may not be possible during day and may have to be carried out within time schedule specified by traffic police.

Proper barricading shall be provided to ensure the safety of works and public.

4.15

Access Route

The Contractor shall be deemed to have been satisfied as to the suitability and availability of access routes to the Site. The Contractor shall use reasonable efforts to prevent any road or bridge from being damaged by the Contractor's traffic or by the Contractor's Personnel. These efforts shall include the proper use of appropriate vehicles and routes.

Except as otherwise stated in these Conditions:

- (a) the Contractor shall (as between the Parties) be responsible for any maintenance which may be required for his use of access routes;
- (b) the Contractor shall provide all necessary signs or directions along access routes, and shall obtain any permission which may be required from the relevant authorities for his use of routes, signs and directions;
- (c) the Employer shall not be responsible for any claims which may arise from the use or otherwise of any access route,
- (d) the Employer does not guarantee the suitability or availability of particular access routes, and
- (e) Costs due to non-suitability or non-availability, for the use required by the Contractor, of access routes shall be borne by the Contractor.

4.16

Transport of Goods

Unless otherwise stated:

- (a) the Contractor shall give the Employer not less than 21 days' notice of the date on which any Plant or a major item of other Goods will be delivered to the Site;
- (b) the Contractor shall be responsible for packing, loading, transporting, receiving, unloading, storing and protecting all Goods and other things required for the Works;
- (c) the Contractor shall be responsible for making all transport arrangements and for payment of freight and insurance costs for the shipment and delivery of Goods and other things required for the Works and
- (d) the Contractor shall indemnify and hold the Employer harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from the transport of Goods, and shall negotiate and pay all claims arising from their transport.

4.17

Inspection of Goods

All Goods may be subjected to inspection and testing by the Employer or its designated representatives at all times and places including the period of manufacture and in any event prior to final acceptance by the Employer.

Neither the carrying out of any inspection of the Goods nor any failure to undertake any such inspections shall relieve the Contractor of any of their warranties or the performance of any obligations under the Contract.

For such Goods as may be specified by the Employer from time to time, the Contractor shall obtain prior approval of the makes and models of the Goods to be supplied, not less than 15 days prior to the scheduled supply of such Goods. To facilitate the Employer in giving such approval, all technical details and specifications of the various makes and models of the Goods to be supplied shall be provided by the Contractor to the Employer.

For Goods supplied from within India:

- a) For Goods supplied from within India, the Employer retains the right to perform pre-shipment inspection at the manufacturer's premises, if necessary or any place where the Goods have been commissioned and are currently in use and an independent quality control laboratory testing at its own cost.
- b) The Employer will retain the right to perform further inspections and quality testing at any time till the satisfactory installation of Goods, as it deems fit, at its own cost.

Should any inspected or tested Goods fail to conform to the specifications, the Employer shall reject them and the Contractor shall replace the rejected Goods free of cost to the Employer, within a period of 45 (forty-five) days or such other period as may be specified by the Employer, of intimating such rejection.

4.18.

Acceptance and Rejection of Goods

Under no circumstances shall the Employer be required to accept any Goods that do not conform to the specifications of or requirements of the Contract. The Employer may condition acceptance of the Goods upon the successful completion of acceptance tests, as may be specified in the Contract or otherwise agreed in writing by the Parties. In no case shall the Employer be obligated to accept any Goods unless and until the Employer has inspected the Goods following commissioning of the Goods in accordance with the requirements of the Contract. The Goods shall be deemed to be accepted only after the Employer provides written acceptance.

Notwithstanding any other rights of, or remedies available to, the Employer under the Contract, in case any of the Goods is defective or otherwise does not conform to the specifications or other requirements of the Contract, the Employer may, at its sole option, reject or refuse to accept the Goods, and the Contractor agrees promptly to replace such Goods with Goods of equal or better quality.

Provided that commissioning of the Goods within the meaning of this GCC, will mean and shall be deemed to include obtaining necessary No Objection Certificates or

clearances or approvals which may be required for operation of such Goods.

4.19

Deleted.

4.20.

Title

Unless otherwise expressly provided in the Contract, title in and to the Plants, Materials, Products shall pass from the Contractor to the Employer upon delivery of such Plants, Materials and their acceptance by the Employer in accordance with the requirements of the Contract.

4.21

Warranties

Warranties:

Without limitation of any other warranties stated in or arising under the Contract, the Contractor warrants and represents that:

- (a) The Goods including all packaging and packing thereof, conform to the specifications of the Contract, are fit for the purposes for which such Goods are ordinarily used and for the purposes expressly made known in writing by the Employer to the Contractor, and shall be of even quality, free from faults and defects in design, material, manufacture and workmanship under normal use in the conditions prevailing in the country of final destination;
- (b) The Contractor shall provide the Employer with the benefit of all manufacturers warranties in addition to any other warranties required to be provided hereunder;
- (c) The Goods are of the quality, quantity and description required by the Contract;
- (d) The Goods are free from any right of claim by any third-party and unencumbered by any title or other rights, including any liens or security interests and claims of infringement of any intellectual property rights, including, but not limited to, patents, copyright and trade secrets.
- (e) Unless otherwise indicated in the Technical Specifications, this warranty shall remain valid for 3 (three) years after the Goods have been commissioned at the final destination indicated in the Contract subject to issue of certificate regarding date of commissioning issued by the Employer.
- (f) During the warranty, free comprehensive annual maintenance and repairs services including testing and calibration, labour and spares shall be provided by the Contractor during the period of warranty. If necessary, the Contractor shall engage qualified person to carry out maintenance, repair etc.
- (g) If the Contractor, having been notified, fails to remedy the defect(s) within the stipulated period, the Employer may proceed to take such remedial action as may be necessary, at the Contractor's risk and expense and without prejudice to any other rights which the Employer may have against the Contractor under the Contract.

The Contractor shall visit each installation site as recommended in the manufacturers technical/ service/ operational manual, but at least once in three months during the warranty period for preventive maintenance.

The Goods shall be new and unused. The Contractor shall remain responsive to the needs of the Employer for any services that may be required in connection with any of the Contractors warranties under the Contract. During any period in which the Contractors warranties are effective, upon notice by the Employer that the Goods do not conform to the requirements of the Contract, the Contractor shall replace the defective Goods with Goods of the same or better quality or fully reimburse the Employer for the purchase price paid for the defective Goods; and if having been notified by any means, the Contractor fails to replace the defective Goods within 30 days or such other period as may be specified by the Employer, The Employer may proceed to take such remedial action as may be necessary, at the Contractors risk and expense and without prejudice to any other rights which the Employer may have against the Contractor under the Contract.

4.22

Comprehensive Maintenance

Contract (Including Spare parts)

Deleted

4.23

Contractor's Equipment The Contractor shall be responsible for all Contractor's Equipment. When brought on to the Site, Contractor's Equipment shall be deemed to be exclusively intended for the execution of the Works.

For any imported equipments or part thereof offered by the Contractor, it will have to make his own arrangements for import formalities and procurement of equipments without involving the Employer in any way for any clearance certificates /licenses /assistance.

The Employer may, at his sole discretion, (but is not obligated to) assist the Contractor, where required, in obtaining clearance through the Customs for Constructional Plant, Materials and other things required for the Works.

The Contractor shall obtain all permits / licenses and pay for any and all fees required for the inspection, approval and commissioning of their installation.

4.24

Protection of the Environment

The Contractor shall take all reasonable steps to protect the environment (both on and off the Site) and to limit damage and nuisance to people and property resulting from pollution, noise and other results of his operations.

The Contractor shall maintain ecological balance by preventing deforestation, water pollution and defacing of natural landscape. The Contractor shall so conduct its construction operations as to prevent any avoidable destruction, scarring or defacing of natural surrounding in the vicinity of work. In respect of ecological balance, the Contractor shall observe the following instructions for which no extra payments will be made.

(a) Where destruction, scarring, damage or defacing may occur as a result of operations relating to Permanent or Temporary Works, the same shall be repaired, replanted or otherwise corrected at Contractor's expense. All work areas shall be smoothened and graded in a manner to conform to natural appearance of the landscape as directed by the Employer's Representative.

(b) All trees and shrubbery, which are not specifically required to be cleared or removed for construction purposes, shall be preserved and shall be protected from any damage that may be caused by Contractor's construction operations and equipment or by their Employees/Workers. The removal of trees or shrubs will be permitted only after prior approval of the Employer's Representative. Special care shall be exercised where trees or shrubs are exposed to injuries by construction equipment, blasting, excavating, dumping, chemical damage or other operation and

the Contractor shall adequately protect such trees by use of protective barriers or other methods approved by the Employer's Representative. Trees shall not be used for anchorage. The Contractor shall be responsible for injuries to trees and shrubs caused by his operations and Employees/Workers. The terms "injury" shall include, without limitation, bruising, scarring, tearing and breaking of roots, trunks or branches. All injured trees and shrubs shall be restored as nearly practicable, without delay, to their original condition at Contractor's expense.

(c) Where trees have to be necessarily cut for progressing temporary or permanent works, the Contractor shall arrange for compensatory afforestation as may be required by Environmental Rules and Regulations.

(d) In the conduct of construction activities and operation of equipments, the Contractor shall utilize such practicable methods and devices as are reasonably available to control, prevent and otherwise minimize air/ noise pollution.

(e) Excessive emission of dust into the atmosphere will not be permitted during manufacture, handling and storage of concrete aggregates/fly ash/ earth/building materials and the Contractor shall use such methods and equipment as are necessary for collection and disposal or prevention of dust during these operations. The Contractor's method of storing and handling cement shall also include means of eliminating atmospheric discharge of dust. Equipment and vehicles that give objectionable emission of exhaust gases shall not be operated. Burning of materials resulting from cleaning of trees branches, combustible construction materials and rubbish may be permitted only when atmospheric conditions for burning are considered favourable.

(f) Special care must be exercised in ensuring that the labour housed in labour camp within the work site area do not indulge in any activity like drinking alcohol, taking drugs, etc, and other activities that may affect the ecological balance such as cutting of shrubs for fuel, creating open air nuisance etc.

The Contractor shall not cut or destroy any tree in the campus to the maximum extent possible. In case any tree is to be cut he shall obtain prior permission from the competent authority under the relevant laws and shall plant equal number of saplings or adhere to the requirements of the prevailing Environmental laws / terms of the permission, whichever is more stringent. The Employer may assist the Contractor in obtaining such permission, including signing necessary documents. The Contractor shall use all means to minimize the effluents from its construction work and transportation activity or any other activity in the course of the execution of the Works.

The Contractor shall take necessary steps for installation of grid connected roof-top solar photovoltaic systems of 50 KW capacity as per "Alo Shree" programme of the Government of West Bengal, in all the buildings forming part of the Project, to make the Project self-sustaining in utilization of power.

The Contractor shall also make necessary provisions for rain water harvesting in each Project site, set up Water Treatment Plant and Sewerage Treatment Plant as specified under Section – 5 (Employer's Requirements) and ensure that the buildings constructed fall under the category of Green buildings as per the applicable rules in the State of West Bengal and that the buildings are energy efficient as far as possible.

4.25

Electricity, Water and Gas

The Contractor shall, except as stated below, be responsible for the provision of all power, water and other services he may require.

4.26

Employer's Equipment

The Employer shall not supply any material, tools, plant, machinery or equipment. The Contractor has to arrange all tools, plant, equipment as well as construction materials required for the work.

4.27

Progress Report

Unless otherwise stated, fortnightly progress reports shall be prepared by the Contractor and submitted to the Employer in six copies. The first report shall cover the period up to the end of the first calendar month following the Commencement Date. Reports shall be submitted fortnightly thereafter, each within 7 days after the last day of the period to which it relates.

Reporting shall continue until the Contractor has completed all work which is known to be outstanding at the completion date stated in the Taking-Over Certificate for the Works.

Each report shall include:

- (a) charts and detailed descriptions of progress, including each stage of design, Contractor's Documents, procurement, manufacture, delivery to Site, construction, erection, testing, commissioning and trial operation;
- (b) photographs and videographs showing the status of manufacture and of progress on the Site;
- (c) the details described in Sub-Clause 6.10 [Records of Contractor's Personnel and Equipment];
- (d) copies of quality assurance documents, test results and certificates of Materials;
- (e) list of Variations, notices given under Sub-Clause 2.5 [Employer's Claims] and notices given under Sub-Clause 20.1 [Contractor's claims];
- (f) safety statistics, including details of any hazardous incidents and activities relating to environmental aspects and public relations; and
- (g) comparisons of actual and planned progress, with details of any events or circumstances which may jeopardize the completion in accordance with the Contract, and the measures being (or to be) adopted to overcome delays.

4.28

Security of the Site

- (a) the Contractor shall be responsible for keeping unauthorized persons off the Site, and
- (b) authorised persons shall be limited to the Contractor's Personnel and the Employer's Personnel; and to any other personnel notified to the Contractor, by (or on behalf of) the Employer, as authorised personnel of the Employer's other contractors on the Site.

4.29

Contractor's Operations on Site

The Contractor shall confine his operations to the Site, and to any additional areas which may be obtained by the Contractor and agreed by the Employer as working areas. The Contractor shall take all necessary precautions to keep Contractor's

Equipment and Contractor's Personnel within the Site and these additional areas, and to keep them off adjacent land.

During the execution of the Works, the Contractor shall keep the Site free from all unnecessary obstruction, and shall store or dispose of any Contractor's Equipment or surplus materials. The Contractor shall clear away and remove from the Site any wreckage, rubbish and Temporary Works which are no longer required. All surface and sub-soil drains at the site shall be maintained in a clean, sound and satisfactory state of Performance

Upon the issue of the Taking-Over Certificate for the Works, the Contractor shall clear away and remove all Contractor's Equipments, surplus material, wreckage, rubbish and Temporary Works. The Contractor shall leave the Site and the Works in a clean and safe condition. However, the Contractor may retain on Site, during the Defects Notification Period, such Goods as are required for the Contractor to fulfill obligations under the Contract

4.30 Watching and Lighting

The Contractor shall in connection with the Works, provide and maintain at his own cost all lights, guards, fencing and watching when and where necessary or as required by the Employer's Representative or by any duly constituted authority, for the protection of the Works, or for the safety and convenience of the public or others.

4.31 Way leaves etc.

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

4.32 Office for the Employer

The Contractor will provide free of cost furnished accommodation for the Employer's Representative and its staff, at the site of work, in terms of Section - 5 (Employer's Requirements). Floor area minimum 200 sqft. It is made clear that such site office for the Employer will be constructed by the Contractor within 30days from the date of handing over possession of Site.

