

GOVERNMENT OF KERALA

**NATIONAL GAMES SECRETARIAT**

**Name of Work: Acoustic works in Stadia for 35<sup>th</sup> National Games - Design and Build mode**

**TENDER DOCUMENT**

Name of work	Acoustic works in Stadia for 35 <sup>th</sup> National games – Design and Build mode
Last date and time for receipt of tender	1.00 pm on -20-12-12
Date and time of opening of tender	11.00 am on next working day
Name and address of the officer inviting the tender	The Chief Engineer National Games Secretariat Chandrasekharan Nair Stadium Trivandrum 695 033 Tel: 0471 2302287

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**SECTION – 1**

**INVITATION FOR BIDS**

**NATIONAL GAMES SECRETARIAT THIRUVANANTHAPURAM**

**EXPRESSION OF INTEREST**

**FOR**

**THE ACOUSTIC WORKS OF 35<sup>th</sup> NATIONAL GAMES STADIA-DESIGN  
AND BUILD MODE**

**NATIONAL COMPETITIVE BIDDING**

Tender Notice No. 01/NGS/2012-13

Dated 01/11/12

1. The Chief Engineer, National Games Secretariat, for and on the behalf of the Chief Executive Officer & Secretary, National Games Secretariat, Kerala State, calls for EOI for the following work

**Name of Work: Acoustic works in 3 Stadia for 35<sup>th</sup> National games - Design and Build mode**

The bid shall be submitted in two cover system (Technical bid and Financial bid )

- a. Technical bid will be opened at 3 PM on 20-12-2012
- b. Pre-bid meeting will be conducted on 16-11-2012

1.1 Location of works and approximate cost.

Sl no	Location	Approx cost in lakh
1	Acoustic works for V K K Menon Stadium, Kozhikode	Rs 34.97 lakhs
2	Acoustic works for VKN Menon Indoor Hal Thrissur	Rs 41.75 lakhs
3	Acoustic works for Rajiv Gandhi Indoor Stadium, Kadavanthra, Kochi	Rs 91.82 lakhs

1.2 EMD :-Rs 4.20 lakhs

1.3 Cost of bid Documents :- Rs 25000+ VAT 5%

1.4 Time of completion :- **4 months from the date of agreement**

2. Bidding documents may either be purchased from the office of Chief Engineer, National Games Secretariat (NGS), Chandra Sekharan Nair Stadium, Palayam, Trivandrum 695033 for a non refundable fee as indicated above in cash or by Demand Draft on any Scheduled bank payable at Thiruvananthapuram in favour of the Chief Executive officer / Secretary, National Games Secretariat, Kerala till 12.00 noon on 15-12-2012 or downloaded from the official website of the National Games Secretariat, [www.35thnationalgames.in](http://www.35thnationalgames.in). Those who download the bidding documents from the website shall enclose a separate Demand Draft along with the bidding document towards the cost of the tender form for the amount given above.
3. Interested bidders can obtain clarifications/additional informations in all matters connected with the invitation of this bid from the office of the Chief Engineer , National Games Secretariat, Chandra Sekharan Nair Stadium, Palayam, Trivandrum 695 033.
4. Bids must be accompanied by the Earnest Money Deposit specified for the work given above, by DD drawn in favour of the Chief Executive Officer & Secretary, National games Secretariat, Trivandrum. .E.M.D will have to be in any one of the forms as specified in the bidding document and shall have to be valid for six months from the last date of receipt of the bids as specified in Para 4 of IFB below.
5. Bids must be delivered to the Chief Engineer, National games Secretariat, Chandra Sekharan Nair Stadium, Palayam, Thiruvananthapuram – 695 033 on or before 13.00 hours IST on 20-12-2012.- and **technical bid** will be opened on the next working day at 11.00 hours in the presence of bidders who wish to attend at the office of the undersigned. If the office happens to be closed on this date, the bids will be opened on the next working day at the same time and venue.

Chief Engineer

Copy to:-

- i. The Chief Engineer (Bldgs) PWD, Public office, TVM 695 033
- ii. The Superintending Engineer (Bldgs) North Circle, PWD, Kozhikode
- iii. The Executive Engineer PWD Building Division, Kozhikode
- iv. The Executive Engineer PWD Building Division, Thrissur
- v. The Executive Engineer PWD Building Division, Manjeri
- vi. The Superintending Engineer (Bldgs) Central Circle PWD, Trichur
- vii. The Executive Engineer, Building Division, PWD, Ernakulam
- viii. The executive Engineer, PWD, Building Division on Palakkad

For publication in their office notice boards.

**SECTION – 2**

**INSTRUCTIONS TO BIDDERS**

## 1. Scope of Bid

- 1.1 The Chief Engineer, NGS for and on the behalf of Chief Executive Officer & Secretary, NGS, Kerala State (referred to as the Employer in these documents) invites sealed tenders from firms having the following eligibility criteria in stadia works for the following work in two cover system (Technical and Financial bids)

### **Name of Work: Acoustic works in Stadia for 35th National games – Design and Build\_mode** (as defined in these documents and referred to as “the works”)

- 1.1.1 Location of works and Approximate cost.

Sl no	Location	Approx cost in lakh
1	Acoustic works for V K K Menon Stadium, Kozhikode	Rs 34.97 lakhs
2	Acoustic works for VKN Menon Indoor Hal Thrissur	Rs 41.75 lakhs
3	Acoustic works for Rajiv Gandhi Indoor Stadium, Kadavanthra, Kochi	Rs 91.82 lakhs

## 1.2 Technical Bid:

- 1.2.1 Proof of eligibility should be attached with technical bid,

- 1.2.1.1 Performance Certificate issued by the Govt, /Public sector undertaking / Reputed Private Agencies will only be considered for eligibility.

- 1.2.2 The firms are advised to inspect the sites, conduct studies and

- i) Prepare suitable acoustic design with the criteria as per para 1.2.2.1 below
- ii) The design to be proof checked by IISc/IIT/NIT/Reputed Govt. Engg Colleges/any authorized agencies.
- iii) Prepare suitable specifications and BOQ with materials as per the generic specifications in para 1.2.2.2 below.
- iv) The tenderer should submit design, drawings, specifications and BOQ and all relevant details for evaluation.

### 1.2.2.1 Acoustic Design Criteria for Indoor Stadium

1. Sound level (DBA) - 85
2. Frequency Response - 100Hz-12 Khz
3. Ambient Room criteria (N) - 40
4. Vibration Curve - J

- 5. Reverberation Time (Sec) - 1.5
- 6. Speech Intelligibility (RASTI) - >0.5

### 1.2.2.2 Generic Specifications for Materials

- a) False ceiling
  - Clip in Steel Panels perforated
  - PVDF Paint coated
  - 600x600x0.5 mm panels
  - i. Synthetic acoustical felt Backing with 50 mm thick (Density 100gsm)
  - ii. G.I suspenders (suitable arrangement)
  - iii. False ceiling materials to have Fire Rating Class I
  - iv. Acoustics - NRC not less than 0.75
- b) Wall Paneling
  - Acoustic fabric panels – 50 mm thick
  - Panels in suitable G.I frame
  - Backing with synthetic acoustic felt 50 mm thick
  - Acoustic - NRC not less than 0.8
  - Fire Rating - Class I
  - Termite/Rodent - Resistant
  - Moisture resistant

1.2.2.3 Firms using materials green certified by IGBC, will be given preference during evaluation.

1.2.3 The technical bid will be evaluated by a committee of experts constituted by NGS and eligible firms will be shortlisted for opening of Financial bids.

1.2.4 The decision taken by the committee will be final and binding to the tenderers.

1.2.5 NGS reserve the right to accept/reject any offer without assigning any reason.

### 1.3 .Financial Bid:-

1.3.1 The Financial bids of short listed agencies will be opened after due notice to all tenderer's and the **offer of the firm submitting the lowest bid amount will be accepted.**

1.4 The successful bidder will be expected to complete the works within 4 months from the date of agreement. Agreement should be signed within 20 days from the date of firm orders from National Games Secretariat.

## 2. Eligible Bidders

2.1 The applicant should have satisfactorily completed works as per details below during the last Five years ending last day of the month previous to the one in which the tenders are invited.

i) Three similar works each costing not less than the amount equal to Rs 35 Lakhs

or

ii) Two similar works each costing not less than the amount equal to Rs 45 Lakhs

or

iii) One similar work costing not less than the amount equal to Rs 70 Lakhs

2.2 All bidders shall provide in Section 3, (Qualifications of Contractors), a statement that the Bidder is not associated, nor has been associated in the past, directly or indirectly, with the Consultant or any other entity that has prepared the design, specifications and other documents for the Project or being proposed as Project Manager for the Contract. A firm that has been engaged by the Employer to provide consulting services for the preparation or supervision of the works, and any of its affiliates, shall not be eligible to bid.

2.3 Bidders shall not be under a declaration of ineligibility for corrupt and fraudulent practices in accordance with sub-clause 31.

## 3. Qualification of the Bidder

3.1 All bidders shall include the following information and documents with their bids .

- (a) Copies of original documents defining the constitution or legal status, place of registration, and principal place of business; written power of attorney of the signatory of the Bid to commit the bidder, duly attested by authorized signatory.
- (b) Total monetary value of construction work performed for each of the last five years, duly attested by concerned authorities.
- (c) Experience in works of a similar nature and size for each of the last five years, and details of works under way or contractually committed; and contacting address and other details of clients who may be contacted for further information on those contracts;
- (d) Major items of construction equipments proposed to be used to carry out the contract;
- (e) Qualifications and experience of key site management and technical personnel proposed for the contract;
- (f) Reports on the financial standing of the bidder, such as audited balance sheet, profit and loss statements for the past three years;

- (g) Evidence of adequacy of working capital for this contract (access to letters of credit and availability of other financial resources) including details of lending financial institutions.
  - (h) Authority to seek references from the bidder's bankers
  - (i) Information regarding any litigation or arbitration resulting from contracts executed by the Bidder in the last five years or currently under execution. The information shall include the names of the parties concerned, the disputed amount, cause of litigation, and matter of dispute.
- 3.2 The Contractor shall ensure the availability of one Engineering Graduate with three to five years experience in execution of similar works at each work site.
- 3.3 In case of non availability of technical personnel at site ,recovery at the rate Rs 20000/- per month for Engg graduate will be made from the contractor .
- 3.4 Even though the bidders meet the above qualifying criteria, they are subject to be disqualified if they have made misleading or false representations in the forms, statements and attachments submitted in proof of the qualification requirements or have a record of poor performance such as abandoning the works undertaken by them, not properly completing the contract, inordinate delays in completion, a history of litigation or financial failures.

