



**National Highways & Infrastructure Development Corporation Ltd.**  
**(A Government of India Undertaking)**

**NATIONAL COMPETITIVE BIDDING**  
**(THROUGH E-TENDERING MODE)**

**Name of the Work:** Clearance of landslides in soil, ordinary rock and hard rock from Km 25.000 to 80.000 on Batote-Kishtwar - Sinthanpass road section of NH-244 in the State of Jammu & Kashmir (as and when required basis).

**CONTRACT PACKAGE NO: NHIDCL/JK/Short Term/Maint/NH244/2018/06**

**BID DOCUMENT**

**VOLUME-I**

**August, 2018**

## **CONTENTS**

### **Volume – I**

<b>SECTION I.</b>	<b>NOTICE INVITING TENDER</b>
<b>SECTION II.</b>	<b>INSTRUCTIONS TO BIDDERS &amp; APPENDIX TO BID</b>
<b>SECTION III</b>	<b>QUALIFICATION INFORMATION</b>
<b>SECTION IV</b>	<b>FORM OF BANK GUARANTEE, AGREEMENT &amp; LOA</b>
<b>SECTION V</b>	<b>CONDITIONS OF CONTRACT &amp; CONTRACT DATA</b>

**(SECTION-I)**  
**NOTICE INVITING TENDER**  
**(E-TENDERING MODE ONLY)**

**National Highways & Infrastructure Development Corporation Limited**  
**Notice Inviting e-Tender**  
**(National Competitive bidding through e-Tendering mode only)**

1. National Highways and Infrastructure Development Corporation Ltd. (hereinafter called “the Employer”) invites sealed bids in single stage two cover system i.e. the Technical and Financial Bids on item rate basis for the following works from the experienced Road/Bridge Contractors/firms/organizations excluding those firms who have been declared as non- performing by MoRT&H/NHAI or the firms those are blacklisted/debarred for specified period by MoRT&H/NHAI. :-

<i>Sl. No.</i>	<i>Name of work</i>	<i>Length (Km)</i>	<i>Max. Cot of Work Put to Tender (Rs. In Lacs)</i>	<i>Bids Security (Rs. In Lacs)</i>	<i>Average annual turnover for last 5 Years (Rs. In Lacs)</i>	<i>Period of Contract</i>	<i>Eligibility Criteria as Completed work of similar nature during last 5 Years (Rs. In Lacs)</i>
1	Clearance of landslides in soil, ordinary rock and hard rock from Km 25.000 to 80.000 on Batote-Kishtwar - Sinthanpass road section of NH-244 in the State of Jammu & Kashmir (as and when required basis).	55.00	58.65	1.173	23.46	01 Year	One similar Completed work not less than the amount equal to 40% of the total value of contract.

Cost of Bid Documents:

Rs. 3000/- in the form of DD in favour of General Manager, NHIDCL payable at Jammu.

(Non-Refundable)

- Date of Publishing is from 31.08.2018 (1000 Hrs)
- The bidding documents can be downloaded from the website [www.nhidcl.com](http://www.nhidcl.com) & <https://eprocure.gov.in> from 1000 Hrs on 31.08.2018 up to 14.09.2018 (1100 Hrs).
- The bid shall be deposited in electronic format on the website <https://eprocure.gov.in> and the hard copy of technical bid needs to be sent the address of NHIDCL Branch Office, Jammu upto 1700 Hrs on 14.09.2018.
- Bid documents can be seen at and downloaded from the website [www.nhidcl.com](http://www.nhidcl.com), <https://eprocure.gov.in>. Bid documents contain qualifying criteria for bidder, specification, bill of quantities, conditions and other details.
- The site for the work is available. The work will be executed as and when required basis as per the instructions of General Manager (P), NHIDCL, BO-Jammu.
- Bidder shall submit the following self certified documents with the technical bid.
  - Copy of Registration Card duly renewed for the current financial year.

- ii) Copy of PAN Card.
  - iii) Copy of GST registration.
  - iv) Copy of last 03 Years ITR.
  - v) DD/CDR/FDR/BG of bid security.
  - vi) Demand Draft of cost of documents.
  - vii) Proof of average annual turnover of last 05 years
  - viii) Copy of Proof of owned/leased/rented Machinery or equipments
  - ix) Copy of CV of Key Technical Personnel
  - x) Copy of Experience certificate duly certified by the concerned officer of the rank of Executive Engineer or equivalent
  - xi) Copy of registration under Provident Fund
  - xii) Power of Attorney, if applicable
  - xiii) Copy of line (s) of credit and availability of other financial resource facilities
  - xiv) Notarized affidavits as per RFP
  - xv) Undertaking as per RFP
8. The interested bidder can download the NIT/ bidding document from the website <https://eprocure.gov.in> and [www.nhidcl.com](http://www.nhidcl.com).
  9. To participate in bidding process, bidders have to get (DSC) “Digital Signature Certificate” as per Information Technology Act-2000, to participate in online bidding. This certificate will be required for digitally signing the bid. Bidder can get above mentioned digital certificate from any approved vendors. The Bidder, who already possesses valid (DSC) “Digital Signature Certificate” need not to procure new Digital Signature Certificate.
  10. The bidders have to submit their bids online in electronic format with Digital Signature. The bid cannot be uploaded without Digital Signature. No proposal will be accepted in physical form.
  11. Bids will be opened online as per time schedule mentioned at S. No. 19.
  12. Before submission of online bids, bidder must ensure that scanned copy of all the necessary documents have been attached with bid.
  13. The department will not be responsible for delay in online submission of bids whatsoever reasons may be.
  14. All the required information for bid must be filled and submitted online.
  15. Bidders should get ready with the scanned copies of cost of documents & EMD as specified in the tender documents. The original instruments in respect of cost of documents, EMD and relevant documents will be submitted to the Tenders Inviting Authority by Registered post/courier/by hand as per time schedule specified.
  16. The details of cost of documents, EMD specified in the tender documents should be the same, as submitted online (Scanned copies) otherwise bid will not be accepted.
  17. Bidders can contact the undersigned for any guidance for getting DSC or any other relevant details in respect of e-tendering process.
  18. The guidelines for submission of bid online can be downloaded from the website [www.nhidcl.com](http://www.nhidcl.com) & <https://eprocure.gov.in>.