4.33

Fossils, Discoveries

Items of Value

All fossils, coins, articles of value or antiquity, and structures and other remains or items of geological or archaeological interest found on the Site shall be placed under the care and authority of the Employer. The Contractor shall take reasonable precautions to prevent Contractor's Personnel or other persons from removing or damaging any of these findings.

The Contractor shall, upon discovery of any such finding, promptly give notice to the Employer, who shall issue instructions for dealing with it and shall take step in accordance with law upon intimating the competent authority. If the Contractor suffers delay and/or incurs Cost from complying with the instructions, the Contractor shall give a further notice to the Employer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.5 [Extension of Time for Completion], and

After receiving this further notice, the Employer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

The Contractor must note that the project may involve some items of demolition. If during such works, the Contractor finds any items of Salvage Value, which can be sold, it shall indicate the same in the fortnightly progress report submitted to the Employer and sell it off only after the approval from the Employer. The payments shall be adjusted accordingly as per the decision of the Employer's Representative.

4.34 Production of Vouchers etc by the Contractor

The Contractor shall, whenever required, produce or cause to be produced for examination by the Employer's Representative any quotation, invoice, cost or other account, book of accounts, voucher, receipt, letter, memorandum, paper of writing or any copy of or extract from any such document and also furnish information and returns verified in such manner as may be required in any way relating to the execution of this Contract or relevant for verifying or ascertaining cost of execution of this Contract and the decision of the Employer's Representative on the question of relevancy of any documents, information or return being final and binding on the parties. The Contractor shall similarly produce vouchers etc. if required to prove to the Employer's Representative that the materials supplied by him, are in accordance with the specifications laid down in the Contract.

The obligations imposed by the Employer as above are without prejudice to the obligations of the Contractor under any statute, rules or orders binding on the Contractor.

5

Design

5.1

General Design

Obligations

The Contractor shall be deemed to have scrutinised the Employer's Requirements (including design criteria and calculations, if any). The Contractor shall be responsible

for the design of the Works and for the accuracy of such Employer's Requirements (including design criteria and calculations), except as stated below.

The Employer shall not be responsible for any error, inaccuracy or omission of any kind in the Employer's Requirements as originally included in the Contract and shall not be deemed to have given any representation of accuracy or completeness of any data or information, except as stated below. Any data or information received by the Contractor, from the Employer or otherwise, shall not relieve the Contractor from his responsibility for the design and execution of the Works.

In no circumstances, the Contractor shall commence the construction work beyond 75 days from the date of Notification of Award / Letter of Acceptance.

5.2

Contractor's Documents The Contractor's Documents shall comprise the technical documents specified in the Employer's Requirements, documents required to satisfy all regulatory approvals, and the documents described in Sub-Clause 5.6 [As-Built Documents] and Sub-Clause 5.7 [Operations Maintenance and Service Manuals] and shall include the following :

- (a)
- (b) Consolidated statement in a tabular form for the Standards and Specifications being followed in the design and for materials to be used including that for flooring, internal and external finishes
- (c) List of suppliers from whom the materials are proposed to be procured
- (d) Tests required to be carried out in the Contract
- (e) Outline safety plan for the site and an outline quality plan

Unless otherwise stated in the Employer's Requirements, the Contractor's Documents shall be written in English only.

The Contractor shall include in the design, in additions to space and operational needs, considerations of provisions for infection control, life safety, and protection of affected person during construction and the progress of the Project as detailed out in Employer's Requirements.

The Contractor shall also include in the design provision of landscaping, parking and setting things back into the shape as the original as said in Employer's Requirements.

In the case of submissions subsequent to the proposed Design, the Design Data shall be in accordance with Employer's Requirements and the accepted Design.

The Contractor shall prepare all Contractor's Documents, and shall also prepare any other documents necessary to instruct the Contractor's Personnel.

If the Employer's Requirements describe the Contractor's Documents which are to be submitted to the Employer for review, they shall be submitted accordingly, together with

a notice as described below. In the following provisions of this Sub-Clause, (i) "review period" means the period required by the Employer for review, and (ii) "Contractor's Documents" exclude any documents which are required to be submitted for review.

Unless otherwise stated in the Employer's Requirements, each review period shall not exceed 21 days, calculated from the date on which the Employer receives a Contractor's Document and the Contractor's notice. This notice shall state that the Contractor's Document is considered ready, both for review in accordance with this Sub-Clause and for use. The notice shall also state that the Contractor's Document complies with the Contract, or the extent to which it does not comply.

The Employer may, within the review period, give notice to the Contractor that a Contractor's Document fails (to the extent stated) to comply with the Contract. If a Contractor's Document so fails to comply, it shall be rectified, resubmitted and reviewed in accordance with this Sub-Clause, at the Contractor's cost.

For each part of the Works, and except to the extent that the Parties otherwise agree:

- (a) execution of such part of the Works shall not commence prior to the expiry of the review periods for all the Contractor's Documents which are relevant to its design and execution;
- (b) execution of such part of the Works shall be in accordance with these Contractor's Documents, as submitted for review; and
- (c) if the Contractor wishes to modify any design or document which has previously been submitted for review, the Contractor shall immediately give notice to the Employer. Thereafter, the Contractor shall submit revised documents to the Employer in accordance with the above procedure.

Any such agreement (under the preceding paragraph) or any review (under this Sub-Clause or otherwise) shall not relieve the Contractor from any obligation or responsibility.

5.3

Contractor's Undertaking The Contractor undertakes that the Contractor's Documents, the execution and the completed Works will be in accordance with:

- (a) the Laws in the Country, and
- (b) the documents forming the Contract, as altered or modified by Variations.

5.4

Technical Standards and Regulations

The Contractor's Documents, the execution and the completed Works shall comply with the Country's technical standards, building, construction and environmental

laws, Laws applicable to the product being produced from the Works, and other standards specified in the Employer's Requirements, applicable to the Works, or defined by the applicable Laws.

All these Laws shall, in respect of the Works and each Section, be those prevailing when the Works or Section are taken over by the Employer under Clause 10 [Employer's Taking Over].

If changed or new applicable standards come into force in the Country after the Letter of Acceptance/ Notification of Award, the Contractor shall give notice to the Employer and (if appropriate) submit proposals for compliance. In the event that:

(a) the Employer determines that compliance is required, and

(b) the proposals for compliance constitute a variation,

then the Employer shall initiate a Variation in accordance with Clause 13 [Variations and Adjustments].

In the case of any class of work for which there is no such specification as referred to in Sub-Clause 5.2 above, such work shall be carried out in accordance with the Bureau of Indian Standards Specifications. In case there is no such specification in Bureau of India Standards, the work shall be carried out as per manufacturer's specifications. In case there are no such specifications as required above, the work shall be carried out in all respects in accordance with the instructions and requirements of the Employer's Representative.

5.5

Training

Deleted

5.6

As-Built Documents

The Contractor shall prepare, and keep up-to-date, a complete set of "as-built" records of the execution of the Works, showing the exact as-built locations, sizes and details of the work as executed. These records shall be kept on the Site and shall be used

exclusively for the purposes of this Sub-Clause. Six copies shall be supplied to the Employer prior to the commencement of the Tests on Completion.

In addition, the Contractor shall supply to the Employer as-built drawings of the Works, showing all Works as executed, and submit them to the Employer for review under Sub-Clause 5.2 [Contractor's Documents]. The Contractor shall obtain the consent of the Employer as to their size, the referencing system, and other relevant details.

Prior to the issue of any Taking-Over Certificate, the Contractor shall supply to the Employer the specified numbers and types of copies of the relevant as-built drawings, in accordance with the Employer's Requirements. The Works shall not be considered to be completed for the purposes of taking-over under Sub-Clause 10.1 [Taking Over of the Works and Sections] until the Employer has received these documents.

5.7

Operation,

Maintenance and Service

Manuals

Deleted

5.8

Design Error

If errors, omissions, ambiguities, inconsistencies, inadequacies or other defects are found in the Contractor's Documents, they and the Works shall be corrected at the Contractor's cost, notwithstanding any consent or approval under this Clause.

6

Staff and Labour

6.1

Engagement of Staff

and Labour

The Contractor shall make arrangements for the engagement of all staff and labour, local or otherwise, and for their payment, housing, feeding and transport.

6.2

Rates of Wages and

Conditions of Labour

The Contractor shall pay rates of wages, and observe conditions of labour, which, are not lower than those established for the trade or industry where the work; is carried out. If no established rates or conditions are applicable, the Contractor shall pay rates of wages and observe conditions which are not lower than the general level of wages and conditions observed locally by employers whose trade or industry is similar to that of the Contractor. The Contractor must familiarize himself and comply with relevant labour laws like Minimum Wages Act, 1948 and Contract Labour (Regulation and Abolition) Act, 1970, etc. No extra payment whatsoever shall be made to the Contractor to comply with the rules and laws.

6.3

Persons in the Service of Others

The Contractor shall not recruit, or attempt to recruit, staff and labour from amongst the Employer's Personnel.

6.4

Labour Laws

The Contractor shall comply with all the relevant labour laws applicable to the Contractor's Personnel, including Laws relating to their employment, health, safety, welfare, immigration and emigration, and shall allow them all their legal rights.

The Contractor shall require his employees to obey all applicable Laws, including those concerning safety at work.

6.5

Working Hours

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

- (a) otherwise stated in the Contract,
- (b) the Employer gives consent, or
- (c) the work is unavoidable, or necessary for the protection of life or property or for the safety of the Works, in which case the Contractor shall immediately advise the Employer.

Where work is permitted outside normal working hours by the Employer's Representative to facilitate the Contractor's Work operations, temporary lighting equipment as per approved layout shall be provided, installed, maintained for the duration of the contract and removed after completion of work by and at the expense of the Contractor.

No extra payment will be made to the Contractor for the provision of temporary lighting and fire prevention measures

6.6

Facilities for Staff and

Labour

The Contractor shall provide and maintain all necessary accommodation and welfare facilities for the Contractor's Personnel. The Contractor shall also provide facilities for the Employer's Personnel as stated in the Employer's Requirements. The Contractor at his cost shall maintain all accommodation in a clean and sanitary condition.

The Contractor shall not permit any of the Contractor's Personnel to maintain any temporary or permanent living quarters within the structures forming part of the Permanent Works.

The Contractor shall prepare and submit compliance reports of adherence to labour laws as and when desired by the Employer's Representative.

6.7

Health and Safety

The Contractor shall at all times take all reasonable precautions to maintain the health and safety of the Contractor's Personnel. In collaboration with local health authorities, the Contractor shall ensure that medical staff, first aid facilities, sick bay and ambulance service are available at all times at the Site and at any accommodation for Contractor's and Employer's Personnel, and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics.

The Contractor shall appoint an accident prevention officer at the Site, responsible for maintaining safety and protection against accidents. This person shall be qualified for this responsibility, and shall have the authority to issue instructions and take protective measures to prevent accidents. Throughout the execution of the Works, the Contractor shall provide whatever is required by this person to exercise this responsibility and authority.

The Contractor shall send, to the Employer, details of any accident as soon as practicable after its occurrence. The Contractor shall maintain records and make reports concerning health, safety and welfare of persons, and damage to property, as the Employer may reasonably require.

6.8

Contractor's

Superintendence

Throughout the execution of the Works, and as long thereafter as is necessary to fulfill the Contractor's obligations, the Contractor shall provide all necessary superintendence to plan, arrange, direct, manage, inspect and test the work.

Superintendence shall be given by a sufficient number of persons having adequate knowledge of the language for communications (defined in Sub-Clause 1.4 [Law and Language]) and of the operations to be carried out (including the methods and

techniques required, the hazards likely to be encountered and methods of preventing accidents), for the satisfactory and safe execution of the Works.

6.9

Contractor's Personnel The Contractor's Personnel shall be appropriately qualified, skilled and experienced in their respective trades or occupations. The Employer may require the Contractor to remove (or cause to be removed) any person employed on the Site or Works, including the Contractor's Representative if applicable, who:

- (a) persists in any misconduct or lack of care,
- (b) carries out duties incompetently or negligently,
- (c) fails to conform with any provisions of the Contract, or
- (d) persists in any conduct which is prejudicial to safety, health, or the protection of the environment.

If appropriate, the Contractor shall then appoint (or cause to be appointed) a suitable replacement person.

6.10

Records of Contractor's Personnel and Equipment

The Contractor shall submit, to the Employer, details showing the number of each class of Contractor's Personnel and of each type of Contractor's Equipment on the Site. Details shall be submitted each calendar month, in a form approved by the Employer, until the Contractor has completed all work which is known to be outstanding at the completion date stated in the Taking-Over Certificate for the Works.

6.11

Disorderly Conduct

The Contractor shall at all times take all reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or amongst the Contractor's Personnel, and to preserve peace and protection of persons and property on and near the Site.

6.12

Removal from Site of Undesirable Person

The Employer's Representative may require the Contractor to dismiss or remove from the site of the work any person or persons in the Contractor's employ upon the work who may be incompetent or misconduct himself and the Contractor shall forthwith comply with such requirements.

6.13

Unauthorised Occupation

**of Building during
Construction**

It shall be the responsibility of the Contractor to see that the building under construction is not occupied by any body unauthorisedly during construction, and is handed over to the Employer's Representative with vacant possession of complete building. If such building though completed is occupied illegally, then the Employer's Representative shall have the option to refuse to accept the said building/ buildings in that position. Any delay in acceptance on this account will be treated as the delay in completion and for such delay a levy upto 5% of tendered value of work may be imposed by the Employer's Representative whose decision shall be final both with regard to the justification and quantum and be binding on the Contractor.

However, the Employer's Representative, through a notice, may require the Contractor to remove the illegal occupation any time on or before construction and delivery.

7

Plant, Materials, and Workmanship

7.1

Manner of Execution

The Contractor shall carry out the manufacture of Plant, the production and manufacture of Materials, and all other execution of the Works:

- (a) in the manner (if any) specified in the Contract,
- (b) in a proper workmanlike and careful manner, in accordance with recognised good practice, and;
- (c) with properly equipped facilities and non-hazardous Materials, except as otherwise specified in the Contract,

7.2

Samples

The Contractor shall submit samples to the Employer, for review in accordance with the procedures for Contractor's Documents described in Sub-Clause 5.2 [Contractor's Documents], as specified in the Contract and at the Contractor's cost. Each sample shall be labelled as to origin and intended use in the Works.

7.3

Inspection

The Employer's Personnel shall at all reasonable times:

- (a) have full access to all parts of the Site and to all places from which natural Materials are being obtained, and:
- (b) during construction (at the Site and, to the extent specified in the Contract, elsewhere), be entitled to examine, inspect, measure and test the materials and workmanship, and to check the progress of the construction.

The Contractor shall give the Employer's Personnel full opportunity to carry out these activities, including providing access, facilities, permissions and safety equipment. No such activity shall relieve the Contractor from any obligation or responsibility.