#### **4. Cost of Bidding**

The cost of bidding will be paid @ suitable rate for each stadium work for those firms who submit acoustic design as per the design criteria in Para 1.2.2.1 and design proof checked by competent agencies / IIT/NIT/IISc/ reputed Government Engg colleges .etc.

#### **5. Site visit**

- 5.1 The Bidder, at the Bidder's own responsibility and risk is encouraged to visit and examine the Site of Works and its surroundings and obtain all information that may be necessary for preparing design, specification for the bid and entering into a contract for construction of the Works.

#### **6. Content of Bidding Documents**

- 6.1 The set of bidding documents comprises the documents listed in the table below and addenda issued in accordance with Clause 10:

##### **Section**

1. Invitation for Bids
2. Instructions to Bidders
3. Qualifications of contractors
4. Conditions of Contract
5. Check List

## **7. Clarification of Bidding Documents**

7.1 A prospective bidder requiring any clarification in the bidding documents may contact the officer issuing the notification or his authorized subordinate during office hours at the National Games Secretariat, Trivandrum in person.

## **8. Amendment of Bidding Documents**

8.1 Before the deadline for submission of bids, the Employer may modify the bidding documents by issuing addenda.

8.2 Any addendum thus issued shall be part of the bidding documents and shall be communicated by e-mail to all the purchasers of the bidding documents.

## **9. Language of the Bid**

9.1 All documents relating to the bid shall be in the English language

## **10. Documents comprising the Bid.**

10.1 The bid submitted by the bidder shall comprise the following :

- a) Earnest Money Deposit by DD for Rs. 4.20 Lakhs. .
- b) Qualification Information Documents
- c) Cost of bid form (in the case of bid form downloaded from the employer's website) by a separate DD
- d) Any other materials required to be completed and submitted by the bidders in accordance with these instructions.

10.2 The bidder should submit bid in two cover (Technical and Financial bid)

10.2.1. Technical bid shall comprise of the following.

- i) EMD – as per para 1.2 of Section 1
- ii) Cost of bid document (in case of downloaded tenderers) –as per para 1.3 of Section 1
- iii) Proof of Eligibility – as per para 1.2 of Section 2
- iv) Acoustic design as per criteria in para 1.2.2.1 of Section 2 proof checked by competent agencies IISc/IIT/NIT/Reputed Govt Engg Colleges and drawings
- v) Specification of materials proposed to be used as per para 1.2.2.2 of Section .2

10.2.2 Financial bid should comprise of the following

- i) BOQ (with Description of item, Quantity, Unit, Rate and Amount )

## **11. Bid Prices**

11.1 The contract shall be for the whole works.

11.2 The bidder shall quote the rate for the work as per para 1.2. and 1.3 of Section 2

11.3 All duties, taxes and other levies payable by the contractor under the contract, or for any other cause, will be deemed to included in the total bid submitted by the bidder. The rates and prices except in so far as it is otherwise provided under the contract, include all constructional plant, labour, supervision, materials, erection, maintenance etc. together with all general risks, liabilities and obligations set out or implied in the contract.

11.3.1 Service tax if paid by the contractor will be reimbursed as per GOI instructions.

12. All payment will be made entirely in Indian Rupees, rounded off to the nearest Rupee.

### **13. Bid Validity**

13.1 Bids shall remain valid for a period of not less than 120 ( One hundred and twenty) days after the deadline date for bid submission. A bid valid for a shorter period shall be rejected by the Employer as non responsive.

13.2 In exceptional circumstances, prior to expiry of the original time limit, the Employer may request that the bidders to extend the period of validity for a specified additional period. The request and the bidders' responses shall be made in writing. A bidder may refuse the request without forfeiting his E.M.D. A bidder agreeing to the request will not be required to modify his bid but will be required to extend the validity of his E.M.D for the period of the extension, and in compliance with Clause 15 in all respects.

### **14.0 EMD**

14.1 Any bid not accompanied by an acceptable EMD and a separate DD towards the cost of Bid documents (in the case of documents downloaded) shall be rejected outright by the Employer.

14.2 The EMD of unsuccessful bidders except the second lowest bidder will be returned without interest within 30 days of the last date of receipt of the bids.

14.3 The EMD of the successful bidder and the second lowest bidder will be discharged when the selected bidder has signed the Agreement and furnished the required Security Deposit. If he so desires, the selected bidder will have the option to merge the E.M.D with the Security Deposit amounting to 5% of the contract price (as agreed) (Security deposit above 2 crore-10%) by making up the balance amount through DD at the time of executing the agreement.

14.4 The EMD may be forfeited (a) if the Bidder withdraws the Bid after Bid opening during the period of Bid validity (b) In the case of a successful Bidder; if the Bidder fails within the specified time limit to

- (i) Sign the Agreement; or
- (ii) Furnish the required Security Deposit.

## 15.0

- 15.1 Bidders shall submit only offers that comply with the requirements of the bidding documents, including the basic technical design as indicated in the drawing and specifications, Alternatives will not be considered.
- 15.2 Conditional bids will be rejected outright.

## 16. Format and Signing of Bid

- 16.1 The Bidder shall prepare one original set of the documents comprising the bid as described in Clause 10 above.
- 16.2 The Bid shall be written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the Bidder, pursuant to Clause 3.2 (a). All pages of the bid where entries or amendments have been made shall be initialed by the person or persons signing the bid.
- 16.3 The Bid shall contain no alterations or additions, except those to comply with instructions issued by the Employer, or as necessary to correct errors made by the bidder, in which case such corrections shall be initialed by the person or persons signing the bid.

## 17. Sealing and Marking of Bids

- 17.1 The Bidder shall seal the Bid in separate envelopes, duly marking the envelopes as Technical Bid and Financial Bid. The 1st envelope containing Technical bid comprises
  - i. EMD – as per para 1.2 of Section 1
  - ii. Cost of bid document (in case of downloaded tenderers) –as per para 1.3 of Section 1
  - iii. Proof of Eligibility – as per para 1.2 of Section 2
  - iv. Acoustic design as per criteria in para 1.2.2.1 of Section 2 proof checked by IISc/IIT/NIT/Reputed Govt Engg Colleges and drawings
  - v. A preliminary agreement in Kerala stamp paper for Rs100.00 also to be enclosed.(Format as per Annexure B)
  - vi. Specification of materials proposed to be used as per para 1.2.2.2 of Section . 2and 2nd envelope containing Financial bid comprises BOQ .These envelopes (called as inner envelopes) shall then be put inside one outer envelope.
- 17.2 The inner and outer envelopes shall
  - a) be addressed to the Employer at the following address:  
The Chief Engineer, National Games Secretariat, Chandrasekharan Nair Stadium, Palayam, Thiruvananthapuram – 695033.
  - (b) Bear the following identification:
    - (i) Bid for ..... (name of work )  
National Games 2013, Kerala
    - ( ii ) Bid Reference No .....(Bid no).
    - ( iii ) Technical Bid and Price Bid respectively in the two covers.

17.3 In addition to the identification required in Sub-Clause 17.2, the inner envelopes shall indicate the name and address of the bidder to enable the bid to be returned unopened in case it is declared late.

17.4 If the envelopes are not sealed and marked as above, the Employer will assume no responsibility for the misplacement or premature opening of the bid.

## **18. Deadline for submission of the Bids**

18.1 Bids must be received by the Employer at the address specified above not later than 13.00 hrs IST on 20-12-2012.

18.2 The Employer may extend the deadline for submission of bids by issuing amendment in accordance with Clause 8, in which case all rights and obligations of the Employer and the bidders previously subject to the original deadline will then be subject to the new deadline.

## **19. Late Bids**

19.1 Any bid received by the Employer after the deadline prescribed in Clause 18.1 will be returned unopened to the bidder

## **20. Modification and Withdrawal of Bids**

20.1 No bid shall be modified after the submission of Bids

20.2 Withdrawal of a bid between submission of bids and the expiration of the original period of bid validity specified in Clause 13.1 above or as extended pursuant to Clause 13.2 may result in the forfeiture of the EMD pursuant to Clause 14.

## **21. Bid Opening**

21.1 The Employer shall open the technical bids in the presence of the Bidders or their representatives who choose to be present at 11.00 hours on the date and the place specified in the paragraph 5 of the EOI. In the event of the specified date of Bid opening being declared a holiday for the Employer, the Bids will be opened at the same location at 11.00 hours on the next working day. The price bid shall remain unopened and will be held in the custody of the employer up to till the technical bid is scrutinized for determining the responsibilities.

21.2 Employer shall conduct the opening of Price Bids of those bidders whose bid is determined as responsive, in the presence of the Bidders or their representatives who choose to attend at 11.00 hours on the date and the place to be notified on the 1st Bid opening day in the notice board of the Employer.

21.3 No bid shall be rejected at bid opening except for the late bids pursuant to Clause 19. Late bids will be returned un-Opened to bidders, if they approach the Employer.