7.4

Testing

This Sub-Clause shall apply to all tests specified in the Contract, other than the Tests after Completion (if any).

The Contractor shall provide all apparatus, assistance, documents and other information, electricity, equipment, fuel, consumables, instruments, labour, materials, and suitably qualified and experienced staff, as are necessary to carry out the relevant tests as per IS Code efficiently. The Contractor shall agree, with the Employer, the time and place for the specified testing of any Plant, Materials and other parts of the Works.

The Employer may, under Clause 13 [Variations and Adjustments], vary the location or details of specified tests, or instruct the Contractor to carry out additional tests to show that the tested Plant, Materials or workmanship is not in accordance with the Contract, the cost of carrying out this Variation shall be borne by the Contractor, notwithstanding other provisions of the Contract.

The Employer shall give the Contractor not less than 24 hours' notice of the Employer's intention to attend the tests. If the Employer does not attend at the time and place agreed, the Contractor may proceed with the tests, unless otherwise instructed by the Employer, and the tests shall then be deemed to have been made in the Employer's presence.

If the Contractor suffers delay and/or incurs Cost from complying with these instructions or as a result of a delay for which the Employer is responsible, the Contractor shall give notice to the Employer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.5 [Extension of Time for Completion].

After receiving this notice, the Employer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

The Contractor shall promptly forward to the Employer duly certified reports of the tests. When the specified tests have been passed, the Employer shall endorse the Contractor's test certificate, or issue a certificate to him, to that effect. If the Employer has not attended the tests, it shall be deemed to have accepted the readings as accurate.

7.5

Rejection

If, as a result of an examination, inspection, measurement or testing, any Plants, Materials, Goods design or workmanship is found to be defective or otherwise not in accordance with the Contract, the Employer may reject the Plants, Materials, Goods, design or workmanship by giving notice to the Contractor, with reasons. The Contractor shall then promptly make good the defect and ensure that the rejected item complies with the Contract.

If the Employer requires this Plant, Materials, Goods, design or workmanship to be retested, the tests shall be repeated under the same terms and conditions. If the rejection and retesting cause the Employer to incur additional costs, the Contractor shall subject to Sub-Clause 2.5 [Employer's Claims] pay these costs to the Employer.

7.6

Remedial Work

Notwithstanding any previous test or certification, the Employer may instruct the Contractor to:

- (a) remove from the Site and replace any Plant or Materials or Goods which is not in accordance with the Contract,
- (b) remove and re-execute any other work which is not in accordance with the Contract, and
- (c) execute any work which is urgently required for the safety of the Works, whether because of an accident, unforeseeable event or otherwise.

If the Contractor fails to comply with any such instruction, which; complies with Sub-Clause 3.4'[Instructions], the Employer shall be entitled to employ and pay other persons to carry out the work. Except to the extent that the Contractor would have been entitled to payment for the work, the Contractor shall subject to Sub-Clause 2.5 [Employer's Claims] pay to the Employer all costs arising from this failure.

7.7

Ownership of Plant and

Materials

Each item of Plant and Materials shall, to the extent consistent with the Laws of the Country, become the property of the Employer, free from liens and other encumbrances, when it is delivered to the Site.

7.8**Royalties**

Unless otherwise stated in the Employer's Requirements, the Contractor shall pay all royalties, rents and other payments for:

- (a) natural Materials obtained from outside the site, and
- (b) the disposal of material from demolitions and excavations and of other surplus material (whether natural or man-made), except to the extent that disposal areas within the Site are specified in the Contract.

8 Commencement, Delays and Suspension**8.1****Commencement of Works**

- (a) The date of commencement of the Works shall be the date of the handing over possession of the Site.
- (b) The Contractor shall however commence the execution of the Works as soon as is reasonably practicable after the date of Letter of Acceptance / Notification of Award and shall then proceed with the Works with due expedition and without delay.

8.2**Time for Completion**

Time for Completion of the entire project is 365 days from the date of issue of the Notice to Proceed with the Work – Referred to at page 16 of the RFP.

The Contractor shall complete the whole of the Works, and each Section (if any), within the Time for Completion for the Works or Section (as the case may be), including:

- (a) achieving the passing of the Tests on Completion, and
- (b) completing all work which is stated in the Contract as being required for the Works or Section to be considered to be completed for the purposes of Taking Over under Sub-Clause 10.1 [Taking Over of the Works and Sections].

8.3

Programme

Activities in the initial works program would be arranged as per the Works Break Down Structure (WBS) of the work developed by the Contractor in consultation with and approved by the Employer's Representative.

As soon as possible after the Contract is concluded the Contractor shall submit a Net Work (PERT/CPM) Time and Progress Chart for each activity and milestone and get it approved by the Employer's Representative. The Chart shall be prepared in direct relation to the time stated in the Contract documents for completion of items of the Works. It shall indicate sequence of various activities of the phased requirement of Plants and Equipments to be deployed by the Contractor, the forecast of the dates of commencement and completion of various trades of sections of the Works and may be amended as necessary by agreement between the Employer's Representative and the Contractor within the limitations of time imposed in the Contract documents and further to ensure good progress during the execution of the Works, the Contractor shall in all cases in which the time allowed for any Works, exceeds one month (save for special jobs for which a separate programme has been agreed upon) complete the work as per milestones approved by the Employer.

After the work has started, the Contractor shall deliver in every fortnight to the Employer an update of the construction programme showing changes, if any, in planning or progress scheduling and reflecting the progress of all the activities of the network and the project status as at the end of previous month.

If the Contractor falls behind the approved construction programme by more than one month, he shall, within fourteen days of the date of such information, submit for approval, a revision of the construction programme showing the proposed measures, including augmentation of plant, labour and material resources to complete the works on time.

Whenever the Contractor proposes to change the construction program he shall immediately advise the Employer's Representative in writing and, if the Employer's Representative considers the change a major one, the Contractor shall submit a revised program for approval.

Detailed Network Plan (Works Programme)

The Employer's monitoring team will have access to all the data/information of the Contractor, required for the assessment of the progress and monitoring. If necessary, the monitoring team will visit the Vendor/Contractor's works in order to assess the status of critical activities.

The Employer will hold periodic Project Status Review Meetings. The Contractor shall depute his Engineers/Managers at appropriate level as decided by the Employer to attend the Review Meetings.

The Contractor shall provide additional inputs whenever there is a possible slippage in the completion schedule. Such additional inputs may require supplementing of equipment, personnel, work in excess of the normal work per day, and work in excess of the normal work per week or other resources. Provisions under Sub-Clause 8.7 will be applicable in cases of delays due to Contractor.

8.4 Execution of Work

8.4.1 Mobilisation

Period of Mobilisation shall be 7 days counting from the stipulated date of start of work as mentioned in Letter of Acceptance/ Notification of Award by the Employer's Representative. The Contractor shall carry out following activities within this period stated. It shall submit to the Employer's Representative within the same 7 day period, the stipulated date of start, the proposed layout of locating offices, stores, godowns, yards, water, electric network etc. for approval of the Employer's Representative.

Minimum following activities shall be completed within the mobilization period of 14 days or such extended period as approved by the Employer's Representative.

- ☐ Site office of the Contractor
- ☐ Line out including establishing of grid line levels and its approval from the Employer's Representative.
 - ☐ Tapping electric and water connections
 - ☐ One cement godown and steel yard
 - ☐ Obtaining insurance policies as per the Contract
 - ☐ Obtaining labour licences, as required
 - ☐ Obtaining approval of local authorities and complying with any statutory requirements prior to actual start of Work.
 - ☐ Establishing water and electric network within site.
 - ☐ Submitting construction programme as detailed in Sub-Clause 8.3 and its approval by the Employer's Representative.

8.4.2 Setting out of Works

The Contractor shall be responsible for the true and proper setting-out of the Works in relation to original points, lines and levels of reference given by the Employer's Representative in writing and for the correctness, subject as above mentioned, of the position, levels, dimension and alignment of all parts of the Works and for the provision of all necessary instruments, appliances and labour in connection therewith. If, at any time during the progress of the Works, any error shall appear or arise in the position, levels, dimensions or alignment of any part of the Works, the Contractor, on being required so to do by the Employer's Representative shall, at his own cost, rectify such error to the satisfaction of the Employer's Representative. The checking of any setting-out or of any line or level by the Employer's Representative shall not in any way relieve the Contractor of his responsibility for the correctness thereof and the Contractor shall carefully protect and preserve all

bench-marks, sight-rails, pegs and other things used in setting-out the works. The Contractor shall use latest equipments like Total Station/Theodolite and Auto level etc for setting out the Works.

8.4.3 Deleted.

8.4.4 Temporary Works

8.4.4.1 The Contractor is entirely responsible for the design, construction, maintenance and removal of all Temporary Works employed in carrying out the Contract. Within a reasonable time (and in any case not less than fifteen days) before he intends to commence construction of any temporary works, the Contractor shall submit full particulars including drawings of the same, for the approval of the Employer's Representative. The Employer's Representative's approval will in no way relieve the Contractor of his responsibility for the safety of the Works, operators, adjoining property, structures or services and compliance with appropriate regulations and codes of practice. Documents for temporary works supporting adjoining buildings, property and public utilities and roads shall also be submitted to the appropriate authority for their approval if requested /required.

8.4.4.2 The Temporary Works shall be designed and constructed in such a manner as to enable the permanent structures to be built around them without detriment to their effectiveness and due allowance will be deemed to have been made for all necessary adjustments thereto to enable the Works to proceed.

8.4.4.3 Timber shoring, boards, struts or similar items shall not be left in position upon completion of the Works without the written consent of the Employer's Representative.

8.4.4.4 All services or utilities on or adjoining the site which are required to be maintained operational shall be protected from movement, subsidence or damage from any cause whatsoever by adequate temporary props, struts, shores and protective screens to the approval of the Employer's Representative and the agent of the service or utility.

8.4.4.5 The Contractor shall make safe and reinstate all areas affected by temporary works.

8.4.4.6 The Contractor shall use properly designed and manufactured steel staging platforms for carrying out work above 3.0m height. All required staging for supporting, centering, shuttering of beams, slab, masonry work, etc. shall be carried out strictly as per the Supplier's instructions or approved arrangement. It is to be noted that designing of such work shall be carried out by the Contractor and shall be submitted for approval of the Employer's Representative. No work above 3.0 m shall be permitted without compliance of this condition.

8.4.5 Plant, Temporary Works & Materials - Exclusive Use

All constructional plants, temporary works and materials provided by the Contractor shall, when brought on to the site, be deemed to be exclusively

intended for the execution of the Works and the Contractor shall not remove the same or any part thereof, except for the purpose of moving it from one part of the site to another, without the consent, in writing, of the Employer's Representative, which shall not be unreasonably withheld.

8.4.6 Use of Site only for Works

The Contractor shall not use any portion of the Site for purpose not connected with the Works without the prior written approval of the Employer's Representative. He shall maintain permanent and Site access roads free of spillage and shall not interfere with the flow of traffic. Also same shall apply to terraces and other developed areas.

8.4.7 Name Board at Site

The Contractor shall prepare and display name board at site as per design approved by the Employer's Representative. It shall have

- ☐ Name of Works
- ☐ Name of Employer
- ☐ Name of Consulting Architect (if any)
- ☐ Name of Project Management Consultant (if any)
- ☐ Name of Contractor

8.4.8 Site Drainage/Cleaning/Nuisance

8.4.8.1 All water which may accumulate on the Site during the progress of the works or in trenches and excavation, shall be removed from the site to the satisfaction of the Employer's Representative at the Contractor's cost.

8.4.8.2 The Site shall be maintained free from rubbish. Proper stacking of scaffolding materials, shuttering material, bricks/brick bats, steel pieces, etc. needed for work on day to day basis shall be organized, Heaps in unplanned manner and disorderly fashion shall not be permitted. The Employer's Representative's decision in this matter shall be final.

8.4.8.3 The Contractor shall not, at any time, cause or permit any nuisance on the Site or do anything which shall cause unnecessary disturbance or inconvenience to the Employer, tenants or occupants of other properties near the site and to the public in general.

8.4.9 Disposal of Rubbish

(i) The Contractor shall cart away from Site and deposit where directed by the Employer's Representative all refuse, etc. arising from the Works both as it

accumulates and at completion of the Works at the direction of the Employer's Representative.

(ii) It is the responsibility of the Contractor to obtain a certificate from the local authorities concerned to the effect that all rubbish arising out of Contractor's activities at the construction site or any other offsite activities borrow pits and/or disposal area (s) has been properly disposed off.

8.4.10 Shift Working

The Contractor shall be allowed to work in three shifts with prior approval of the Employer's Representative.

8.4.11 Urgent Repairs

If, by reason of any accident or failure, or other event occurring to, in, or in connection with the Works or any part thereof, either during the execution of the Works or during the period of Maintenance, any remedial or other work or repair shall, in the opinion of the Employer's Representative, be urgently necessary for the safety of the Works and the Contractor is unable or unwilling at once to do such work or repair, the Employer may employ and pay other persons to carry out such work or repair as the Employer's Representative may consider necessary. If the Work or repair so done by the Employer is work which, in the opinion of the Employer's Representative, the Contractor was liable to do at his own expense under the Contract, all expenses properly incurred by the Employer in so doing shall be recoverable from the Contractor by the Employer or may be deducted by the Employer from any moneys due or which may become due to the Contractor. Provided always that the Employer's Representative, shall, as soon after the occurrence of any such emergency as may be reasonably practicable, notify the Contractor thereof in writing.

8.4.12 Contractor to search

The Contractor shall, if required by the Employer's Representative in writing, search under the directions of the Employer's Representative for the cause of any defect, imperfection or fault appearing during the progress of the Works or within the Period of Maintenance (Defect Liability Period). If such defect, imperfection or fault shall be one for which the Contractor is liable, the cost of the work carried out in searching as aforesaid shall be borne by the Contractor and he shall in such case repair, rectify and make good such defect, imperfection or fault at his own expense in accordance with the provisions of Clause 17 hereof.

8.5

Extension of Time for Completion

The Contractor at the discretion of the Employer may be granted subject to Sub-Clause 20.1 [Contractor's Claims] an extension of the Time for Completion if and to the extent that completion for the purposes of Sub-Clause 10.1 [Taking Over of the Works and Sections] is or will be delayed by any of the following causes:

- (a) a Variation (unless an adjustment to the Time for Completion has been agreed under Sub-Clause 13.3 [Variation Procedure]),
- (b) any delay, impediment or prevention caused by or attributable to the Employer, the Employer's Personnel, or the Employer's other contractors on the Site.

If the Contractor is of the opinion that he should be allowed an extension of the Time for Completion, the Contractor shall give notice to the Employer in accordance with Sub-Clause 20.1 [Contractor's Claims] pointing out the grounds for such extension. Extension of Time shall only be granted by the Employer, if the Employer's find the grounds to be reasonable and acceptable. When determining each extension of time under Sub-Clause 20.1, the Employer shall review previous determinations and may increase, but shall not decrease, the total extension of time.

8.6

Rate of Progress

If, at any time:

- (a) actual progress is too slow to complete within the Time for Completion, and/or
- (b) progress has fallen (or will fall) behind the current programme under Sub-Clause 8.3 [Programme],

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other than as a result of a cause listed in Sub-Clause 8.5 [Extension of Time for Completion], then the Employer may instruct the Contractor to submit, under Sub-Clause 8.3 [Programme], a revised programme and supporting report describing the revised methods which the Contractor proposes to adopt in order to expedite progress and complete within the Time for Completion.

Unless the Employer notifies otherwise, the Contractor shall adopt these revised methods, which may require increases in the working hours and/or in the numbers of Contractor's Personnel and/or Goods, at the risk and cost of the Contractor. If these revised methods cause the Employer to incur additional costs, the Contractor shall subject to Sub-Clause 2.5 [Employer's Claims] pay these costs to the Employer, in addition to delay damages (if any) under Sub-Clause 8.7 below.

8.7

Delay Damages

If the Contractor fails to maintain the required progress in terms hereof, or to complete the work and clear the site on or before the Date for Completion or extended date of completion, he shall, without prejudice to any other right or remedy available under the law to the Employer on account of such breach, pay as agreed compensation the amount calculated at the rates stipulated below.

This will also apply to items or group of items for which a separate period of

completion has been specified.

Compensation for delay of work @1.50% of tendered value per month of delay to be computed on per day basis.

Provided always that the total amount of compensation for delay to be paid under this condition shall not exceed 10% of the tendered value of work or of the tendered value of the item or group of items of work for which a separate period of completion is originally given.

The penalty shall not relieve the Contractor from his obligation to complete the Works or from any other of his obligations and liabilities under the Contract.

The Contractor shall co-ordinate his program to the extent feasible with the program of other Contractors to be engaged at the Site or in the vicinity of the Site as furnished by the Employer's Representative so that the project can be completed in time as per the overall program.

The amount of compensation may be adjusted or set-off against any sum payable to the Contractor under this or any other Contract with the Employer. In case, the Contractor does not achieve a particular milestone as approved by the Employer or the rescheduled milestone(s), the amount shown against that milestone shall be withheld, to be adjusted against the compensation levied at the final grant of Extension of Time. Withholding of this amount on failure to achieve a milestone, shall be automatic without any notice to the Contractor. However, if the Contractor catches up with the progress of Work on the subsequent milestone(s), the withheld amount shall be released. In case the Contractor fails to make up for the delay in subsequent milestone(s), amount mentioned against each milestone missed subsequently also shall be withheld. However, no interest, whatsoever, shall be payable on such withheld amount.

8.8

Suspension of Work

The Employer may at any time instruct the Contractor to suspend progress of part or all of the Works. During such suspension, the Contractor shall protect, store and secure such part or the Works against any deterioration, loss or damage.

The Employer may also notify the cause for the suspension. If and to the extent that the cause is notified and is the responsibility of the Contractor, the following Sub-Clauses 8.9 and 8.11 shall not apply.

8.9

Consequences of Suspension

If the Contractor suffers delay for complying with the Employer's instructions under Sub-Clause 8.8 [Suspension of Work], and/or from resuming the work, the Contractor shall give notice to the Employer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to an extension of time for any such delay, if completion is or will

be delayed, under Sub-Clause 8.5 [Extension of Time for Completion], and

After receiving this notice/the Employer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

The Contractor shall not be entitled to an extension of time for, or to payment of the Cost incurred in, making good the consequences of the Contractor's faulty design, workmanship or materials, or of the Contractor's failure to protect, store or secure in accordance with Sub-Clause 8.8 [Suspension of Work].

8.10

Compliance with MCI Deleted 8.11

Prolonged Suspension If the suspension under Sub-Clause 8.8 [Suspension of Work] has continued for more than 84 days, the Contractor may request the Employer's permission to proceed. If the Employer does not give permission within 28 days after being requested to do so, the Contractor may, by giving notice to the Employer, treat the suspension as an omission under Clause 13 [Variations and Adjustments] of the affected part of the Works. If the suspension affects the whole of the Works, the Contractor may give notice of termination under Sub-Clause 16.2 [Termination by Contractor].

8.12

Resumption of work After the permission or instruction to proceed is given, the Parties shall jointly examine the Works and the Plant and Materials affected by the suspension. The Contractor shall make good any deterioration or defect in or loss of the Works or Plant or Materials, which has occurred during the suspension.

9

Tests on Completion

9.1

Contractor's Obligations The Contractor shall carry out the Tests on Completion in accordance with this Clause and Sub-Clause 7.4, [Testing] after providing the documents in accordance with Sub-Clause 5.6 [As-Built Documents] and Sub-Clause 5.7 [Operation and Maintenance Manuals] including tests prescribed in NBC 2005 & IS and / or instructed by Employer's Representative.

The Contractor shall give to the Employer not less than 21 days' notice of the date after which the Contractor will be ready to carry out each of the Tests on Completion. Unless otherwise agreed, Tests on Completion shall be carried out within 14 days after this date, on such day or days as the Employer shall instruct.

The Tests on Completion shall be carried out in the following sequence:

- (a) pre-commissioning tests, which shall include the appropriate inspections and ("dry" or "cold") functional tests to demonstrate that each item of Plants or Materials can safely under-take the next stage, ;
- (b) commissioning tests, which shall include the specified operational tests to demonstrate that the Works or Section can be operated safely and as specified,

under all available operating conditions; and

- (c) trial operation, which shall demonstrate that the Works or Section perform reliably and in accordance with the Contract.

During trial operation, when the Works are operating under stable conditions, the Contractor shall give notice to the Employer that the Works are ready for any other Tests on Completion, including performance tests to demonstrate whether the Works conform to the criteria specified in the Employer's Requirements and with the Performance Guarantees.

Trial operation shall not constitute a taking-over under Clause 10 [Employer's Taking Over].

In considering the results of the Tests on Completion, appropriate allowances shall be made for the effect of any use of the Works by the Employer on the performance or other characteristics of the Works. As soon as the Works, or a Section, have passed each of the Tests on Completion described in sub-paragraph (a), (b) or (c), the Contractor shall submit a certified report of the results of these Tests to the Employer.

9.2

Delayed Tests

If the Tests on Completion are being unduly delayed by the Contractor, the Employer may by notice require the Contractor to carry out the Tests within 21 days after receiving the notice. The Contractor shall carry out the Tests on such day or days within that period as the Contractor may fix and of which he shall give notice to the Employer.

If the Contractor fails to carry out the Tests on Completion within the period of 21 days, the Employer's Personnel may proceed with the Tests at the risk and cost of the Contractor. These Tests on Completion shall then be deemed to have been carried but in the presence of the Contractor and the results of the Tests shall be accepted as accurate.

9.3

Retesting

If the Works, or a Section, fail to pass the Tests on Completion, Sub-Clause 7.5 [Rejection] shall apply, and the Employer or the Contractor may require the failed Tests, and Tests on Completion on any related work, to be repeated under the same terms and conditions.

9.4

Failure to Pass Tests on Completion

If the Works, or a Section, fail to pass the Tests on Completion repeated under Sub-Clause 9.3 [Retesting], the Employer shall be entitled to:

- (a) order further repetition of Tests on Completion under Sub-Clause 9.3;
- (b) if the failure deprives the Employer of substantially the whole benefit of the Works or Section, reject the Works or Section (as the case may be), in which event the Employer shall have the same remedies as are provided in sub-paragraph (c) of Sub-Clause 11.4 [Failure to Remedy Defects]; or

- (c) issue a Taking-Over Certificate.

In the event of sub-paragraph (c), the Contractor shall proceed in accordance with all other obligations under the Contract, and the Contract Price shall be reduced by such amount as shall be appropriate to cover the reduced value to the Employer as a result of this failure. Unless the relevant reduction for this failure is stated (or its method of calculation is defined) in the Contract, the Employer may require the reduction to be (i) agreed by both Parties (in full satisfaction of this failure only) and paid before this Taking-Over Certificate is issued, or (ii) determined and paid under Sub-Clause 2.5 [Employer's Claims] and Sub-Clause 3.5 [Determinations].

10

Employer's Taking Over

10.1

Taking Over of the Works and Sections

Except as stated in Sub-Clause 9.4 [Failure to Pass Tests on Completion], the Works shall be taken over by the Employer when (i) the Works have been completed in accordance with the Contract, including the matters described in Sub-Clause 8.2 [Time for Completion] and except as allowed in sub-paragraph (a) below, and (ii) a Taking-Over Certificate for the Works has been issued, or is deemed to have been issued in accordance with this Sub-Clause.

The Contractor may apply by notice to the Employer for a Taking-Over Certificate not earlier than 14 days before the Works will, in the Contractor's opinion, be complete and ready for taking over. If the Works are divided into Sections, the Contractor may similarly apply for a Taking-Over Certificate for each Section.

The Employer shall, within 28 days after receiving the Contractor's application:

- (a) issue the Taking-Over Certificate to the Contractor, stating the date on which the Works or Section were completed in accordance with the Contract, except for any minor outstanding work and defects which will not substantially affect the use of the Works or Section for their intended purpose (either until or whilst this work is completed and these defects are remedied); or
- (b) reject the application, giving reasons and specifying the work required to be done by the Contractor to enable the Taking-Over Certificate to be issued. The Contractor shall then complete this work before issuing a further notice under this Sub-Clause.

If the Employer fails either to issue the Taking-Over Certificate or to reject the Contractor's application within the period of 28 days, and if the Works or Section (as the case may be) are substantially in accordance with the Contract, the Taking-Over Certificate shall be deemed to have been issued on the last day of that period.

10.2

Taking Over of Parts of the Works due to Default of the Contractor and Recovery of Additional Cost

Parts of the Works (other than Sections) shall not be taken over or used by the Employer, except as may be stated in the Contract or as may be agreed by both Parties.

If Contractor:

i) At any time makes default during currency of work or does not execute any part of the work with due diligence and continues to do so even after a notice in writing of 7 days in this respect from the Employer's Representative; or

ii) Commits default in complying with any of the terms and conditions of the contract and does not remedy it or takes effective steps to remedy it within 7 days even after a notice in writing is given in that behalf by the Employer's Representative; or

iii) Fails to complete the work(s) or items of work with individual dates of completion, on or before the date (s) so determined, and does not complete them within the period specified in the notice given in writing in that behalf by the Employer's Representative.

The Employer's Representative on behalf of the Employer, without prejudice to any other right or remedy against the Contractor which have either accrued or accrue thereafter to the Employer, by a notice in writing to take the part work / part incomplete work of any item (s) out of his hands and shall have powers to:

- a) Take possession of the site and any materials, constructional plant, implements, stores etc., thereon; and / or
- b) Carry out the part work / part incomplete work of any item (s) by any other Agency.

In such an event, the Contractor shall be liable for loss / damage suffered by the Employer because of action under this clause and to compensate for this loss or damage, the Employer shall be entitled to recover a sum equivalent to 20% of the value of the part work / part incomplete work so taken away subject to a maximum limit of 10% of the tendered value of the work.

The value of the work taken away shall be calculated for the items and Quantities taken away, at the Contract rates including price variation as applicable on the date when notice in writing for taking away part work, was issued to the Contractor. The Contractor from whom part work is being taken out, shall not be allowed to participate in the tendering process for carrying out such work.

The amount to be recovered from the Contractor as determined above, shall, without prejudice to any other right or remedy available to the Employer as per law or as per agreement, will be recovered from any money due to the Contractor on any account, and if such money is insufficient, the Contractor shall be called upon in writing and it shall be liable pay the same within 30 days.

If the Contractor fails to pay the required sum within the aforesaid period of 30 days, the

Employer's Representative on behalf of the Employer shall have the right to sell any or all of the Contractor's unused materials, constructional plant, implements, temporary building at site etc., and adjust the proceeds of sale thereof towards the dues recoverable from the Contractor under the Contract and if thereafter there remains any balance outstanding, it shall be recovered in accordance with the provisions of the Contract.

In the event of above course being adopted by the Employer's Representative, the Contractor shall have no claim to compensation for any loss sustained by it by reasons of his having purchased or procured any materials or entered into any engagements or made any advance on any account or with a view to the execution of the work or the performance of the Contract.

10.3

Interference with Tests on Completion

If the Contractor is prevented, for more than 14 days, from carrying out the Tests on Completion by a cause for which the Employer is responsible, the Contractor shall carry out the Tests on Completion as soon as practicable.

If the Contractor suffers delay and/or incurs Cost as a result of this delay in carrying out the Tests on Completion, the Contractor shall give notice to the Employer and. shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- (a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.5 [Extension of Time for Completion], and
- (b) payment of any such Cost plus reasonable profit, which shall be added to the Contract Price.

After receiving this notice, the Employer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

11

Defects Liability

11.1

Completion of Outstanding Work

and Remedying Defects In order that the Works and Contractor's Documents, and each Section, shall be in the condition required by the Contract (fair wear and tear excepted) by the expiry date of the relevant Defects Notification Period or as soon as practicable thereafter, the Contractor shall:

- (a) complete any work which is outstanding on the date stated in a Taking-Over Certificate, within such reasonable time as is instructed by the Employer, and
- (b) execute all work required to remedy defects or damage, as may be notified by the Employer on or before the expiry date of the Defects Notification Period for the Works or Section (as the case may be).

If a defect appears or damage occurs, the Employer shall notify the Contractor accordingly.

Defects Liability Period for the purpose of the Contract shall be 3 (three) year from the date of handing over.

11.2

Cost of Remedying

Defects

All work referred to in sub-paragraph (b) of Sub-Clause 11.1 [Completion of Outstanding Work and Remedying Defects] shall be executed at the risk and cost of the Contractor, if and to the extent that the work is attributable to:

- (a) the design of the Works,
- (b) Plants, Materials, Goods or workmanship not being in accordance with the Contract,
- (c) improper operation or maintenance which was attributable to matters for which the Contractor is responsible (under Sub-Clauses 5.5 to 5.7 or otherwise), or
- (d) failure by the Contractor to comply with any other obligation.

If and to the extent that such work is attributable to any other cause, the Employer shall give notice to the Contractor accordingly, and Sub-Clause 13.3 [Variation Procedure] shall apply.