## **22. Process to BE CONFIDENTIAL**

- 22.1 Information relating to the examination, clarification, evaluation and comparison of Bids and recommendation for the award of a contract shall not be disclosed to Bidders or any other persons not officially concerned with such process until the award to the successful Bidder has been announced. Any effort by a Bidder to influence the Employers processing of Bids or award decisions may result in the rejection of his Bid.

## **23. Clarification of Bids**

- 23.1 To assist in the examination, evaluation and comparison of Bids, the Employer may, at his direction, ask any Bidder for clarification of his Bid, including breakdowns of unit rates. The request for clarification and the response shall be in writing or by email, but no change in the substance of the Bid shall be sought, offered or permitted except as required to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the Bids in accordance with Clause 25.
- 23.2 Subject to sub-clause 24.1, no Bidder shall contact the Employer on any matter relating to its bid from the time of the bid opening to the time the contract is awarded. If the Bidder wishes to bring additional information to the notice of the Employer, it should be done in writing

## **24. Examination of Bids and Determination of responsiveness**

- 24.1 Prior to the detailed evaluation of bids, the Employer will determine whether each Bid (a) meets the eligibility criteria defined in Clause 2 & 3 (b) has been properly signed: (c) is accompanied by the required securities and (d) is substantially responsive to the requirements of the Bidding documents.
- 24.2 A substantially responsive Bid is one which confirms to all the terms, conditions, and specifications of the Bidding documents without material deviation or reservation. A material deviation or reservation is one.
- (a) which affects in any substantial way the scope, quality or performance of the works (b) which limits in any substantial way inconsistent with the Bidding documents, the Employers rights or the Bidders obligations under the Contract or (c) whose rectification would affect unfairly the competitive position of other bidders present substantially responsive Bids
- 24.3 If a Bid is not substantially responsive, it will be rejected by the Employer and may not subsequently be made responsive by correction or withdrawal of the non conforming deviation or reservation.

## **25. Evaluation and Comparison of bids**

- 25.1 The Employer will evaluate and compare only the Bids determined to be substantially responsive in accordance with Clause 24
- 25.2 The Employer reserves the right to accept or reject any variation, deviation or alternative offer, variations, deviations and alternative offers and other factors which are in excess of the requirements of the Bidding documents or otherwise result in solicited benefits for the Employer shall not be taken into account in Bid evaluation.

## **26.**

- 26.1 Subject to Clause 28, the Employer will award the Contract to the Bidder whose bid has been determined to be substantially responsive to the Bidding documents and who has offered the lowest contract price, Provided that such Bidder has been determined to be (a) eligible and qualified in accordance with the provisions of Clause 2 & 3.
- 26.2 Before the award of contract, Employer can ask for negotiation during the process of finalization if he desires so and in that case the negotiated amount will be reckoned for consideration for award of contract.

## **27. Employers Right to accept any Bid and to reject any or all Bids.**

- 27.1 The Employer reserves the right to accept reject any Bid, and to cancel the bidding process and reject all bids, at any time prior to the award of Contract, without thereby incurring any liability to the affected Bidder or Bidders or any obligation to inform the affected Bidder or Bidders of the grounds for the Employers action, In all such cases the EMD will be returned to the bidders on written request. But the cost of tender documents will not be refunded.

## **28. Notification of award and signing of agreement**

- 28.1 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 registered letter. This letter (hereinafter and in the conditions of contract called the "Letter of Acceptance") will state the sum that the Employer may have to pay the contractor in consideration of the execution, completion and maintenance of the works by the contractor as prescribed by the contract (hereinafter and in the contract called the "Contract Price")
- 28.2 The notification of award will constitute the formation of the contract, subject to the furnishing of a Security Deposit in accordance with the provisions of Clause 29.
- 28.3 The Agreement will incorporate all agreements between the employer and the successful bidder. It will be kept ready for signature if the successful bidder in the office of employer within 20days following the notification of award along with the

Letter of Acceptance. Within 20 days of receipt the successful Bidder will sign the agreement and deliver it to the Employer.

- 28.4 Upon the furnishing by the successful Bidder of the Security Deposit, the Employer will promptly notify the other Bidders that their Bids have been unsuccessful.

## **29. Security Deposit**

29.1 Within 20 days of receipt of the Letter of Acceptance, the successful Bidder shall deliver to the Employer a Security Deposit by Demand Draft for an amount to be specified in the letter of acceptance (refer clause 28.1 above) drawn on a Scheduled Bank in favour of the CEO, NGS, TVM and subject to the option as per clause 14.3 above and a Bank Guarantee from a scheduled bank for an amount equivalent to 10% of the contract price. (Security deposit above 2 crore-10%)and agreement to be executed.

29.2 Failure of the successful bidder to comply with the requirements of sub-clause 29.1 above shall constitute a breach of contract, cause the annulment of the award, forfeiture of the EMD, and any such other remedy the Employer may take under the contract, and the Employer may resort to awarding the contract to the next ranked bidder and blacklisting the bidder from further works under the NGS

## **30. Arbitration**

Arbitration shall not be a means to the settlement of any disputes arising out of this contract. Any dispute arising out of this contract between the parties thereto shall be handled in accordance with clause 58 of the conditions of the contract.

## **31. Corrupt or Fraudulent Practices**

31.1 The Bidders/Suppliers/Contractors, are expected to observe the highest standard of ethics during the procurement and execution of this contract and

(a) For the purpose of this provision, the terms set forth below as follows

(i) "Corrupt Practice "means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution

(ii) "Fraudulent Practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Employer, and included collusive practice amount Bidders (prior to or after bid submission) designed to establish bid prices at artificial non- competitive level and to deprive the employer of the benefits if free and open competition

(b) The Employer will reject a bid if it determines that the Bidder recommended for award has engaged in a corrupt or fraudulent practice in competing for the contract in question.

- (c) The employer will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded any contract from this office if at any time they determine that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing a contract.

**32.0**

- 32.1 The bid document comprise of Specifications and Conditions of contract. In case of ambiguity between the above documents the decision of the Employer in this regard will be final and binding on the contractor.
- 32.2 The bidder is advised to go through the tender documents very carefully, to understand various clause, terms and conditions etc.
- 32.3 The Employer reserves the right to add or omit any item from the tender and this will not vitiate the other terms and conditions of contract.

**SECTION 3**

**QUALIFICATIONS OF  
CONTRACTORS**

## Qualifications of contractors

The information to be filled in by the Bidder in the following pages will be used for purposes of post qualification as provided for in Clause 3 of the Instructions to Bidders. This information will not be incorporated in the Contract.

### 1. For corporate bidders only

- 1.1 Constitution or legal status of Bidder [Attach copy of articles of association]
- 1.2 Place of registration
- 1.3 Principal place of business
- 1.4 Power of attorney of signatory of Bid [Attach copy]

### 2. For all bidders

- 2.1 Total value of Civil Engineering construction work executed and payments received in the last four years

2011-2012  
2010-2011  
2009- 2010  
2008-2009

- 2.2 Works (include all the works as mentioned at clause 3.2 c) performed as principal contractor (in the same name) on works of a similar nature over the last five years

Project Name	Name and address of Employer	Description of work	Value of contract (Rs. Lakhs)	Agreed date of completion	Actual date of completion	Remarks explaining reasons for delay

- 2.3 Information on Bid Capacity (works for which bids have been submitted and works which are yet to be completed) as on the date of this bid. *attach certificate(s) from Engineer(s)-in-charge*

- 2.4 (A) Existing commitments and on-going works:

Description of work	Name and address of employer	Value of contract (Rs. Lakhs)	Stipulated period of completion	Value of works* remaining to be completed (Rs. lakhs)	Anticipated date of completion

Description of work	Name and address of employer	Estimated Value of works(Rs. Lakhs)	Stipulated period of completion	Date when decision is expected	Remarks if any

(B) Works for which bids Already submitted \*

Proposed subcontracts and firms involved. [Refer ITB Clause 3.2 (j)]

Sections of the works	Value of Sub-contractor	Sub-contract (name and address)	Experience in similar work
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*

2.6 1. Financial reports for the last five years: balance sheets, profit and loss statements, auditors' reports (in case of companies/corporation), etc. List them below and attach copies.

2. Name, address, and telephone, and fax numbers of the Bidders' bankers who may provide references if contacted by the Employer.

2.7 Information on litigation history in which the Bidder is involved.

Other party(ies) / Employer	Subject matter of dispute	Amount involved	Remarks showing present status	Name of court in which litigation is pending

2.8 Statement of compliance under the requirements of Sub Clause 3.1 of the instructions to Bidders.

**SECTION 4**  
**CONDITIONS OF CONTRACT**

# **Conditions of Contract**

## **1. Definitions**

**Tender schedule** means the priced and completed Schedule of Tender forming part of the Bid. The **Contract** is the agreement between the Employer and the Contractor to execute completely and maintain the Works. It consists of the documents listed in Clause 2.3 below.

The **Contractor** is a person or corporate body whose Bid to carry out the Works has been accepted by the Employer. The **Contractor's Bid** is the completed Bidding document submitted by the Contractor to the Employer.

The **Contract Price** is the price stated in the Letter of Acceptance and thereafter as adjusted in accordance with the provisions of the Contract.

**Days** are calendar days; **months** are calendar months of the Gregorian calendar.

**Defects Liability Period** is the period named in the Contract and calculated from the Completion Date.

The **Employer** is the Chief Engineer, National Games Secretariat, Chandrasekharan Nair Stadium, TRIVANDRUM 695033

**The Engineer** is the competent person to be nominated by the employer and appointed and notified to the contractor who is responsible for supervising the execution of the works and administering the Contract and the authorized officer inviting the bids and his authorized sub-ordinates appointed from time to time.

**Equipment** is the Contractor's machinery and vehicles brought temporarily to the Site to construct the Works. **Hindrances** are those defined in Clause 41 hereunder.

The **Initial Contract Price** is the Contract Price listed in the Employer's Letter of Acceptance.