11.3

Extension of Defects

Notification Period

The Employer shall be entitled subject to Sub-Clause 2.5 [Employer's Claims] to an extension of the Defects Notification Period for the Works or a Section if and to the extent that the Works, Section or a major item of Plant (as the case may be, and after taking over) cannot be used for the purposes for which they are intended by reason of a defect or damage. However, a Defects Notification Period shall not be extended by more than three years.

If delivery and/or erection of Plant and/or Materials was suspended under Sub-Clause 8.8 [Suspension of Work] or Sub-Clause 16.1 [Contractor's Entitlement to Suspend Work], the Contractor's obligations under this Clause shall not apply to any defects or damage occurring more than two years after the Defects Notification Period for the Plant and/or Materials would otherwise have expired.

11.4

Failure to Remedy

Defects

If the Contractor fails to remedy any defect or damage within a reasonable time, a date may be fixed by (or on behalf of) the Employer, on or by which the defect or damage is to be remedied. The Contractor shall be given reasonable notice of this date.

If the Contractor fails to remedy the defect or damage by this notified date and this remedial work was to be executed at the cost of the Contractor under Sub-Clause 11.2 [Cost of Remedying Defects], the Employer may (at his option):

- (a) carry out the work himself or by others, in a reasonable manner and at the Contractor's cost, but the Contractor shall have no responsibility for this work; and the Contractor shall subject to Sub-Clause 2.5 [Employer's Claims] pay to the Employer the costs reasonably incurred by the Employer in remedying the defect or damage;
- (b) agree or determine a reasonable reduction in the Contract Price in accordance with Sub-Clause 3.5 [Determinations]; or
- (c) if the defect or damage deprives the Employer of substantially the whole benefit of the Works or any major part of the Works, terminate the Contract as a whole, or in respect of such major part which cannot be put to the intended use. Without prejudice to any other rights, under the Contract or otherwise, the Employer shall then be entitled to recover all sums paid for the Works or for such part (as the case may be), plus financing costs and the cost of dismantling the same, clearing the Site and returning Plant and Materials to the Contractor.

11.5

Removal of Defective

Work

If the defect or damage cannot be remedied expeditiously on the Site and the Employer gives consent, the Contractor may remove from the Site for the purposes of repair such items of Plant as are defective or damaged. This consent may require the Contractor to increase the amount of the Performance Security by the full replacement cost of these items, or to provide other appropriate security.

11.6

Further Tests

If the work of remedying of any defect or damage may affect the performance of the Works, the Employer may require the repetition of any of the tests described in the Contract, including Tests on Completion and/or Tests after Completion. The requirement shall be made by notice within 28 days after the defect or damage is remedied.

These tests shall be carried out in accordance with the terms applicable to the previous tests, except that they shall be carried out at the risk and cost of the Party liable, under Sub-Clause 11.2 [Cost of Remedying Defects], for the cost of the remedial work.

11.7

Right of Access

Until the Taking-over Certificate has been issued, the Contractor shall have the right of access to all parts of the Works and to records of the operation and performance of the Works, except as may be inconsistent with the Employer's reasonable security restrictions.

11.8

Contractor to Search

The Contractor shall, if required by the Employer, search for the cause of any defect, under the direction of the Employer. Unless the defect is to be remedied at the cost of the Contractor under Sub-Clause 11.2 [Cost of Remedying Defects], the Cost of the search plus reasonable profit shall be agreed or determined in accordance with Sub-Clause 3.5 [Determinations] and shall be added to the Contract Price.

11.9

Performance Certificate

Performance of the Contractor's obligations shall not be considered to have been completed until the Employer has issued the Performance Certificate to the Contractor, stating the date on which the Contractor completed his obligations under the Contract.

The Employer shall issue the Performance Certificate within 28 days after the expiry of the Defects Liability Periods. If the Employer fails to issue the Performance Certificate accordingly, the Performance Certificate shall be deemed to have been issued on the date 28 days after the date on which it should have been issued, as required by this Sub-Clause.

Only the Performance Certificate shall be deemed to constitute acceptance of the Works.

11.10

Unfulfilled Obligations

After the Performance Certificate has been issued, each Party shall remain liable for the fulfillment of any obligation which remains unperformed at that time. For the purposes of determining the nature and extent of unperformed obligations, the Contract shall be deemed to remain in force.

11.11

Clearance of Site

Upon receiving the Performance Certificate, the Contractor shall remove any remaining Contractor's Equipment, surplus material, wreckage, rubbish and Temporary Works from the Site.

If all these items have not been removed within 28 days after the Employer issues the Performance Certificate, the Employer may sell or otherwise dispose of any remaining items. The Employer shall be entitled to be paid the costs incurred in connection with, or attributable to, such sale or disposal and restoring the Site.

Any balance of the moneys from the sale shall be paid to the Contractor. If these moneys are less than the Employer's costs, the Contractor shall pay the outstanding balance to the Employer

12

Tests after Completion

12.1

Procedure for Tests after Completion

If Tests after Completion are specified in the Contract, this Clause shall apply, unless otherwise stated:

- (a) the Contractor shall provide any other plant, equipment and suitably qualified and experienced staff, as are necessary to carry, out the Tests after Completion efficiently; and
- (b) the Contractor shall carry out the Tests after Completion in the presence of such Employer's and/or Contractor's Personnel as either Party may reasonably request.

the Tests after Completion shall be carried out as soon as is reasonably practicable after the Works or Section have been taken over by the Employer. The Employer shall give to the Contractor 21 days' notice of the date after which the Tests after Completion will be carried out. Unless otherwise agreed, these Tests shall be carried out within 14 days after this date, on the day or days determined by the Employer.

The results of the Tests after Completion shall be compiled and evaluated by the Contractor, who shall prepare a detailed report. Appropriate account shall be taken of the effect of the Employer's prior use of the Works.

12.2

Delayed Tests

If the Contractor incurs costs as a result of any unreasonable delay by the Employer to the Tests after Completion, the Contractor shall (i) give notice to the Employer and (ii) be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to payment of any such Cost plus reasonable profit, which shall be added to the Contract Price.

After receiving this notice, the Employer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine this Cost and profit.

If, for reasons not attributable to the Contractor, a Test after Completion on the Works or any Section cannot be completed during the Defects Notification Period (or any other

period agreed upon by both Parties), then the Works or Section shall be deemed to have passed this Test after Completion.

12.3

Retesting

If the Works, or a Section, fail to pass the Tests after Completion:

- (a) sub-paragraph (b) of Sub-Clause 11.1 [Completion of Outstanding Work and Remedying of Defects] shall apply, and
- (b) either Party may then require the failed Tests, and the Tests after Completion on any related work, to be repeated under the same terms and conditions.

If and to the extent that this failure and retesting are attributable to any of the matters listed in sub-paragraphs (a) to (d) of Sub-Clause 11.2 [Cost of Remedying Defects] and cause the Employer to incur additional costs, the Contractor shall subject to Sub-Clause 2.5 [Employer's Claims] pay these costs to the Employer.

12.4

Failure to Pass Tests after Completion

If the Works, or a Section, fail to pass a Test after Completion and the Contractor proposes to make adjustments or modifications to the Works or such Section, the Contractor may be instructed by (or on behalf of) the Employer that right of access to the Works or Section cannot be given until a time that is convenient to the Employer. The Contractor shall then remain liable to carry out the adjustments or modifications and to satisfy this Test, within a reasonable period of receiving, notice by (or on behalf of) the Employer of the time that is convenient to the Employer. Even if the Contractor does not receive this notice during the relevant Defects Notification Period, the Contractor shall not be relieved of this obligation.

13

Variation and Adjustments

13.1

Right to Vary

Variations may be initiated by the Employer at any time prior to issuing the Taking-Over Certificate for the Works, either by an instruction or by a request for the Contractor to submit a proposal. A Variation shall not comprise the omission of any work which is to be carried out by others.

The Contractor shall execute and be bound by each Variation, unless the Contractor promptly gives notice to the Employer stating (with supporting particulars) that (i) the Contractor cannot readily obtain the Goods required for the Variation, (ii) it will reduce the safety or suitability of the Works, or (iii) it will have an adverse impact on the

achievement of the Performance Guarantees. Upon receiving this notice, the Employer shall cancel, confirm or vary the instruction.

13.2

Value Engineering

The Contractor may, at any time, submit to the Employer a written proposal which (in the Contractor's opinion) will, if adopted, (i) accelerate completion, (ii) reduce the cost to the Employer of executing, maintaining or operating the Works, (iii) improve the efficiency or value to the Employer of the completed Works, or (iv) otherwise be of benefit to the Employer.

The proposal shall be prepared at the cost of the Contractor and shall include the items listed in Sub-Clause 13.3 [Variation Procedure].

13.3

Variation Procedure

If the Employer requests a proposal, prior to instructing a Variation, the Contractor shall respond in writing as soon as practicable, either by giving reasons why it cannot comply (if this is the case) or by submitting:

- (a) a description of the proposed design and/or work to be performed and a programme for its execution,
- (b) the Contractor's proposal for any necessary modifications to the programme according to Sub-Clause 8.3 [Programme] and to the Time for Completion and
- (c) the Contractor's proposal for adjustment to the Contract Price.

The Employer shall, as soon as practicable after receiving such proposal (under Sub-Clause 13.2 [Value Engineering] or otherwise), respond with approval, disapproval or comments. The Contractor shall not delay any work whilst awaiting a response.

Each instruction to execute a Variation, with any requirements for the recording of Costs, shall be issued by the Employer to the Contractor, who shall acknowledge receipt.

Upon instructing or approving a Variation, the Employer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine adjustments to the Contract Price and the Schedule of Payments. These adjustments shall include reasonable profit, and shall take account of the Contractor's submissions under Sub-Clause 13.2 [Value Engineering] if applicable.

13.4

Payment in Applicable

Currencies

Payment under this Contract shall be made only in Indian Rupees.

13.5

Deleted.

13.6

Daywork

For work of a minor or incidental nature, the Employer may instruct that a Variation shall be executed on a daywork basis. The work shall then be valued in accordance with the daywork schedule included in the Contract, and the following procedure shall apply. If a daywork schedule is not included in the Contract, this Sub-Clause shall not apply.

Before ordering Goods for the work, the Contractor shall submit quotations to the Employer. When applying for payment, the Contractor shall submit invoices, vouchers and accounts or receipts for any Goods.

Except for any items for which the daywork schedule specifies that payment is not due, the Contractor shall deliver each day to the Employer accurate statements in duplicate which shall include the following details of the resources used in executing the previous day's work:

- (a) the names, occupations and time of Contractor's Personnel,
- (b) the identification type and time of Contractor's Equipment and Temporary Works, and
- (c) the quantities and types of Plant and Materials used.

One copy of each statement will, if correct, or when agreed, be signed by the Employer and returned to the Contractor. The Contractor shall then submit priced statements of these resources to the Employer, prior to their inclusion in the next Statement under Sub-Clause 14.3 [Application for Interim Payments].

13.7 Foreclosure of Contract due to Abandonment or Reduction in Scope of Works

If at any time after acceptance of the tender the Employer shall decide to abandon or reduce the scope of the Works for any reason whatsoever and hence not require the whole or any part of the Works to be carried out, the Employer's Representative shall give notice in writing to that effect to the Contractor and the Contractor shall act accordingly in the matter. The Contractor shall have no claim to any payment of compensation or otherwise whatsoever, on account of any profit or advantage which it might have derived from the execution of the Works in full but which it did not derive in consequence of the foreclosure of the whole or part of the Works.

The Contractor shall be paid for Works executed at site to be decided by the Employer.

14

Contract Price and Payment

14.1

The Contract Price

Unless otherwise stated:

- (a) payment for the Works shall be made on the basis of the lump sum Contract Price; and
- (b) the Contractor shall pay all taxes, duties and fees required to be paid by him under the Contract, and the Contract Price shall not be adjusted for any increase of any taxes, duties and fees including GST.

14.2

Mobilisation

Advance

Mobilisation Advance not exceeding 10% of the Contract Price may be given, if requested by the Selected Bidder/Contractor in writing within 30 days of the handing over of the site. In such a case, the Contractor shall execute Bank Guarantee from a scheduled bank as per form given in Section 7 (Contract Forms), aggregating to the full amount of mobilisation advance before such advance is released. The Employer shall pay the Mobilization Advance to the Contractor, in following 3 tranches :-

- i) First tranche of 4% of the Mobilization Advance shall be paid by the Employer to the Contractor on completion of site clearance including removal of all encumbrances, cutting of trees, removal of overhead wires, underground utilities and other utilities, construction of site office of the Contractor, construction of labour camp and making arrangements for water supply;
 - ii) Second tranche of 4% of Mobilization Advance will be paid by the Employer to the Contractor upon mobilization of Plants and Machineries by the Contractor at the site;
 - iii) The third tranche of 2% shall be paid upon completion of construction of the Employer's temporary site office at the site shall be fully furnished and equipped with all materials, furnitures, equipments including air-conditioner, computer, fax, printers etc. to the satisfaction of the Employer.

The Mobilisation Advance above shall bear interest. Repayment of the Mobilisation Advance shall commence from payment of the 3rd Running Account Bill and shall be entered as a deduction from First Interim Payment Certificate @ 10% of the value of Interim Certificate, until the total amount of advance loan has been repaid by the Contractor, always provided that the complete recovery of advance loan shall be made before 90% completion of Works or three-fourth of completion period as originally specified in the Contract, whichever occurs first. Recovery of advance at any intermediate stage shall be effected, if necessary, by encashment of part Bank Guarantees if the appropriate pro-rata amount of

advance is not available from the Works done by the Contractor. If the circumstances are considered reasonable by the Employer's Representative, the period mentioned for request by the Contractor in writing for grant of Mobilization Advance may be extended in the discretion of the Employer's Representative. The said Bank Guarantees for advances shall initially be made for the full amount and valid for the Contract period, and be kept renewed from time to time to cover the balance amount and likely period of complete recovery.

14.3

Application for Interim Payments

The Contractor shall submit a Statement in six copies to the Employer after the end of each month in respect of each site, in a form approved by the Employer, showing in detail the amounts to which the Contractor considers himself to be entitled, together with supporting documents which shall include the relevant report on progress in accordance with Sub-Clause 4.21 [Progress Reports].

The Statement shall include the following items, as applicable, which shall be expressed in INR, in the sequence listed:

- (a) the estimated contract value in accordance with Payment Schedule (including Variations but excluding items described in sub-paragraphs (b) and (c) below);
- (b) any other additions, or deductions which may have become due under the Contract or otherwise, including those under Clause 20 [Claims, Disputes and Arbitration]; and
- (c) the deduction of amounts included in previous Statements.