**Date of Commencement** shall be the date of executing the agreement or the date on which the site is handed over to the contractor to proceed with the work whichever is later. It is the date when the Contractor shall commence execution of the works.

**Agreed date of completion** is the date on which it is agreed that the Contractor shall complete the Works. The Agreed Completion Date may be revised only by the Employer by issuing an extension of time. **Time of completion** is the period in days or calendar months from the date of commencement to the agreed date of completion.

**Materials** are all supplies, including consumables, used by the contractor for incorporation in the Works.

**Tools & Plant** means any integral part of the Works which is to have a mechanical, electrical, electronic or chemical or biological function.

The **Site** is the area defined as such in the Contract

**Site Investigation Reports** are those which were included in the Bidding documents and are factual interpretative reports about the surface and sub-surface conditions at the site.

**Specification** means the Specification of the Works included in the Contract and any modification or addition made or approved by the Engineer.

A **Subcontractor** is a person or corporate body who has a Contract with the Contractor to carry out a part of the work in the Contract which includes work on the Site.

**Temporary Works** are works designed, constructed, installed, and removed by the Contractor which are needed for construction or installation of the Works.

**Variation** is an instruction given by the Engineer which varies the Works.

**Works** are what the Contract requires the Contractor to construct, install, and turn over to the Employer, as defined in the Contract Data.

## **2. Interpretation**

**2.1** In interpreting these Conditions of Contract, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Engineer will provide instructions clarifying queries about the Conditions of Contract.

**2.2** If sectional completion is specified in the Contract Data, references in the Conditions of Contract to the Works, the Completion Date, and the Agreed Completion Date apply to any Section of the Works (other than references to the Completion Date and Agreed Completion date for the whole of the Works).

### **3. Language and Law**

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

### **4. Engineer's Decisions**

**4.1** Except where otherwise specifically stated, the Engineer will decide contractual matters between the Employer and the Contractor in the role representing the Employer.

### **5. Delegation**

**5.1** The Engineer may delegate any of his duties and responsibilities to other people after notifying the Contractor and may cancel any delegation after notifying the Contractor.

### **6. Communications**

**6.1** Communications between parties which are referred to in the conditions are effective only when in writing. A notice shall be effective only when it is delivered (in terms of Indian Contract Act).

### **7. Subcontracting**

**7.1** The Contractor may subcontract with the approval of the Engineer and the Employer in writing. Subcontracting does not alter the Contractor's obligations.

**7.2** All bidders are expected to indicate clearly in the bid, if they propose to subcontract parts of the works amounting to more than 25 percent of the Bid Price. For each such proposal the qualification and the experience of the identified sub-contractor in the relevant field should be furnished along with the bid to enable the employer to satisfy himself about their qualifications before agreeing for such subcontracting and include it in the contract. In view of the above, normally no additional subcontracting should arise during execution of the contract.

**7.3** However, [a] sub contracting for certain specialized elements of the work is not unusual and acceptable for carrying out the works more effectively; but vertical splitting of the works for subcontracting is not acceptable [b] In any case, proposal for subcontracting in addition to what was specified in bid and stated in contract agreement will not be acceptable if the value of such additional sub-contracting exceeds 25% of value of work which was to be executed by Contractor without sub-contracting.

**7.4** Assignment of the contract may be acceptable only under exceptional circumstances such as insolvencies/ liquidation or merger of companies etc.

**7.5** The contractor shall not be required to obtain any consent from the employer for

- a) the sub-contracting of any part of the Works for which the Sub-contractor is named in the contract
- b) the provision of labour and
- c) the purchase of materials which are in accordance with the standards specified in the Contract.

**7.6** Beyond what is stated in Clause 7.5 above, if the contractor proposes sub-contracting any part of the work during execution of works, because of some unforeseen circumstances to enable him to complete the work as per terms of the contract, it shall be subject to the following conditions

1. The contractor shall not sub-contract the whole of the Works.
2. The contractor shall not sub-contract any part of the Work without prior consent of the Engineer. Any such consent shall not relieve the contractor from any liability or obligations under the contract and he shall be responsible for the acts, faults omissions and neglects of any sub-contractor, his agents or workmen as fully as if they were the acts, faults or neglects of the contractor, his agents or his own workmen.
3. No payments will be made directly to that sub-contractor.

## **8. Other Contractors**

- 8.1** The Contractor shall cooperate and share the site with other contractors, public authorities, utilities and the Employer between the dates given in the Schedule for other Contractors. The Contractor shall as referred to in the Contract, also provide facilities and services for them as required from time to time. The employer may modify the schedule of other contractors and shall notify the contractor of any such modification.

## **9. Personnel**

- 9.1** The Contractor shall employ the key personnel named in the Schedule of Key Personnel as referred to in the Contract Data to carry out the functions stated in the Schedule or other personnel approved by the Engineer. The Engineer will approve any proposed replacement of key personnel only if their qualifications, abilities, and relevant experience are substantially equal to or better than those of the personnel listed in the Schedule.
- 9.2** If the Engineer asks the Contractor to remove a person who is a member of the Contractor's staff or his work force stating reasons, the Contractor shall ensure that the person leaves the site within 24 hrs and has no further connection with the work in the Contract.

## **10. Employer's and Contractor's Risks**

- 10.1** The Employer carries the risks which this Contract states as Employer's risks, and the Contractor carries the risks which this Contract states as Contractor's risks.

## **11. Employer's Risks**

- 11.1** The Employer is responsible for the excepted risks which are (a) in so far as they directly affect the execution of the Works in the Employer's country, the risks of hostilities, invasion of foreign enemies, civil war rebellion, riots, hartals, general strikes, commotion or disorder (unless restricted to the Contractor's employees), and contamination from any nuclear fuel or nuclear waste or radioactive toxic explosive, or (b) a cause due solely to the faulty design of the Works, other than the Contractor's design.

## **12. Contractor's Risks**

- 12.1** All risks of loss of or damage to physical property and of personal injury and death which arise during and in consequence of performance of the contract other than expected risk are the responsibility of the Contractor

## **13. Insurance**

- 13.1** The Contractor shall provide, in the joint names of the Employer and the Contractor, insurance cover from the date of commencement to the end of the Defects Liability Period, in the amounts and deductibles stated in the Contract for the following events
- (a) loss of or damage to the Works, Plant and Materials;
  - (b) loss of or damage to Equipment;
  - (c) loss of or damage of property (except the Works, Plant, Materials and Equipment) in connection with the Contract; and
  - (d) personal injury or death.
- 13.2** Copies of policies and certificates for insurance shall be delivered by the Contractor to the Engineer for the Engineer's approval before the Date of Commencement. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.

- 13.3 If the Contractor does not provide any of the policies and certificates required, the Employer may effect the insurance which the Contractor should have provided and recover the premiums the Employer has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.
- 13.4 Alterations to the terms of an insurance shall not be made without the approval of the Engineer.
- 13.5 Both parties shall comply with any conditions of the insurance policies.

#### **14. Site Investigation Reports**

- 14.1 The Contractor, in preparing the Bid, shall rely on any site Investigation Reports prepared by the Engineer, supplemented by any information available to the Bidder.

#### **15. Queries anomalies and ambiguities about the Contract**

- 15.1 The Engineer will clarify all queries and ambiguities in the Contract

#### **16. Contractor to Construct the Works**

- 16.1 The Contractor shall construct and install the Works in accordance with the Specification and Drawings, and as per instructions of Engineer.
- 16.2 During continuance of the contract, the contractor and his sub-contractors shall abide at all times by all existing enactments on environmental protection and rules made there under, regulations, notifications and bye-laws of the State or Central Government, or local authorities and any other law, bye-law, regulations that may be passed or notification that may be issued in this respect in future by the State or Central Government or the local authority.

#### **17. The Works to be completed by the Agreed date of completion**

- 17.1 The Contractor may commence execution of the Works on the date of Commencement and shall carry out the Works in accordance with the program submitted by the Contractor, as updated with the approval of the Engineer, and complete them by the Agreed date of completion. The work program as submitted by the contractor, recommended by the Engineer and approved by the Employer shall also form an integral part of the contract for the work.

#### **18. Approval by the Engineer**

- 18.1 The Contractor shall submit Specifications and Drawings showing the proposed temporary works to the Engineer, who is to approve them if they comply with the safety regulations and specifications and does not interfere with the approved drawings and designs for the Works.
- 18.2 The Contractor shall be responsible for the design of temporary works including sheds dormitories and cooking places for labourers, garages, store rooms, and all types of shoring, centering, scaffolding and formwork
- 18.3 The Engineer's approval shall not alter the Contractor's responsibility for design of the temporary works.
- 18.4 The Contractor shall obtain approval of third parties for the design of the temporary works wherever required.
- 18.5 All Drawings prepared by the Contractor for the execution of the temporary or permanent works, are subject to prior approval by the Engineer before their use.

#### **19. Safety**

- 19.1 The Contractor shall be responsible for the safety of all activities at the Site.

## **20. Valuables from the site**

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

## **21. Possession of the Site**

- 21.1** The Employer shall hand over possession of all parts of the site to the Contractor before work commences. If possession of a part is not given by the date stated in the agreement the Employer is deemed to have delayed the start of the relevant activities and this will be a Compensation Event.

## **22. Access to the Site**

- 22.1** The Contractor shall allow the Engineer and any person authorized by the Engineer access to the Site, to any place where work in connection with the Contract is being carried out or is agreed to be carried out and to any place where materials or plant are being manufactured / fabricated / assembled for the works.

## **23. Instructions**

- 23.1** The Contractor shall carry out all instructions of the Engineer which comply with the laws applicable where the site is located.

## **24. Disputes**

- 24.1** If the Contractor believes that a decision taken by the Engineer was either outside the authority given to the Engineer by the Contract or that the decision was wrongly taken, the decision shall be referred to the Chief Engineer, National Games Secretariat, Trivandrum. If the decision made by the Chief Engineer is unacceptable to the contractor, he may seek the redressal of his grievance as provided for in clause 58 of the conditions of contract within 7 days of the notification of the Engineer's decision.

## **25. Program**

- 25.1** Within the time stated in the Contract Data the Contractor shall submit to the Engineer for approval a Program showing the general methods, arrangements, order, and timing for all the activities in the Works, along with monthly cash flow forecast.
- 25.2** An update of the Program shall be a program showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work including any changes to the sequence of the activities.
- 25.3** The Contractor shall submit to the Engineer, for approval, an updated Program at intervals no longer than the period stated in the Contract Data. If the Contractor does not submit an updated Program within this period, the Engineer may withhold the amount stated in the Contract Data from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program has been submitted.
- 25.4** The Engineer's approval of the Program shall not alter the Contractor's obligations. The Contractor may revise the Program and submit it to the Engineer again at any time. A revised Program is to show the effect of Variations and Hindrances.

## **26. Extension of the Agreed Completion Date**

- 26.1** The Employer shall extend the Agreed Completion Date if hindrances occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Agreed Completion Date without the Contractor taking steps to accelerate the remaining work and which would cause the Contractor to incur additional cost.

- 26.2** The Engineer shall decide whether and by how much to extend the Agreed Completion Date within 21 days of the Contractor asking the Engineer for a decision upon the effect of a Hindrance or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Agreed Completion Date. The Engineer shall make a recommendation to the Employer on the date up to which the time of completion may be extended. The CE will take a decision on the matter which will be binding and final. If found necessary the CE may operate the procession stipulated in clause 93 of the conditions of contract.

## **27. Delays Ordered by the Engineer**

- 27.1** The Engineer may instruct the Contractor to delay the start or progress of any activity within the works, for accommodating any other connected works.

## **28. Management Meetings**

- 28.1** Either the Engineer or the Contractor may require the other to attend a management meeting. The business of a management meeting shall be to review the plans for remaining work and to deal with matters raised in accordance with the early warning procedure.
- 28.2** The Engineer shall record the business of management meetings and is to provide copies of his record to those attending the meeting and to the Employer. The responsibility of the parties for actions to be taken is to be decided by the Engineer either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.

## **29. Early Warning**

- 29.1** The Contractor is to warn the Engineer at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work, variations or delay the execution of works. The Engineer may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate is to be provided by the Contractor as soon as reasonably possible.
- 29.2** The Contractor shall cooperate with the Engineer in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the Engineer.

## **30. Identifying Defects**

- 30.1** The Engineer shall check the Contractor's work and notify the Contractor of any defects that are found. Such checking shall not affect the Contractor's responsibilities. The Engineer may instruct the Contractor to search for a defect and to uncover and test any work that the Engineer considers may have a defect.

## **31. Tests**

- 31.1** If the Engineer instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no defect the work may continue.

## **32. Correction of Defects**

- 32.1** The Engineer shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion and is defined in the Contract Data. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.
- 32.2** Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Engineer's notice.

## **33. Uncorrected Defects**

- 33.1** If the Contractor has not corrected a defect within the time specified in the Engineer's notice, the Engineer will assess the cost of having the defect corrected, and the Contractor will pay this amount.
- 33.2** In certain cases, the technical specifications provide for acceptance of works within specified tolerance limits at reduced rates, Engineer will certify payments to Contractor accordingly.

## **34. Schedule of Tender**

- 34.1** The Schedule of Tender contains items for the construction, installation, testing, and commissioning work to be done by the Contractor.
- 34.2** The Schedule of Tender is used to calculate the Contract Price. The Contractor is paid for the quantity of the work done at the rate in the Schedule of Tender for each item.

## **35. Changes in the Quantities**

The Schedule of Tender given in the tender broadly gives the scope of work under this contract but there can be additional works instructed or become necessary on account of the site conditions, structural conditions of existing buildings or on account of complying with the requirements of International Sporting Federation standards. The contractor shall undertake these works at short notice as extra items and mobilize their resources and complete these works concurrently along with other works under this contract.

## **36. Variations**

- 36.1** The quantities shown in the Bill of Quantities are indicative and can vary. However, an excess quantity of 25% is allowed for each item in this Contract and does not come under the definition of variation. All variations shall be included in the updated work programs produced by the Contractor.
- 36.2** When the variation is in excess of 25% in an individual item the Engineer shall propose a rate as per the Kerala State PWD Schedule of rate prevailing at the date of execution at site and the agreed tender variation added to it and payment may be made at this rate for the quantity done more than 125% of the agreed quantity. Quantities done up to 125% of the agreed quantity will be paid only at the agreed rates.
- 36.3** The Employer will make payments to the contractor up to an overall excess of 5.0% of the estimate amount of contract without resorting to a revised estimate being generated and approved by the Engineer. If the overall excess is more than 5.0% of the estimated value of the contract the Engineer shall prepare a revised estimate with comparative statement clearly stating the reasons for running up the excesses and submit to the employer for consideration and approval. The final settlement of the claims of the Contractor will be made only after the revised estimate is approved by the Employer.

### **37. Payments for Extra Items.**

- 37.1** The Contractor shall provide the Engineer with a data (with breakdown of unit rates) for carrying out any extra item when it is requested to be done by the Engineer. The Engineer shall verify the data and see that the rates are as per the PWD schedule of rates prevailing at the time of execution with the agreed tender variation added to it and shall be submitted within seven days to the Employer for acceptance. If the rates are not covered by the PWD schedule of rates the Engineer may provide prevailing market rates in the respective district [after proper enquiry and supported by necessary invoices] but without adding the agreed tender variation in such cases and submit to the Employer for acceptance.
- 37.2** If the work in the extra item corresponds with an item description in the Schedule of Contract and if in the opinion of the Engineer, there are no reasons for the cost per unit of quantity to be otherwise, the rate in the Schedule of Tender shall be used to calculate the value of the extra item. If the timing of the work in the variation is beyond the agreed time of completion, the procedure in clause 37.1 above shall be followed.
- 37.3** If the Contractor's data is unreasonable (or if the contractor fails to provide the Engineer with a data within a reasonable time specified by the Engineer in accordance with Clause 37.1), the Engineer may order appropriate variation as per the Engineer's own judgment and recommend for payment. For arriving at the rates for variation, the following priority of documents shall prevail:
1. Items in the accepted tender schedule
  2. Similar items in the accepted tender schedule
  3. The latest Kerala PWD Schedule of Rates and PWD Standard Data Book as amended from time to time
  4. Specification for Road and Bridge Works of the MHRT [latest version]
  5. Local Market Rates
- 37.4** The Contractor shall not be entitled to additional payment for costs which could have been avoided by giving early warning.

### **38. Payment Certificates (Running Account Bills)**

- 38.1** The Contractor shall submit to the Engineer part bills of the work completed at intervals not less than sixty days.
- 38.2** The Engineer shall check the Contractor's part bill and within 7 days and certify the amount to be paid to the Contractor based on the joint measurement taken by the Engineer and Contractor's representative. The method of measurement of all completed works for payment shall be in accordance with the IS code of practice.

### **39. Payments**

- 39.1** Payments shall be adjusted for deductions for advance payments, retention, other recoveries in terms of taxes, at source, as applicable under the law. The Employer shall pay the Contractor the amounts certified by the Engineer and check measured by the Employer or his authorized representative, within 21 days from the date of receipt of the bill in the office of the Employer. If the Employer makes a late payment due to any technical reasons, the Contractor shall not be paid any interest on the late payment.
- 40.** If an amount certified is increased in a later certificate as per any Clause of the Conditions of Contract, the Contractor shall not be paid interest upon the delayed payment as set out in this clause.

## 41. Hindrances

**41.1** The following are Hindrances unless they are caused by the Contractor

- (a) The Employer does not give access to a part of the Site by the Site Possession Date stated in the Contract Data.
- (b) The Employer modifies the schedule of other contractors in a way which totally affects the work of the contractor under the contract.
- (c) The Engineer orders a delay or does not issue drawings, specifications or instructions required for execution of works on time
- (d) The Engineer unreasonably does not approve a subcontract to be let
- (e) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of Letter of Acceptance from the information issued to Bidders (including the Site Investigation Reports)
- (f) The Engineer gives an instruction for dealing with an unforeseen condition, caused by the Employer, or additional work required for safety or other reasons.
- (h) Other contractors, public authorities, utilities or the Employer does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor
- (i) The Engineer unreasonably delays issuing a Certificate of Completion.

**41.2** If an hindrance would cause additional time or would prevent the work being completed before the agreed Completion Date, and the Agreed Completion Date is extended, then, the Engineer shall decide whether and by how much the agreed Completion Date shall be extended without imposing penalty.

**41.3** As soon as information demonstrating the effect of each Hindrance upon the Contractor's forecast period of execution has been provided by the Contractor, it is to be assessed by the Engineer and the Contract Period shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Engineer shall adjust the Contract Period based on Engineer's own forecast. The Engineer will assume that the Contractor will react competently and promptly to the event.

**41.4** The Contractor shall not be entitled to compensation as mentioned above to the extent that the Employer's interests are adversely affected by the Contractor not having given early warning or not having cooperated with the Engineer

**41.5** The Hindrances **are** not entitled for any price hike or additional costs.

**41.6** The contractor shall maintain a Work spot Order Book as given in Appendix XVI (b) of the Kerala P.W.D Manual. The Employer will issue separate instructions on how to maintain the Work spot Order Book at the work site. The Work spot Order Book will have a Hindrance Register as part of it and the Engineer shall make a record of each days activity at site in it stating reasons for inactivity at site if any each day. It should specifically be made out whether the reason for inactivity on a particular day is attributable to the Contractor or to the Engineer or to happenings beyond the control of both and the dated signature of the Contractor's site agent shall invariably be obtained against each such entry made, in token of the Contractor's acceptance of the observation.