14.4

Schedule of Payments

Schedule of Payments is specified in Payment Schedule as annexed with Section 5 : Employer's Requirements in which the Contract Price will be paid. Such Schedule of Payments shall be subject to the condition that the Contractor shall not submit more than one Bill per month per site, provided that each such monthly bill shall relate to one or more completed activities of the Project as described in Section 5 (Employer's Requirements).

14.5

Deleted.

14.6

Interim Payments

No amount will be paid until the Employer has received and approved the Performance Security. Thereafter, the Employer shall within 7 days after receiving a Statement and supporting documents, give to the Contractor notice of any items in the Statement with which the Employer disagrees, with supporting particulars. Payments due shall not be withheld, except that:

- (a) if anything supplied or work done by the Contractor is not in accordance with the

Contract, the cost of rectification or replacement may be withheld until rectification or replacement has been completed; and/or

- (b) if the Contractor was or is failing to perform any work or obligation in accordance with the Contract, and .had been so notified by the Employer, the value of this work or obligation may be withheld until the work or obligation has been performed.

The Employer may, by any payment, make any correction or modification that should properly be made to any amount previously considered due. Payment shall not be deemed to indicate the Employer's acceptance, approval, consent or satisfaction.

14.7

Timing of Payments

Except as otherwise stated in Sub-Clause 2.5 [Employer's Claims], the Employer shall pay to the Contractor:

- (a) the advance payment within 30 days after the date of delivery of possession of the Site subject to commencement of work at the site including setting up of site office etc. both for Contractor and the Employer
- (b) the amount which is due in respect of each Statement, other than the Final Statement, within 15 working days after receiving the Statement and supporting documents; and
- (c) the final amount due, within 60 working days after receiving the Final Statement and written discharge in accordance with Sub-Clause 14.11 [Application for Final Payment] and Sub-Clause 14.12 [Discharge].

Payment of the amount due in INR shall be made into the bank account, nominated by the Contractor.

14.8

Deleted.

14.9

Deleted.

14.10

Statement at Completion

Within 60 days after receiving the Taking-Over Certificate for the Works, the Contractor shall submit to the Employer six copies of supporting documents, in accordance with Sub-Clause 14.3 [Application for Interim Payments], showing:

- (a) the value of all work done in accordance with the Contract up to the date stated in the Taking-Over Certificate for the Works,
- (b) any further sums which the Contractor considers to be due, and
- (c) an estimate of any other amounts which the Contractor considers will become due to him under the Contract. Estimated amounts shall be shown separately in this Statement at completion.

The Employer shall then give notice to the Contractor in accordance with Sub-Clause 14.6 [Interim Payments] and make payment in accordance with Sub-Clause 14.7 [Timing of Payments].

14.11

Application for Final Payment

Within 30 days after receiving the Taking Over Certificate for the Works, the Contractor shall submit, to the Employer, six copies of a draft final statement with supporting documents showing in detail in a form approved by the Employer:

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

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

14.12

Audit

The Employer shall have the right to cause an audit and technical examination of the works and the draft final statement of the Contractor including all supporting vouchers, abstract, etc. to be made after payment of the draft final statement and if as a result of such audit and technical examination, any sum is found to have been overpaid in respect of any work done by the Contractor under the Contract or any work claimed to have been done by him under the Contract and found not to have

been executed, the Contractor shall be liable to refund the amount of over payment and it shall be lawful for the Employer to recover the same from him in the manner prescribed in these General Conditions or in any other manner legally permissible.

However if, following discussions between the Parties and any changes to the draft final statement which are agreed, it becomes evident that a dispute exists, the Employer shall pay the agreed parts of the draft final statement in accordance with Sub-Clause 14.6 [Interim Payments] and Sub-Clause 14.7 [Timing of Payments]. Thereafter, if the dispute is finally resolved under Sub-Clause 20.3 [Arbitration], the Contractor shall then prepare and submit to the Employer a Final Statement.

14.13

Discharge

When submitting the Final Statement, the Contractor shall submit a written discharge which confirms that the total of the Final Statement represents full and final settlement of all moneys due to the Contractor under or in connection with the Contract. This discharge may state that it becomes effective when the Contractor has received the Performance Security and the out-standing balance of this total, in which event the discharge shall be effective on such date.

14.14

Final Payment

In accordance with sub-paragraph (c) of Sub-Clause 14.7 [Timing of Payments], the Employer shall pay to the Contractor the amount which is finally due, less all amounts previously paid by the Employer and any deductions in accordance with Sub-Clause 2.5 [Employer's Claims].

14.15

Cessation of Employer's

Liability

The Employer shall not be liable to the Contractor for any matter or thing under or in connection with the Contract or execution of the Works, except to the extent that the Contractor shall have included an amount expressly for it:

- (a) in the Final Statement and also
- (b) (except for matters or things arising after the issue of the Taking-Over Certificate for the Works) in the Statement at completion described in Sub-Clause 14.10 [Statement at Completion].

However, this Sub-Clause shall not limit the Employer's liability under his indemnification obligations, or the Employer's liability in any case of fraud, deliberate default or reckless misconduct by the Employer

14.16

Currencies of Payment The Contract Price shall be paid in Indian Rupees only.

15

Termination by Employer

15.1

Notice to Correct

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

15.2

Termination by Employer

The Employer shall be entitled to terminate the Contract if the Contractor:

- (a) fails to comply with a notice under Sub-Clause 15.1/Notice to Correct],
- (b) abandons the Works or otherwise plainly demonstrates the intention not to continue performance of his obligations under the Contract,
- (c) without reasonable excuse fails to proceed with the Works in accordance with Clause 8 [Commencement, Delays and Suspension],
- (d) fails to comply with the milestone as approved by the Employer or such modified milestone as subsequently approved by the Employer,
- (e) If the Contractor being a company shall pass a resolution or the Court shall make an order that the Contractor 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 the creditor to appoint a Receiver or a manager or which entitles the court to make a winding up order,.
- (f) If the Contractor shall suffer an execution being levied on its goods and allows it to be continued for a period of 30 days.
- (g) becomes bankrupt or insolvent, goes into liquidation, has a receiving or administration order made against him, compounds with his creditors, or carries on business under a receiver, trustee or manager for the benefit of his creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events, or
- (h) gives or offers to give (directly or indirectly) to any person any bribe, gift commission or other thing of value, as an inducement or reward:
 - (i) for doing or forbearing to do any action in relation to the Contract, or

- (ii) for showing or forbearing to show favour or disfavour to any person in relation to the Contract,
- (i) if any of the Contractor's Personnel or agents gives or offers to give (directly or indirectly) to any person any such inducement or reward as is described in this sub-paragraph (h). However, lawful inducements and rewards to Contractor's Personnel shall not entitle termination.

In any of these events or circumstances, the Employer may, upon giving 14 days' notice to the Contractor, terminate the Contract and expel the Contractor from the Site. However, in the case of sub-paragraph (h) or (i), the Employer may by notice terminate the Contract immediately.

The Employer's election to terminate the Contract shall not prejudice any other rights of the Employer, under the Contract or otherwise.

The Contractor shall then leave the Site and deliver any required Goods, all Contractor's Documents, and other design documents made by or for him, to the Employer. However, the Contractor shall use his best efforts to comply immediately with any reasonable instructions included in the notice for the protection of life or property or for the safety of the Works.

After termination, the Employer may complete the Works and/or arrange for any other entities to do so. The Employer and these entities may then use any Goods, Contractor's Documents and other design documents made by or on behalf of the Contractor.

The Employer shall then give notice that the Contractor's Equipment and Temporary Works will be released to the Contractor at or near the Site. The Contractor shall promptly arrange their removal, at the risk and cost of the Contractor. However, if by this time the Contractor has failed to make a payment due to the Employer, these items may be sold by the Employer in order to recover this payment. Any balance of the proceeds shall then be paid to the Contractor.

In any case in which any of the powers conferred upon the Employer's Representative in terms hereof, shall have become exercisable and the same are not exercised, the non-exercise thereof shall not constitute a waiver of any of the conditions hereof and such powers shall notwithstanding be exercisable in the event of any future case of default by the Contractor and the liability of the Contractor for compensation shall remain unaffected. In the event of the Employer's Representative putting in force all or any of the powers vested in him under the preceding clause he may, if he so desires after giving a notice in writing to the Contractor, take possession of (or at the sole discretion of the Employer's

Representative which shall be final and binding on the Contractor) use as on hire (the amount of the hire money being also in the final determination of the Employer's Representative) all or any tools, plant, materials and stores, in or upon the works, or the site thereof belonging to the Contractor, or procured by the Contractor 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 the case of these not being applicable, at current market rates to be certified by the Employer's Representative, whose certificate thereof shall be final and binding on the Contractor. The Employer's Representative may also direct where required, the clerk of the works, foreman or other authorized agent of the Contractor to remove such tools, plant, materials or stores from the premises (within a time to be specified in such notice). In the event of the Contractor failing to comply with any such requisition, the Employer's Representative may remove them at the Contractor's expense or sell them by auction or private sale on account of the Contractor and his risk in all respects and the certificate of the Employer's Representative as to the expenses of any such removal and the amount of the proceeds and expenses of any such sale shall be final and conclusive against the Contractor.

15.3

Valuation at Date of Termination

As soon as practicable after a notice of term 15.2 [Termination by Employer] has taken effect, the Employer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine the value of the Works, Goods and Contractor's Documents, and any other sums due to the Contractor for work executed in accordance with the Contract.

15.4

Payment after Termination

After a notice of termination under Sub-Clause 15.2 [Termination by Employer] has taken effect, the Employer may:

- (a) proceed in accordance with Sub-Clause 2.5 [Employer's Claims],
- (b) withhold further payments to the Contractor until the costs of design, execution, completion and remedying of any defects, damages for delay in completion (if any), and all other costs incurred by the Employer, have been established, and/or
- (c) recover from the Contractor any losses and damages incurred by the Employer and any extra costs of completing the Works, after allowing for any sum due to the Contractor under Sub-Clause 1.5.3 [Valuation at Date of Termination], After recovering any such losses, damages and extra costs, the Employer shall pay any balance to the Contractor.

15.5

Employer's Entitlement to Termination

The Employer shall be entitled to terminate the Contract, at any time for the Employer's convenience, by giving notice of such termination to the Contractor, The termination shall take effect 28 days after the later of the dates on which the Contractor receives this notice.

After this termination, the Contractor shall proceed in accordance with Clause 16 [Cessation of Work and Removal of Contractor's Equipment] and shall be paid in accordance with Sub-Clause 19.6 [Optional Termination, Payment and Release].

16

Cessation of Work and Removal of Contractor's Equipment

After a notice of termination under Sub-Clause 15.5 [Employer's Entitlement to Termination], or Sub-Clause 19.6 [Optional Termination, Payment and Release] has taken effect, the Contractor shall promptly:

- (a) cease all further work, except for such work as may have been instructed by the Employer for the protection of life or property or for the safety of the Works,
- (b) hand over Contractor's Documents, Plant, Materials and other work, for which the Contractor has received payment, and
- (c) remove all other Goods from the Site, except as necessary for safety, and leave the Site.

17

Risk and Responsibility

17.1

Indemnities

The Contractor shall indemnify and hold harmless the Employer, the Employer's Personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of:

- (a) bodily injury, sickness, disease or death, of any person whatsoever arising out of or in the course of or by reason of the design, execution and completion of the Works and the remedying of any defects, unless attributable to any negligence, willful act or breach of the Contract by the Employer, the Employer's Personnel, or any of their respective agents, and

- (b) damage to or loss of any property, real or personal (other than the Works), to the extent that such damage or loss:
 - (i) arises but of or in the course of or by reason of the design, execution and completion of the Works and the remedying of any defects, and
 - (ii) is not attributable to any negligence, willful act or breach of the Contract by the Employer, the Employer's Personnel, their respective agents, or anyone directly or indirectly employed by any of them,

The Employer shall indemnify and hold harmless the Contractor, the Contractor's Personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of (1) bodily injury, sickness, disease or death, which is attributable to any negligence, willful act or breach of the Contract by the Employer, the Employer's Personnel, or any of their respective agents, and (2) the matters for which liability may be excluded from insurance cover, as described in sub-paragraphs (d)(i), (ii) and (iii) of Sub-Clause 18.3 [Insurance Against Injury to Persons and Damage to Property].

17.2

Contractor's Care of the Works

The Contractor shall take full responsibility for the care of the Works and Goods from the Commencement Date until the Taking-Over Certificate is issued (or is deemed to be issued under Sub-Clause 10.1 [Taking Over of the Works and Sections]) for the Works, when responsibility for the care of the Works shall pass to the Employer. If a Taking-Over Certificate is issued (or is so deemed to be issued) for any Section of the Works, responsibility for the care of the Section shall then pass to the Employer.

After responsibility has accordingly passed to the Employer, the Contractor shall take responsibility for the care of any work which is outstanding on the date stated in a Taking-Over Certificate, until this outstanding work has been completed.

If any loss or damage happens to the Works, Goods or Contractor's Documents during the period when the Contractor is responsible for their care, from any cause not listed in Sub-Clause 17.3 [Employer's Risks], the Contractor shall rectify the loss -or damage at the Contractor's risk and cost, so that the Works, Goods and Contractor's Documents conform with the Contract.

The Contractor shall be liable for any loss or damage caused by any actions performed by the Contractor after a Taking-Over Certificate has been issued. The Contractor shall also be liable for any loss or damage which occurs after a Taking-Over Certificate has been issued and which arose from a previous event for which the Contractor was liable.

17.3

Employer's Risks

The risks referred to in Sub-Clause 17.4 below are:

- (a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
- (b) rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war, within the Country,
- (c) riot, commotion or disorder within the Country by persons other than the Contractor's Personnel and other employees of the Contractor,
- (d) munitions of war, explosive materials, ionising radiation or contamination by radio-activity, within the Country, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity, and
- (e) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds.

17.4

Consequences of Employer's Risks

If and to the extent that any of the risks listed in Sub-Clause 17.3 above results in loss or damage to the Works, Goods or Contractor's Documents, the Contractor shall promptly give notice to the Employer and shall rectify this loss or damage to the extent required by the Employer.

If the Contractor suffers delay and/or incurs Cost from rectifying this loss or damage, the Contractor shall give a further notice to the Employer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- (a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.5 [Extension of Time for Completion], and
- (b) payment of any such Cost, which shall be added to the Contract Price.

After receiving this further notice, the Employer shall proceed in accordance with Sub Clause 3.5 [Determinations] to agree or determine these matters.

17.5

Intellectual and Industrial Property Rights

In this Sub-Clause, "infringement" means an infringement (or alleged infringement) of any patent, registered design, copyright, trade mark, trade name, trade secret or other intellectual or industrial property right relating to the Works; and "claim" means a claim (or proceedings pursuing a claim) alleging an infringement.