## 42. Taxes

- 42.1 The rates quoted by the Contractor shall be deemed to be inclusive of the commercial and other taxes that the Contractor will have to pay for the performance of this Contract. The Employer will perform such duties in regard to the deduction of such taxes at source as per applicable law prevailing in the State of Kerala, including 1% of the bill amount towards the Kerala State Construction Workers Welfare Fund Board.

## 43. Currencies

- 43.1 All payments shall be made in Indian Rupees.

## 44. Retention

- 44.1 The Employer shall retain from each payment due to the contractor 10 % of the value of the bill until Completion of the whole of the Works.[No retention if the contract value is more than Rs.200 Lakhs.]
- 44.2 On Completion of the whole of the Works half the total amount retained is repaid to the Contractor and half when the Defects Liability Period has passed and the Engineer has certified that all Defects notified by the Engineer to the Contractor before the end of this period have been corrected.
- 44.3 On completion of the whole works, the Contractor may substitute retention money with an "on demand" Bank guarantee.

## 45. Liquidated Damages / Reward

- 45.1 Time is the essence of contract and the Contractor has to strictly adhere with the Project schedule. **There will be Reward for the early completion of the Project as well as penalty for the Liquidated damages caused due to noncompeting the work as per schedule.**
- 45.2 The Contractor shall pay liquidated damages to the Employer at the rate of 1% of contract value for each week that the completion date is later than the Agreed Completion Date (for the whole of the work or the milestones as stated in the Contract Data) The total amount of liquidated damages shall not exceed 10% of the the contract value. The Employer may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages does not affect the Contractor's liabilities
- 45.3 If the Agreed Completion Date is extended after liquidated damages have been paid, the Engineer shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate. The Contractor shall not be paid interest on the over payment calculated from the date of payment to the date of repayment.
- 45.4 **Reward for successfully completing the work in all respects within the originally (not extended) Agreed date of Completion shall be paid at the rate of 1% of the agreed amount of contract subject to a maximum of Rs. 3.00 lakhs provided for in the Contract after the completion of the project.**

## 46. Securities

- 46.1 The Security Deposit shall be provided to the Employer not later than the date specified in the Letter of Acceptance and shall be issued in an amount and form and by a bank or surety acceptable to the Employer, and denominated in Indian Rupees. The Security Deposit shall be valid until a date 28 days from the date of expiry of Defects Liability Period.

#### **47. Cost of Repairs**

**47.1** Loss or damage to the Works or Materials to be incorporated in the Works between the Date of Commencement and the end of the Defects Correction periods shall be remedied by the Contractor at the Contractor's own cost if the loss or damage arises from the Contractor's acts or omissions.

#### **48. Completion**

**48.1** The Contractor shall request the Engineer to issue a Certificate of Completion of the Works and the Engineer will do so upon deciding that the Work is completed.

#### **49. Taking Over**

**49.1** The Employer shall take over the Site and the Works within seven days of the Engineer issuing a certificate of Completion

#### **50. Final Account**

**50.1** The Contractor shall supply to the Engineer a detailed account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Engineer shall issue a Defect Liability Certificate and certify any final payment that is due to the Contractor within 30 days of receiving the Contractor's account if it is correct and complete. If it is not, the Engineer shall issue within 30 days a schedule that states the scope of the corrections or additions that are necessary. If the Final Account is still unsatisfactory after it has been resubmitted, the Engineer shall decide on the amount payable to the Contractor and issue a payment certificate within 30 days of receiving the Contractor's revised account. The Engineer's certificate is to be checked every time by authenticated officials of the Employer before it is paid.

#### **51. Operating and Maintenance Manuals**

**51.1** The contractor shall supply "as built" Drawings and/or operating and maintenance manuals as required by the Engineer before the certificate of completion is issued.

**51.2** If the Contractor does not supply the Drawings and/or manuals by the dates to be notified to the contractor or they do not receive the Engineer's approval, the Engineer shall withhold the amount stated in the Contract Data from payments due to the Contractor.

#### **52. Termination**

**52.1** The Employer may terminate the Contract if the Contractor causes a fundamental breach of the Contract.

**52.2** Fundamental breaches of Contract include, but shall not be limited to the following:

- (a) the Contractor stops work for 15 days when no stoppage of work is shown on the current Program and the stoppage has not been authorized by the Engineer;
- (b) the Engineer instructs the Contractor to delay the progress of the Works and the instruction is not withdrawn within 45 days;
- (c) The Contractor is made bankrupt or goes into liquidation other than for a reconstruction or amalgamation;

- (d) A payment certified by the Engineer is not paid by the Employer to the Contractor within 30 days of the date of the Engineer's certificate;
- (e) the Engineer gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Engineer;
- (f) the Contractor does not maintain a security which is required;
- (g) the Contractor has delayed the completion of works by the number of days for which the maximum amount of liquidated damages can be paid as defined in the Contract data; and
- (h) If the Contractor, in the judgment of the Employer has engaged in corrupt or fraudulent practices in competing for or in the executing the Contract.

For the purpose of this paragraph : "corrupt practice" means the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official or the Engineer in the procurement process or in contract execution. "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Employer, and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Employer of the benefits of free and open competition."

**52.3** When either party to the Contract gives notice of a breach of contract to the Engineer for a cause other than those listed under Sub Clause 54.2 above, the Engineer shall decidewhether the breach is fundamental or not.

**52.4** Notwithstanding the above, the Employer may terminate the Contract for convenience.

**52.5** If the Contract is terminated the Contractor shall stop work immediately, make the Site safe and secure and leave the Site as soon as reasonably possible.

### **53. Payment upon Termination**

**53.1** If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Engineer shall issue a certificate for the value of the work done less advance payments received up to the date of the issue of the certificate, less other recoveries due in terms of the contract, less taxes due to be deducted at source as per applicable law and less the percentage to apply to the work not completed as indicated in the Contract Data. Additional Liquidated Damages shall not apply. If the total amount due to the Employer exceeds any payment due to the Contractor the difference shall be a debt payable to the Employer.

**53.2** If the Contract is terminated at the Employer's convenience or because of a fundamental breach of Contract by the Employer, the Engineer shall issue a certificate for the value of the work done, the reasonable cost of removal of Equipment, repatriation of the Contractor's personnel employed solely on the Works, and the Contractor's costs of protecting and securing the Works and less advance payments received up to the date of the certificate, less other recoveries due in terms of the contract, and less taxes due to be deducted at source as per applicable law.

### **54. Property**

**54.1** All materials on the Site, Plant, Equipment, Temporary Works and Works are deemed to be the property of the Employer, if the Contract is terminated because of a Contractor's default.

## **55. Release from Performance**

**55.1** If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Employer or the Contractor the Engineer shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it and for any work carried out afterwards to which commitment was made.

## **56. LABOUR :**

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

The Contractor shall, if required by the Engineer, deliver to the Engineer a return in detail, in such form and at such intervals as the Engineer may prescribe, showing the staff and the numbers of the several classes of labour from time to time employed by the Contractor on the Site and such other information as the Engineer may require.

## **57. COMPLIANCE WITH LABOUR REGULATIONS :**

During continuance of the contract, the Contractor and his sub contractors shall abide at all times by all existing labour enactments and rules made there under, regulations, notifications and bye laws of the State or Central Government or local authority and any other labour law (including rules), regulations, bye laws that may be passed or notification that may be issued under any labour law in future either by the State or the Central Government or the local authority. Salient features of some of the major labour laws that are applicable to construction industry are given below. The Contractor shall keep the Employer indemnified in case any action is taken against the Employer by the competent authority on account of contravention of any of the provisions of any Act or rules made there under, regulations or notifications including amendments. If the Employer is caused to pay or reimburse, such amounts as may be necessary to cause or observe, or for non-observance of the provisions stipulated in the notifications/bye laws/Acts/ Rules/ regulations including amendments, if any, on the part of the Contractor, the Engineer/ Employer shall have the right to deduct any money due to the Contractor including his amount of Security Deposit. The Employer/Engineer shall also have right to recover from the Contractor any sum required or estimated to be required for making good the loss or damage suffered by the Employer.

The employees of the Contractor and the Sub-Contractor in no case shall be treated as the employees of the Employer at any point of time.

## **SALIENT FEATURES OF SOME MAJOR LABOUR LAWS APPLICABLE TO ESTABLISHMENTS ENGAGED IN BUILDING AND OTHER CONSTRUCTION WORK.**

- a) Workmen Compensation Act 1923:
- b) Maternity Benefit Act 1951 :-
- c) Contract Labour (Regulation & Abolition) Act 1970:
- d) Minimum Wages Act 1948:
- g) Payment of Wages Act 1936:
- h) Equal Remuneration Act 1979:
- i) Payment of Bonus Act 1965:

- j) Industrial Employment (Standing Orders) Act 1946:
- k) Child Labour (Prohibition & Regulation) Act 1986: Employment of Child Labour is prohibited in Building and Construction Industry.
- l) Inter-State Migrant workmen's (Regulation of Employment & Conditions of Service) Act 1979 :- The Act is applicable to an establishment which employs 5 or more inter-state migrant workmen through an intermediary (who has recruited workmen in one state for employment in the establishment situated in another state). The Inter-State migrant workmen, in an establishment to which this Act becomes applicable, are required to be provided certain facilities such as Housing, Medical-Aid, Travelling expenses from home up to the establishment and back etc.

## **58.SETTLEMENT OF DISPUTES**

**58.1** Arbitration shall not be a means of settlement of disputes arising out of this contract. In case of any dispute or difference between the parties to the contract either during the progress or after the completion of the works or after the determination, abandonment or breach of the contract as to the interpretation of the contract or as to any matter or thing arising there under except as to the matters left to the sole discretion of the Chief Engineer, or to the holding by the Chief Engineer of payment of any bill to which the Contractor may claim to be entitled, then either party shall forthwith give to the other notice of such dispute or difference, and such dispute or difference shall be referred to the Secretary to Government, Sports & Youth Affairs, Government of Kerala and the award of the Secretary to Government, Sports & Youth Affairs shall be final and binding on the parties. Provided however that in cases whether the Chief Engineer has entered into the contract on behalf of the C.E.O and Secretary, the dispute or difference shall, in the first instance, be referred by or through the Chief Engineer to the C.E.O and Secretary and his/her decision thereon obtained before referring such dispute or difference to the Secretary to Government, Sports & Youth Affairs, under this clause. Progress of the work shall not be suspended or delayed on account of the reference of any dispute or difference to the Chief Executive Officer & Secretary, National Games Secretariat and his/her decision thereon obtained before referring such dispute or difference to the Secretary to Government, Sports & Youth Affairs, under this clause. Either party may within a period, which shall be fixed by the Secretary, file before the Secretary to Government, Sports & Youth Affairs a statement of the case and also all the documents relating to or having a bearing in the case. The Secretary to Government, Sports & Youth Affairs, shall see that a decision is made if reasonably possible, within a period of one month from the date of his entering upon the reference, but if any, extension of the period is considered by him to be necessary, such extension shall forthwith be communicated by him in writing to each of the parties hereto. The Secretary to Government, Sports & Youth Affairs shall not be bound to observe the ordinary rules of procedure applicable to trials before judicial tribunals and not to hear or receive formal evidence but may pass an order on the documents of statements of the case filed by both the parties and/or on personal inspection. The Secretary to Government, Sports & Youth Affairs shall have power to view the subject matter of the dispute with or without the parties or their agents. The Secretary to Government, Sports & Youth Affairs shall also have power to open up, review and revise any certificate, opinion, decision, requisition or notice, save in regard to the matters expressly excepted and determine all matters in dispute which shall be submitted to him and of which notice shall have been aforesaid, in the same manner as if no such certificate, opinion, decision, requisition or notice had been given. Provided that Government shall not be liable to any claim in respect of any such dispute or difference until the liability and the amount thereof shall have been referred to and decided by the Secretary to Government, Sports & Youth Affairs. If the contractor(s) do/does not make any demand for reference of dispute to the Secretary to Government, Sports &

Youth Affairs in respect of any claim(s) in writing within 30 days of receiving the intimation from the Employer that the bill is ready for payment, the claim of the contractor(s) will be deemed to have been waived and absolutely barred and the Employer shall be discharged and released of all liabilities under the contract in respect of those claims.

#### **58.2 Legal jurisdiction**

All litigations relating to the subject matter of the agreement can only be filed before the appropriate courts having jurisdiction in the respective district of construction.

#### **59. PROTECTION OF ENVIRONMENT:**

The contractor shall take all reasonable steps to protect the environment on and off the Site and to avoid damage or nuisance to persons or to property of the public or others as a result of pollution, noise or other causes arising as a consequence of his methods of operation.

- 60** All the works proposed to be carried out shall conform the National Energy Conservation Building Code (ECBC)-2007. Necessary changes shall be incorporated in the specifications, if found necessary.
- 61.** All works shall be done in conformity with the specifications and conditions in the contract in force in the P.W.D. The rates quoted shall be inclusive of covering all the operations contemplated in the specifications and tender schedule and all incidental works necessary for such operations such as shoring, bailing, form work, scaffolding etc. The rates quoted shall be inclusive of sales tax.
- 62.** The rates quoted by the contractor for the various items shall be inclusive of all tools and plants required for the proper execution of work and all other incidental charges and separate claim for these will not be entertained under any circumstances.
- 63** The quantities shown in the schedule are only approximate and are subject to variation and the contractor is bound to do additional quantities of work if found necessary at his quoted rates.
- 64** All the rates quoted should be inclusive of commercial taxes also.
- 65** All corrections and insertions in the original tender whether in the printed matter or elsewhere shall be attested by the tenderer.
- 66** The contractor has to quote for the specification and unit noted in the schedule. No correction of specification unit or quantity is admissible and if they make any correction in the specification etc., the same will be rejected.
- 67** The contractor is bound to carry out items of works which are not expressly or impliedly described in the tender schedule, plants, specifications and agreement but which are found necessary for the proper completion of the work during execution.
- 68** For L.S. items the contractor will be paid only for the actual quantity of work done or materials supplied and labour engaged at agreed rates for such. For extra items such payment will be limited to the lump sum quoted by the contractor. If he fails to quote definite L.S. rates for such items the L.S. amount provided in the schedule will be operative in his case. 37

- 69** Flooring tiles, electrical and sanitary equipment etc., required for the work should be purchased from suppliers approved by the Chief Engineer.
- 70** It will be the responsibility of the contractor to obtain necessary land for stacking the materials, for arranging the work.
- 71** Aggregates of the required sizes alone should be brought to the site of the work. Breaking boulders or rubble into metal will not be allowed either on or the side of the road, aggregate in such a way as to cause any hazards to traffic.
- 72** Granite stone metal supplied should be sound, hard, tough and durable, free from any decayed matter and of uniform colour and texture. Each piece should have sharp angular edges. The metal should not also contain any quarry dust or earth.
- 73** Siliceous gravel shall consist of only hard nodules not more than 40mm. nor less than 6mm dia, in any direction, scraped from the hill side and free from admixture of earth or laterite chips.
- 74** Sand supplied should be clean, sharp and gritty to the touch, free from clay and other impurities and obtained from running watercourses.
- 75** The contractor will have to make his own arrangements to convey all materials supplied and for stacking, of materials and site shed, etc., which are found necessary for the proper execution of the work. He will also be responsible for the safe custody of the materials till they are used on works.
- 76** The contractor should take out license for storing gun powder and explosives required for rock blasting as per Explosive Act, 1940 if found necessary or if so instructed by the CE.
- 77** The percentage of wastages will be fixed by the Engineer, but at any rates it should not exceed 0.5 per cent of the actual usage.
- 78** If the NGS undertakes the supply of any materials, no claim for extra payment due to delay in supply of those materials will be entertained.
- 79** If materials other than those specified in the tender are issued by the department, recovery will be effected at data rate plus storage plus sales tax or at current market rates at the time of issue whichever is higher.
- 80** A day means 8 working hours for purpose of calculation of hire charges of rollers, pump sets and other machinery unless otherwise specified.
- 81** The contractor has to arrange his own plant and machinery if required at his own cost and responsibility.
- 82** The payment of the earth items will be made as per level measurements or tape measurements as per rules prevailing in the Kerala State PWD.
- 83** The moulds, shuttering etc., required for the work should be made by the contractor and got approved by the departmental officers at site before use.
- 84** The contractor alone is responsible for the safety of his labourers and damages, if any payable under: 'Workmen's Compensation Act' will be to his debit.
- 85** It shall be the contractor's responsibility to protect the public and his employees against accident from any cause during execution of the work and he shall intimate the Government against any claims for injury to person or property resulting from any such accident, and he

shall, where provision of the "Workmen's Compensation Act" apply, take steps to properly insure against any claims there under.

- 86** The contractor shall be liable for any loss caused by the Government on account of the above work including any that may arise due to non-fulfillment of the contract. He should comply with the rules laid down in the Central P.W.D. contract regulations regarding fair wages.
- 87** Defects, if any noticed within one year from the date of completion of the work will be got rectified by the contractor, in default of which this will be attended by the department and the cost made good from the contractor.
- 88** The contractor should produce latest sales tax and income tax clearance certificate for receiving final payment.
- 89** The contractor shall be responsible for the payment of all commercial taxes as per rules in force from time to time and rates quoted for various items remain unaffected by any changes that may be made from time to time in the rate at which such tax is levied. Sales tax and Income tax due to Government from the contractor will be recovered from his bill for the work as per the advice of the authorities concerned.
- 90** All sums due to the Government under or by virtue of this contract shall be recoverable first from the security furnished by the contractor and if the same is found insufficient, such deficit amount shall be recoverable under the provisions of the Revenue Recovery Act for the time being in force as though the same were arrears of Land Revenue or in any other manner 'as the Government may deem fit.
- 91** The contractor agrees that before final payment shall be made on the contract, he will sign and deliver to the Chief Engineer as demanded, a valid release and discharge from any and all claims and demands whatsoever for all matters arising out or connected with the contract. Provided that nothing in this clause shall discharge or release the contractor from his liabilities under the contract. It is further expressly agreed that the Chief Engineer in supplying the final measurement certificate need not be bound by the preceding measurement and payments. The final measurements, if any, of the Chief Engineer shall be final, conclusive and binding on the contractor.
- 92** The tender document and the conditions of contract from clause 1 to 99 accompanying conditions shall form part of the Agreement.
- 93** The date fixed by the Chief Engineer for the commencement and completion of works as entered in this agreement shall be strictly observed by the contractor who shall pay damages at the rates of (1) one per cent on the estimated value of the contract for every week not exceeding five days that work remains uncompleted and unfinished, after the proper date and further to ensure good progress during the execution of works, the contractor shall be bound unless the contract provides otherwise in all cases in which the time allowed for a work exceed one month to complete. One fourth of the whole work to be done when one fourth of the whole time allowed for it has elapsed, one half of the work when three fourth of time has elapsed and the penalty for the failure in either of these cases shall likewise be that the contractor shall be subject to pay daily damages at the rate of (1) one percent of the estimated value of the amount of work that should be completely by that time. Provided always that entire amount of damaged to be paid under the provisions of this clause shall not exceed 10% of the contract value. All damages payable under the provisions of this clause shall be considered as liquidated damages to be applied to the use of this Government without reference to the actual loss sustained owing to the delay.