Whenever a Party does not give notice to the other Party of any claim within 28 days of receiving the claim, the first Party shall be deemed to have waived any right to indemnity under this Sub-Clause.

The Employer shall indemnify and hold the Contractor harmless against and from any claim alleging an infringement which is or was:

- (a) an unavoidable result of the Contractor's compliance with the Employer's Requirements, or
- (b) a result of any Works being used by the Employer;
 - (i) for a purpose other than that indicated by, or reasonably to be inferred from, the Contract, or
 - (ii) in conjunction with any thing not supplied by the Contractor, unless such use was disclosed to the Contractor is stated in the Contract.

The Contractor shall indemnify and hold the Employer harmless against and from any other claim which arises out of or in relation to (i) the Contractor's design, manufacture, construction or execution of the Works, (ii) the use of Contractor's Equipment, or (iii) the proper use of the Works.

If a Party is entitled to be indemnified under this Sub-Clause, the indemnifying Party may (at its cost) conduct negotiations for the settlement of the claim, and any litigation or arbitration which may arise from it, The other Party shall, at the request and cost of the indemnifying Party, assist in contesting the claim. This other Party (and its Personnel) shall not make any admission which might be prejudicial to the indemnifying Party, unless the indemnifying Party failed to take over the conduct of any negotiations, litigation or arbitration upon being requested to do so by such other Party.

17.6

Limitation of Liability

Neither Party shall be liable to the other Party for loss of use of any Works, loss of profit, loss of any contract or for any indirect or consequential loss or damage which may be suffered by the other Party in connection with the Contract, other than under Sub-Clause 16.4 [Payment on Termination] and Sub-Clause 17.1 [Indemnities].

The total liability of the Contractor to the Employer, under or in connection with the Contract other than under Sub-Clause 4.25 [Electricity, Water and Gas], Sub-Clause 4.26 [Employer's Equipment], Sub-Clause 17.1 [Indemnities] and Sub-Clause 17.5 [Intellectual and Industrial Property Rights], shall not exceed the sum stated

in the Contract Price stated in the Agreement.

This Sub-Clause shall not limit liability in any case of fraud, deliberate default or reckless misconduct by the defaulting Party.

18

Insurance

18.1

General Requirements

for Insurances

In this Clause, "insuring Party" means, for each type of insurance, the Party responsible for effecting and maintaining the insurance specified in the relevant Sub-Clause.

Wherever the Contractor is the insuring Party, each insurance shall be effected with insurers. These terms shall be consistent with any terms agreed by both Parties before they signed the Agreement. This Agreement of terms shall take precedence over the provisions of this Clause.

If a policy is required to indemnify joint insured, the cover shall apply separately to each insured as though a separate policy had been issued for each of the joint insured. If a policy indemnifies additional joint insured, namely in addition to the insured specified in this Clause, (i) the Contractor shall act under the policy on behalf of these additional joint insured except that the Employer shall act for Employer's Personnel, (ii) additional joint insured shall not be entitled to receive payments directly from the insurer or to have any other direct dealings with the insurer, and (iii) the insuring Party shall require all additional joint insured to comply with the conditions stipulated in the policy.

Each policy insuring against loss or damage shall provide for payments to be made in the currencies required to rectify the loss or damage. Payments received from insurers shall be used for the rectification of the loss or damage,

The relevant insuring Party shall, within such respective periods (calculated from the Commencement Date), submit to the other Party:

- (a) evidence that the insurances described in this Clause have been effected, and
- (b) copies of the policies for the insurances described in Sub-Clause 18.2 [Insurance of Works and Contractor's Equipment] and Sub-Clause 18.3 [Insurance against Injury to Persons and Damage to Property].

When each premium is paid, the insuring Party shall submit evidence of payment to the other Party.

Each Party shall comply with the conditions stipulated in each of the insurance policies. The insuring Party shall keep the insurers informed of any relevant changes to the execution of the Works and ensure that insurance is maintained in accordance with this Clause.

Neither Party shall make any material alteration to the terms of any insurance without the prior approval of the other Party. If an insurer makes (or attempts to make) any alteration, the Party first notified by the insurer shall promptly give notice to the other Party.

If the insuring Party fails to effect and keep in force any of the insurances it is required to effect and maintain under the Contract, or fails to provide satisfactory evidence and copies of policies in accordance with this Sub-Clause, the other Party may (at its option and without prejudice to any other right or remedy) effect insurance for the relevant coverage and pay the premiums due. The insuring Party shall pay the amount of these premiums to the other Party, and the Contract Price shall be adjusted accordingly.

Nothing in this Clause limits the obligations, liabilities or responsibilities of the Contractor or the Employer, under the other terms of the Contract or otherwise. Any amounts not insured or not recovered from the insurers shall be borne by the Contractor and/or the Employer in accordance with these obligations, liabilities or responsibilities. However, if the insuring Party fails to effect and keep in force an insurance which is available and which it is required to effect and maintain under the Contract, and the other Party neither approves the omission nor effects insurance for the coverage relevant to this default, any moneys which should have been recoverable under this insurance shall be paid by the insuring Party.

Payments by one Party to the other Party shall be subject to Sub-Clause 2.5 [Employer's Claims] or Sub-Clause 20.1 [Contractor's Claims], as applicable.

18.2

Insurance for Works and contractor's Equipment

The insuring Party shall insure the Works, Plants, Materials and Contractor's Documents for not less than the full reinstatement cost including the costs of demolition, removal of debris and professional fees and profit. This insurance shall be effective from the date by which the evidence is to be submitted under sub-paragraph (a) of Sub-Clause 18.1 [General Requirements for Insurances], until the date of issue of the Taking-Over Certificate for the Works.

The insuring Party shall maintain this insurance to provide cover until the date of issue of the Performance Certificate, for loss or damage for which the Contractor is liable arising from a cause occurring prior to the issue of the Taking-Over Certificate, and for

loss or damage caused by the Contractor in the course of any other operations (including those under Clause 11 [Defects Liability] and Clause 12 [Tests after Completion]).

The insuring Party shall insure the Contractor's Equipment for not less than the full replacement value, including delivery to Site. For each item of Contractor's Equipment, the insurance shall be effective while it is being transported to the Site and until it is no longer required as Contractor's Equipment,

Unless otherwise stated, insurances under this Sub-Clause:

- (a) shall be effected and maintained by the Contractor as insuring Party,
- (b) shall be in the joint names of the Parties, who shall be jointly entitled to receive payments from the insurers, payments being held or allocated between the Parties for the sole purpose of rectifying the loss or damage,
- (c) shall cover all loss and damage from any cause not listed in Sub-Clause 17.3 [Employer's Risks], and
- (d) may however exclude loss of, damage to, and reinstatement of:
 - (i) a part of the Works which is in a defective condition due to a defect in its design, materials or workmanship (but cover shall include any other parts which are lost or damaged as a direct result of this defective condition and not as described in sub-paragraph (ii) below),
 - (ii) a part of the Works which is lost or damaged in order to reinstate any other part of the Works if this other part is in a defective condition due to a defect in its design, materials or workmanship,
 - (iii) a part of the Works which has been taken over by the Employer, except to the extent that the Contractor is liable for the loss or damage, and
 - (iv) Goods while they are not in the Country, subject to Sub-Clause 14.5 [Plant and Materials intended for the Works].

Insurance against Injury

to Persons and

Damage to Property

The insuring Party shall insure against each Party's liability for any loss, damage, death or bodily injury which may occur to any physical property (except things insured under Sub-Clause 18.2 {Insurance for Works and Contractor's Equipment}) or to any person (except persons insured under Sub-Clause 18.4 [Insurance for Contractor's Personnel]), which may arise out of the Contractor's performance of the Contract and occurring before the issue of the Performance Certificate.

This insurance shall be for a limit per occurrence of not less than the amount as may be subsequently informed by the Employer, with no limit on the number of occurrences. If an amount is not stated in the Contract, this Sub-Clause shall not apply.

Unless otherwise stated, the insurances specified in this Sub-Clause:

- a) shall be effected and maintained by the Contractor as insuring Party,
- b) shall be in the joint names of the Parties,
- c) shall be extended to cover liability for all loss and damage to the Employer's property (except things insured under Sub-Clause 18.2) arising out of the Contractor's performance of the Contract, and
- d) may however exclude liability to the extent that it arises from:
 - i) the Employer's right to have the Permanent Works executed on, over, under, in or through any land, and to occupy this land for the Permanent Works,
 - ii) damage which is an unavoidable result of the Contractor's obligation to execute the Works and remedy any defects, and
 - iii) a cause listed in Sub'-Clause 17.3 [Employer's Risks], except to the extent that cover is available at commercially reasonable terms.

18.4

Insurance for Contractor's

Personnel

The Contractor shall effect and maintain insurance against liability for claims, Personnel damages, losses and expenses (including legal fees and expenses) arising from injury sickness, disease or death of any person employed by the Contractor or any other of the Contractor's Personnel.

The Employer shall also be indemnified under the policy of insurance, except that this insurance may exclude losses and claims to the extent that they arise from any act or neglect of the Employer or of the Employer's Personnel.

The insurance shall be maintained in full force and effect during the whole time that these personnel are assisting in the execution of the Works,

19

Force Majeure

19.1

Definition of Force Majeure

In this clause, Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind listed below:

- (i) war, hostilities (whether war be declared or not), invasion, act of foreign enemies.
- (ii) rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war;
- (iii) riot, commotion, disorder, strike or lockout by persons other than the Contractor's Personnel and other employees of the Contractor ,
- (iv) munitions of war, explosive materials, ionising radiation or contamination by radio-activity, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity, and
- (v) natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity or flood.

19.2

Notice of Force Majeure If a Party is or will be prevented from performing any of its obligations under the Contract by Force Majeure, then it shall give notice to the other Party of the event or circumstances constituting the Force Majeure and shall specify the obligations, the performance of which is or will be prevented. The notice shall be given within 14 days after the Party became aware, or should have become aware, of the relevant event or circumstance constituting Force Majeure.

The Party shall, having given notice, be excused performance of such obligations for so long as such Force Majeure prevents it from performing them.

Notwithstanding any other provision of this Clause, Force Majeure shall not apply to obligations of either Party to make payments to the other Party under the Contract.

19.3

Duty to Minimise Delay Each Party shall at all times use all reasonable endeavours to minimise any delay in the performance of the Contract as a result of Force Majeure.

A Party shall give notice to the other Party when it ceases to be affected by the Force Majeure.

19.4

Consequences of Force Majeure

If the Contractor is prevented from performing any of his obligations under the Contract by Force Majeure of which notice has been given under Sub-Clause 19.2 [Notice of Force Majeure], and suffers delay and/or incurs Cost by reason of such Force Majeure, the Contractor shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- (a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.5 [Extension of Time for Completion], and
- (b) if the event or circumstance is of the kind described in sub-paragraphs (i) to (iv) of Sub-Clause 19.1 [Definition of Force Majeure] and, in the case of sub-paragraphs (ii) to (iv), occurs in the Country, payment of any such Cost.

After receiving this notice, the Employer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

19.5

Deleted.

19.6

Optional Termination, Payment and Release

If the execution of substantially all the Works in progress is prevented for a continuous period of 84 days by reason of Force Majeure of which notice has been given under Sub-Clause 19.2 [Notice of Force Majeure], or for multiple periods which total more than 140 days due to the same notified Force Majeure, then either Party may give to the other Party a notice of termination of the Contract. In this event, the termination shall take effect 7 days after the notice is given, and the Contractor shall proceed in accordance with Sub-Clause 16.3 [Cessation of Work and Removal of Contractor's Equipment].

Upon such termination, the Employer shall pay to the Contractor the amounts payable for any work carried out till that date to be determined in terms of Sub-Clause 3.5.

19.7

Release from Performance

Under the Law

Notwithstanding any other provision of this Clause, if any event or circumstance outside the control of the Parties (including, but not limited to, Force Majeure) arises which makes it impossible or unlawful for either or both Parties to fulfill its or their contractual obligations or which, under the law governing the Contract, entitles the Parties to be released from further performance of the Contract, then upon notice by either Party to the other Party of such event or circumstance:

- (a) the Parties shall be discharged from further performance, without prejudice to the rights of either Party in respect of any previous breach of the Contract, and
- (b) the sum payable by the Employer to the Contractor shall be the same as Would have been payable under Sub-Clause 19.6 [Optional Termination, Payment and Release] if the Contract had been terminated under Sub-Clause 19.6.

20

Claim, Disputes and Arbitration

20.1

Contractor's Claims

If the Contractor considers himself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract the Contractor shall give notice to the Employer, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 28 days after the Contractor became aware, or should have become aware, of the event or circumstance.

If the Contractor fails to give notice of a claim within such period of 28 days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and the Employer shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub-Clause shall apply.

The Contractor shall also submit any other notices which are required by the Contract, and supporting particulars for the claim, all as relevant to such event or circumstance.

The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Employer. Without admitting liability, the Employer may, after receiving any notice under this Sub-Clause, monitor the record-keeping and/or instruct the Contractor to keep further contemporary records. The Contractor shall permit the Employer to inspect all these records, and shall (if instructed) submit copies to the Employer.

Within 42 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Employer, the Contractor shall send to

the Employer a fully detailed claim which includes full supporting particulars 'of the basis of the claim and of the extension of time and/or additional payment claimed. If the event or circumstance giving rise to the claim has a continuing effect:

- (a) this fully detailed claim shall be considered as interim;
- (b) the Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and/or amount claimed, and such further particulars as the Employer may reasonably require; and
- (c) the Contractor shall send a final claim within 30 days after the issuance of Taking Over Certificate of the Works, or within such other period as may be proposed by the Contractor and approved by the Employer.

Within 60 days after receiving a claim or any further particulars supporting a previous claim, or within such other period as may be proposed by the Employer and approved by the Contractor, the Employer shall respond with approval, or with disapproval and detailed comments. He may also request any necessary further particulars, but shall nevertheless give his response on the principles of the claim within such time,

Each interim payment shall include such amounts for any claim as have been reasonably substantiated as due under the relevant provision of the Contract. Unless and until the particulars supplied are sufficient to substantiate the whole of the claim, the Contractor shall only be entitled to payment for such part of the claim as he has been able to substantiate.

The Employer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) the extension (if any) of the Time for Completion (before or after its expiry) in accordance with Sub-Clause 8.5 [Extension of Time for Completion], and/or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.

The requirements of this Sub-Clause are in addition to those of any other Sub-Clause which may apply to a claim. If the Contractor fails to comply with this or another Sub- Clause in relation to any claim, any extension of time and/or additional payment shall take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this Sub-Clause.

20.2

Amicable Settlement

Both Parties shall attempt to settle any dispute or difference between them amicably.