- 94** If during execution, the proportion of usage of materials issued departmentally alone is varied for which the price has been fixed in the tender, the quoted rate of the item will be allowed effecting short or excess of departmental materials actually used as well as labour charges for handling the short or excess if any provided is in the same position.
- 95** The earnest money deposit of the unsuccessful tenderers will be refunded within 30 days after tabulating the tenders keeping only the earnest money of the first two lowest tenders.
- 96** The contractor would engage at his own cost a diploma holder (Civil Engineering) with sufficient practical experience for the proper execution and supervision of works costing from upto Rs. 25 lakhs and one Engineering Graduate and one diploma holder (Civil Engineering) for works costing Rs. 25 lakhs upto 1 crore and one Engineering Graduate and two diploma holders for works costing over Rs. 1 crore for one or two years according to the tenure of contract.
- 97** All other conditions and specifications of contract are the same as those current in the Kerala State PWD.
- 98** The method of measurements will be as per Indian Standard 1200-1958.
- 99** All concrete should be machine mixed and vibrated.

#### **FAIR WAGE CLAUSE**

- (a) The contractor shall pay not less than fair wage to labourers engaged by him on the work. "Fair Wage" means wage whether for time or piece work notified at the time of inviting tenders for the work and where such wages have not been so notified, the wage prescribed by the Central P.W.D. for the District in which the work is done.
- (b) The contractors shall, notwithstanding the provisions of any contract to the contrary, cause to pay a fair wage to labourers indirectly engaged on the work including any labour engaged by his sub contractor in connection with the said work as if the labourers had been immediately employed by him.
- (c) In respect of all labour directly or indirectly employed in the works for the performance of the contractor's part of this agreement the contractor shall comply with or cause to be complied with (the Central P.W.D. Contractor's labour) regulations made by Government in regard to payment of wages, wage period deductions from wage, recovery of wage not paid and deduction unauthorisedly made, maintenance of wage register, other terms of employment, inspection and submission of periodical returns and all wage cards, publication of scale of wages and returns and all other matters of a like nature.
- (d) The Chief Engineer or his subordinate concerned shall have the right to deduct from the moneys due to the contractor and any sum required or estimated to be required for making good the loss suffered by a worker or workers by reasons of non-fulfillment of the conditions of the contract for the benefit of the works, non-payment of wages or deductions made from his or their wages which are not justified by their terms of the contract or non-observance of the regulations.
- (e) Vis-à-vis the Government of India, the contractor shall be primarily liable for all payments to be made under and for the observance of the regulations aforesaid without prejudice to his right to claim from this sub contractors.

- (f) The regulation aforesaid shall be deemed to be a part of this contract and breach thereof shall be a breach of this contract.
- (a) When excavations have been made or obstacles have been put in public thoroughfares or in places where there is any likelihood of accidents, the contractor shall comply with any requirement of law on the subject, and shall provide suitable boarding, lighting and watchmen as necessary.
  - (b) It shall be the contractor's sole responsibility to protect the public and his employees against accident from any cause and he shall indemnify Government against any claims for damages for injury to person or property, resulting from any such accidents and he shall, where the provisions of the Work-men's Compensation Act, apply, take steps to properly insure against any claims there under.
  - (c) On the occurrence of an accident which results in the death of any of the workmen employed by the contract or which is so serious as to be likely to result in the death of any such workmen, the contractor shall within 24 hours of the happening of such accidents, intimate in writing to the Supt. Engineer, the fact of such accident. The contractor shall indemnify the NGS against all loss or damage sustained by the NGS resulting directly or indirectly from his failure to give intimation in the manner aforesaid including the penalties or fines if any payable by the NGS as a consequence of Government's failure to give notice under the Workmen's Compensation Act or otherwise conform to the said Act in regard to such accident.
  - (d) In the event of an accident in respect of which compensation may become payable under the Workmen's Compensation Act (VIII of 1923) whether by the contractor or by the Government as principal is shall be lawful for the Supt. Engineer to retain out of moneys due and payable to the contractor such sum or sums of money as may, the opinion of the said Supt. Engineer, be sufficient to meet such liability. The opinion of the Chief Engineer shall be final in regard to all matters arising under this clause.

Contractor .....

Chief Engineer

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## **SECTION 5**

# **SCHEDULE OF CONTRACT AND TENDER FORM**

**Annexure A**

**PERFORMANCE BANK GUARANTEE**

To: \_\_\_\_\_ [name of Employer]  
\_\_\_\_\_ [address of Employer]

WHEREAS \_\_\_\_\_ [name and address of Contractor] (hereinafter called "the Contractor") has undertaken, in pursuance of Contract No. \_\_\_\_\_ dated \_\_\_\_\_ to execute \_\_\_\_\_ [name of Contract and brief description of Works] (hereinafter called "the Contract");

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

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

NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Contractor, up to a total of \_\_\_\_\_ [amount of guarantee] \_\_\_\_\_ [in words], such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of \_\_\_\_\_ [amount of guarantee]<sup>1</sup> as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

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

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

This guarantee shall be valid until 28 days from the date of expiry of the Defects Liability Period.

Signature and seal of the guarantor

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

Name of Bank  
Address

Date \_\_\_\_\_

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

ANNEXURE-B

FORM OF AGREEMENT

“Preliminary agreement entered into on this ..... (      th) day of ..... Two Thousand and Twelve between the Chief Engineer, National Games Secretariat, Thiruvananthapuram and on behalf of the Chief Executive Officer & Secretary, National Games Secretariat (herein after called for the National Games Secretariat) of the one part and Sri/ M/s. ....  
..... (Full name and address of the contractor) hereinafter called the contractor of the other part for execution of the agreement as well as for the execution of work: .....  
(name of the work) by notification No. .... of the Chief Engineer, National Games Secretariat, Thiruvananthapuram.

AND WHEREAS para 17 of the notice inviting tenders stated as follows:

Before commencing work or within a week after the date when the acceptance of tender has been intimated to him, the tender shall deposit a sum sufficient to make up the balance of 5% of the probable value of the contract which together with the amount of E.M.D shall be treated as security for the proper fulfillment of the same and shall execute an agreement for the work in the P.W.D schedule form, if he fails to do this or in the case of PWD contract maintain a specified rate of progress (to be specified rate of progress in each case the tender schedule). The Earnest money and security deposit shall be forfeited to government and fresh tenders shall be called for or the matter otherwise disposed off if as a result of such measures due to the default of the tenderer to pay the requisition deposit sign, contract of take possession of the work any loss to government results the same will be recovered from this arrears if revenue, but should it be a savings to government, the original contractor shall have no claim whatsoever to the difference recoveries in this or any other accounts will be made from the sum that may be due to contractor on this or any other subsisting contracts or under the revenue recovery act, or otherwise the government may decide.

Now these present witnesses:

- 1.
- 2.

NOW THERE FORE THESE PRESENTS WITNESS AND it is mutually agreed as follows:

1. The terms and conditions of the said contract have been stipulated in the said tender form to which the contractor has agreed a copy of which is hereto appended which forms part of this agreement, it is agreed that the terms and conditions stipulated, therein shall bind the parties to this agreement, except to the extend to which they are abrogated or altered by express terms and conditions herein agreed to and in which respect the express provisions herein shall supervise those the said tender form.

CONTRACTOR

Chief Engineer

2. The contractor hereby agreed and undertakes to perform and fulfil all the operations and obligations connected with the executions of the said contract” ..... (here enter the name of the work) is awarded in favour of the contractor
3. If the contractor does not comes forward to execute the original agreement after the said work is awarded and selection notice in his favour or commits breach of any of the conditions of the contract as stipulated in clauses 13 of the notice inviting tenders as quoted above within the period stipulated, then, the government may rearrange the work otherwise or get it done departmentally at the risk and cost of the contractor and the loss sustained by the government can be realized from the contractor under the revenue recovery act as if arrears of land revenue as assessed, quantity and fixed by and adjudicating authority consisting of the Chief Executive Officer & Secretary and the Chief Engineer or any other officer or officers authorized by National Games Secretariat rates and after giving due notice to the contractor. The decisions taken by such authority, officer or officers shall be final and conclusive shall be binding on the contractor.
4. The contractor further agrees that any amount found due to the Government under or by virtue of this agreement shall be recoverable from the contractor from his EMD and his properties movable and immovable as arrears of land revenue under the provisions of the Revenue Recovery Act for the time being in force or another manner as the Government may deem fit in this regard.
5. The Contractor further assures that it is clearly understood that the settlement of claims either by part bill or by final bill be made only according to the availability of budget provisions and allotments of funds made with the Divisional Officer in charge of the work under the respective Head of Account in which work is sanctioned and arranged and also subject to the seniority of such bills. No claims for interest or damages whatsoever shall be made for the belated settlement of claims of bills.

CONTRACTOR

CHIEF ENGINEER

## **SECTION 6 - CHECK LIST**

# Check List

1. Have the following documents been placed in the first cover?
  - Cost of bid form Yes/No
  - Qualification information Yes/No
2. Have the following documents been placed in the second cover?
  - This Check List Yes/No
  - Tender with the quoted % rate and any other details required to be completed and submitted by bidders in accordance with these instructions. The single total percentage of bid above or below or equal to the total estimated cost as given in the tender schedule shall be filled in without exception  
IN WORDS AS WELL AS FIGURES. Yes/No
    - EMD by DD Yes/No
    - Any other materials required to be completed and submitted by the bidders in accordance with these instructions. Yes/No
3. In qualifications of contractors, have you furnished following data:-
  - i. Details of works performed as principal Contractor on works of similar nature in the last five years
  - ii. Existing commitments & ongoing works
  - iii. Works for which bids are already submitted
4. Have the two envelopes been superscribed as instructed in clause 17 of section 2? Yes/No
5. Has the third cover been correctly superscribed and addressed? Yes/No
6. If the bid is sent by post, is it by Registered Post? Yes/No