SECTION - 7

CONTRACT FORMS

FORM OF AGREEMENT

(ON NON JUDICIAL STAMP PAPER OF APPROPRIATE VALUE)

Agreement No. _____ dated

THIS AGREEMENT is made on _____

_____ between Superintending Engineer, West Circle, Housing Directorate hereinafter called the "Employer" (which expression shall, wherever the context so demands or requires, include their successors in office and assigns) of the One Part and M/s.

_____ hereinafter called the "Contractor" (which expression shall wherever the context so demands or requires, include his/their successors and assigns) of the Other Part.

WHEREAS the Employer is desirous that Project should be executed and has by Notification of Award dated _____ accepted a tender submitted by the Contractor for the project at a total Contract Price of Rs. _____/- (Rupees _____ only).

NOW THIS AGREEMENT WITNESSETH as follows :-

1. In this Agreement, words and expressions shall have the same meaning as are respectively assigned to them in the General Conditions of Contract hereinafter referred to.

2. **Documents**

The following documents in conjunction with Addenda/Corrigenda to Bidding Documents shall be deemed to form and be read and construed as part of this Agreement viz.

- i. Notice Inviting e-Tender
- ii. Instructions to Bidders
- iii. Evaluation and Qualifying Criteria
- iv. Bidding Forms
- v. Employer's Requirements
- vi. General Conditions of Contract.
- vii. Contract Forms.
- viii. Amendment to Bidding Documents

3. **Previous Communications**

This document constitutes the entire Contract between the parties and supersedes all previous communications, whether oral or written, in relation to the Project to be undertaken in accordance with the Contract.

4. **Execution of Project**

In consideration of the payment to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute, complete, remedy defects therein and maintain the Project in conformity in all respects with the provisions of the Contract.

5. **Payment**

The Employer hereby covenants to pay to the Contractor in consideration of the execution, completion, remedying of any defects therein and maintenance of the Works, the Contract Price or such other sum as may become payable under the provisions of the Contract at the time and in the manner prescribed by the Contract.

6. **Commencement of the Project**

This Contract will remain in effect from _____ and expire on _____ unless terminated earlier in accordance with the provisions of the Contract.

7. **Acknowledgement**

The Contractor shall confirm acceptance of the terms of this Contract by signing and returning to the Employer the duplicate copy enclosed herewith within a period of 7 days from date of receipt of Notification of Award.

IN WITNESS whereof the parties hereto have caused their respective hands to be hereinto affixed the day and year first above written.

In the capacity of _____

On behalf of M/s. _____
(The Contractor)

In the presence of

Witnesses (Signature, Name &
Designation)

- 1.
- 2.

Superintending Engineer,
West Circle, Housing

Directorate (The Employer)

In the presence of

Witnesses (Signature, Name &
Designation)

- 1.
- 2.

PROFORMA FOR BANK GUARANTEE FOR MOBILIZATION ADVANCE

(On Non-Judicial Stamp Paper of Appropriate Value)

To,

West Bengal Medical Services Corporation Ltd.

1. In consideration of, Superintending Engineer, West Circle, Housing Directorate (hereinafter called "The Employer") (which expression shall unless repugnant to the subject or context include its successors and assigns) having agreed under the terms and conditions of the Agreement No. _____ dated _____ with M/s. _____ a company within the meaning of the Companies Act, 2013 and having its registered office at _____ in the State of _____ (hereinafter called "the said bidder" which expression shall unless the context requires otherwise include its administrators, successors and assigns) in connection with the work of _____ (hereinafter called "the said Contract") to make at the request of the bidder a lump sum advance of Rs. _____/-(Rupees _____ only) for utilizing it for the purpose of the Contract on his furnishing a Guarantee acceptable to the Employer, we, _____ Bank incorporated under _____ and having one of our branches at _____ (hereinafter referred to as "the said Bank") do hereby guarantee the due recovery by the Employer of this said advance with interest thereon as provided according to the terms and conditions of the Contract. If the said bidder fails to utilize the said advance for the purpose of the Contract and/or the said advance together with interest thereon as aforesaid is not fully recovered by the Employer, we, _____ Bank hereby unconditionally and irrevocably undertake to pay to the Employer on demand and without demur to the extent of the said sum of Rs. _____/-(Rupees _____ only), any claim made by the Employer on us for the loss or damage caused to or suffered by the Employer by reason of the Employer not being able to recover in full the said sum of Rs. _____/-(Rupees _____ only) with interest as aforesaid.

2. We, _____ Bank further agree that the Employer shall be the sole judge of and as to whether the said bidder has not utilized the said advance or any part thereof for the purpose of the Contract and the extent of loss or damage caused to or suffered by the Employer on account of the said advance together with interest not being recovered in full and the decision of the Employer that the said bidder has not utilized the said advance or any part thereof for the purpose of the Contract and as to the amount or amounts of loss or damage caused to or suffered by the Employer shall be final and binding on us.
3. We, the said Bank, further agree that the Guarantee herein contained shall remain in force and effect during the period that would be taken for the performance of the said Contract and till the said advance with interest has been fully recovered and its claims satisfied or discharged and till the Employer certifies that the said advance with interest has been fully recovered from the said bidder, and accordingly shall have no claim under this Guarantee after 30 (thirty) days from the date of satisfactory completion of the said Contract (as per the mutually agreed Work Schedule) i.e. upto and inclusive of _____ (date) unless a notice of the claim under this Guarantee has been served on the Bank before the expiry of the said period i.e. _____ (date) in which case the same shall be enforceable against the Bank notwithstanding the fact, that the same is enforced after the expiry of the said period.
4. The Employer shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee or Indemnity, from time to time, to vary any of the terms and conditions of the said Contractor the advance or to extend time of performance by the said bidder or to postpone for any time and from time to time any of the powers exerciseable by it against the said bidder and either to enforce or forbear from enforcing any of the terms and conditions governing the said Contract or the advance available to the Employer and the said Bank shall not be released from its liability under these presents by any exercise by the Employer of the liberty with reference to the matters aforesaid or by reasons of time being given to the said bidder or any other forbearance, actor omission on the part of the Employer or any indulgence by the Employer to the said bidder on any other matter or thing whatsoever which under the law relating to sureties would, but for this provision, have the effect of so releasing the Bank from its such liability.

5. It shall not be necessary for the Employer to proceed against the bidder before proceeding against the Bank and the Guarantee herein contained shall be enforceable against the Bank notwithstanding any security, which the Employer may have obtained or obtain from the bidder shall at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealized.
6. We, the said Bank, lastly undertaken not to revoke this Guarantee during its currency except with the previous consent of the Employer in writing and agree that any change in the constitution of the said bidder or the said Bank shall not discharge our liability hereunder.
7. If any further extension of this Guarantee is required the same shall be extended to such required periods on receiving instructions from the bidder M/s. _____ on whose behalf this Guarantee is issued.
8. Notwithstanding anything contained hereinbefore our liability under this Guarantee is restricted to Rs._____/ - (Rupees _____only) together with interest @_____. Our undertaking shall commence from the date of execution and shall remain in force upto_____.

Dated this_____ day of

_____In presence of

For and on behalf of (the Bank)

WITNESS

Signature_____

1. _____

Name_____

2. _____

Designation_____

Authorization No.

Seal of the Bank_____

The above Guarantee is accepted by the Employer

For WBMSCL

FORM OF PERFORMANCE SECURITY BANK GUARANTEE

In consideration of the Employer having agreed under the terms and conditions of contract made vide his Notification of Award No.-----dated ----- between Superintending Engineer, West Circle, Housing Directorate (the Employer) and _____(hereinafter called "the said Contractor) for Construction of 3024 Nos. of flats including Site development work, all internal infrastructure services and other amenities at Mouzas - Bijaynagar and Daskeary, Ranigunj, Asansol, District - Paschim Burdwan for Rehabilitation Project at Ranigunj Coal Field Area (herein after called the said Agreement") the Contractor having agreed to production of a irrevocable Bank Guarantee for Rs. ----- (Rupees ----- - - - Only) as a Security/Guarantee for compliance of his obligations in accordance with the terms and conditions in the said Agreement:

1. We ----- (indicate the name of the Bank) (hereinafter referred to as "the Bank" hereby undertake to pay to the Superintending Engineer, West Circle, Housing Directorate., an amount not exceeding Rs. ----- (Rupees -----only) on demand by WBMSCL.
2. We -----(indicate the name of the Bank) do hereby undertake to pay the amounts due and payable under this Guarantee without any demur, merely on a demand from the Employer or for and on behalf of the Employer stating that the amount claimed is required to meet the recoveries due or likely to be due from the said Contractor. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs.----- (Rupees -----only).
3. We, the said Bank further under take to pay to the Employer any money so demanded notwithstanding any dispute or disputes raised by the Contractor in any suit or proceeding pending before any court or Tribunal relating thereto, our liabilities under this present being absolute and unequivocal. The payment so made by us under this Guarantee shall be a valid discharge of our liability for payment thereunder and the Contractor

shall have no claim against us for making such payment.

4. We ----- (Indicate the name of the Bank) further agree that the Guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all dues of the Employer under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till the Employer's Representative on behalf of the Employer certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said Contractor and accordingly discharges this Guarantee.
5. We ----- (indicate the name of the Bank) further agree with the Employer, that the Employer shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extend time of performance by the said Contractor from time to time or to postpone for any time or from time to time any of the powers exercisable by the Employer against the said Contractor(s) and to forbear from or enforce any of the terms and conditions relating to the said Agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Contractor or for any forbearance, act of omission on the part of the Employer or any indulgence by the Employer to the said Contractor or by any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving us.
6. This Guarantee will not be discharged due to the change in the constitution of the Bank or the Contractor .
7. This Guarantee will neither be cancelled nor revoked by the Bank without the written authorization of Superintending Engineer, West Circle, Housing Directorate. For this purpose the beneficiary / Superintending Engineer, West Circle, Housing Directorate would inform the Bank of their authorized signatories together with the specimen signatures.

8. This Guarantee shall be valid up to -----unless extended on demand by the Employer. Notwithstanding anything mentioned above, our liability against this guarantee is restricted to Rs. ----- (Rupees ----- Only) and unless a claim in writing is lodged with us within six months of the date of expiry or the extended date of expiry of this Guarantee, all our liabilities under this Guarantee shall stand discharged.

Dated the ----- day of ----- for -----
(indicate the name of the Bank)".

Note : To be put in sealed cover by Bank and addressed to Superintending Engineer, West Circle, Housing Directorate.

**Name of work :- Rehabilitation of RCF Area at Bijoy Nagar & Daskeary Mouza under
Asansol Sub-Division, District- Burdwan**

PROPOSED PAYMENT SCHEDULE FOR BUILDING BLOCKS

Total 189 nos Building Blocks

I. On completion of Foundation upto plinth beam	16%
II. On completion of Ground Floor & First Floor upto 2nd. Floor Slab (Concrete Works)	17%
II. On completion of Second Floor, Third Floor upto Mummy room roof (Concrete Works)	18%
IV. Brick work (Ground & 1st. Floor)	7%
V. Brick work (2nd. & 3rd. Floor, Parapet, Stair room) & roof treatment	7%
VI. Total Internal Plaster & External Plaster with Plinth Protection	9%
VII. Door, Window with internal Grill & Frame	14%
VIII. Sanitary & Plumbing including Roof Tank	8%
IX. External Cement based Paint and Internal White Wash/Colour Wash	2%
X. Internal Electrification Including Fitting & Fixing	2%
TOTAL	100%

PROPOSED PAYMENT SCHEDULE FOR ALLIED STRUCTURE

A. School Building

On Completion of all Concrete Works upto Roof level	30%
On Completion of all Brick Work, Sanitary Plumbing Works, Finish, Internal & External Plaster, Exterior & Interior Paints, etc. all finishes	30%
On Completion of all internal electrification including Fitting & Fixing	15%

B. Community Hall (2 Nos.)

On Completion of all Civil & Sanitary Plumbing Works	10%
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On Completion of all internal electrification including Fitting & Fixing	3%
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C. Vending Area

On Completion of all Civil & Sanitary Plumbing Works	10%
On Completion of all internal electrification including Fitting & Fixing	2%
TOTAL	100%

Memo No. 16/1/1W – 372

Dated : 05/01/2018

Copy forwarded to the Deputy Director of Information, (Information Branch) Department of Information & Cultural Affairs, Govt. of West Bengal with the request to kindly arrange for **publication of the notice in 3 (three) daily newspaper i.e. each in Bengali, in English & in Hindi as per F.D. Memo No. 2254-F(Y) dated 24.04.2014** with an information to this office. He is also requested to note that the matter for publication are stated below :-

“For & on behalf of Hon’ble Governor of West Bengal, Superintending Engineer, West Circle, Housing Directorate (erstwhile Housing Construction Circle No. II) invite open tender vide e-NIT No. 15 of 2017 – 2018 Construction of 1904 of flats alongwith other amenities, at Namokeshia Mouza in Raniganj area, Asansol under RCFA Project at Raniganj for rehabilitation. Tender ID :- 2018_HSD_147171_1, Estimated amount - Rs. 117,41,02,264/-, Date of submission start date (Online) is 20/01/2018 after 5.00 PM. Date of submission closing (online) is 07/02/2018 at 5.00 PM. Detail information/download/upload will be available in the website <http://wbtenders.gov.in>. Further corrigendum & addendum if required will be published only on website”.

**Superintending Engineer
West Circle, Housing Directorate
(erstwhile Housing Construction
Circle No. II)**

Memo No. 16/1(25)/ 1W – 372

Dated : 05/01/2018

Copy forwarded for favour of kind information to the:-

- 1) The Chief Engineer, Housing Directorate (In duplicate).
- 2) The District Magistrate Purba Burdwan / Paschim Burdwan.
- 3) Chief Executive Officer, Adda, Asansol.
- 4) The General Manager, Eastern Coal Field Ltd., Durgapur.
- 5) The Joint Secretary, Housing Department for display on the Website of Housing Department.
- 6) The Superintending Engineer, Housing Directorate, North Circle / South Circle / Western Circle No. I / II, Eastern Circle / Presidency Circle I & II, P.W.D., Superintending Engineer (Elec.), H&P, Works, PWD.
- 7) The Executive Engineer, Housing Directorate, Siliguri Division/Malda Division/Kolkata South-I/ Kolkata South-II/Kolkata North-I/Nadia Division/Burdwan Division/Bankura Division/Midnapore Division/ Electrical Division No. I / II.
- 5) Contractors’ Association Branch under certificate of posting
- 6) Notice Board.
- 7) Estimating Branch of this office for information.

**Superintending Engineer
West Circle, Housing Directorate
(erstwhile Housing Construction
Circle No. II)**