## 19. Schedule of Bidding Process

The Company shall endeavor to adhere to the following schedule:

<i>S. No</i>	<i>Description</i>	<i>Period</i>
1.	Date of issue of NIT	31.08.2018 (1000 Hrs)
2.	Date of issue of Sale of Tender Documents	31.08.2018 (1100 Hrs)
3.	Date of close of sale of Tender Documents (through online)	14.09.2018 (1100 Hrs)
4.	Date of receipt of pre-bid queries	05.09.2018
5.	Date of Pre-Bid meeting	06.09.2018 (1100 Hrs)
6.	Date of uploading of reply to the pre-bid Queries	07.09.2018
7.	Date of submission of Tender/Bid (online& hard copy)	14.09.2018 (1700 Hrs)
8.	Date of opening of Technical Bid	17.09.2018 (1100 Hrs)
9.	Date of Uploading of list of Technically Qualified Applicants	20.09.2018 (1600 Hrs)
10.	Date of Opening of Financial Bids of Qualified Applicants	24.09.2018 (1100 Hrs)
11.	Date of issue of letter of award (LOA)	26.09.2018
12.	Validity of Bid	120 Days

For any clarification, the following office may be contacted:

**(M. G. Vijay Kumar)**

**General Manager**

**(Project)**

**National Highways & Infrastructure Development Corporation Ltd.**

**H. No. 11, Sector - 2, Trikuta**

**Nagar, Jammu, Jammu &**

**Kashmir-180020**

20. Conditional bids would be rejected.

21. NHIDCL reserves the right to accept/reject any or all the bids without assigning any reasons thereof.

**Date: 30.08.2018**

**General Manager (Project)**

**National Highways &**

**Infrastructure Development**

**Corporation Ltd.**

**H. No. 11, Sector - 2, Trikuta Nagar,**

**Jammu, J&K-180020**

**Landline: 01912472926 , Fax:0191-2476421**

## **DISCLAIMER**

The information contained in this Request for Proposal document (the “RFP”) or subsequently provided to Bidder(s), whether verbally or in documentary or any other form by or on behalf of the Authority or any of its employees or advisors, is provided to Bidder(s) on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided.

This RFP is not an Agreement and is neither an offer nor invitation by the Authority to the prospective Bidders or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in making their financial offers (BIDs) pursuant to this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by the Authority in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in the Bidding Documents, especially the [Feasibility Report], may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFP and obtain independent advice from appropriate sources.

Information provided in this RFP to the Bidder(s) is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Authority accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

The Authority, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Applicant or Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way for participation in this BID Stage.

The Authority also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this RFP. The Authority may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this RFP.

The issue of this RFP does not imply that the Authority is bound to select a Bidder or to appoint the Selected Bidder JV or Contractor, as the case may be, for the Project and the Authority reserves the right to reject all or any of the Bidders or BIDs without assigning any reason whatsoever.

The Bidder shall bear all its costs associated with or relating to the preparation and submission of its BID including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Authority or any other costs incurred in connection with or relating to its BID. All such costs and expenses will remain with the Bidder and the Authority shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred

by a Bidder in preparation or submission of the BID, regardless of the conduct or outcome of the Bidding Process.

**NHIDCL,  
Branch Office-J&K.**



**(SECTION-II)**  
**INSTRUCTIONS TO BIDDERS**  
**& APPENDIX TO BID**

## Section II: Instructions to Bidders

### Table of Contents

Clause		Clause	
	<b>A. General</b>		<b>D. Submission of Bids</b>
1	Scope of Bid	19	Sealing and marking of Bids
2	Source of Funds	20	Deadline for submission of Bids
3	Eligible Bidders	21	Late Bids
4	Qualification of Bidders	22	Modification & withdrawal of Bids
5	One Bid per Bidder		<b>E. Bid Opening &amp; Evaluation</b>
6	Cost of Bidding	23	Bid Opening
7	Site Visit	24	Process to be Confidential
	<b>B. Bidding Document</b>	25	Clarification of Bids and Contacting the Employer
8	Content of Bidding Document	26	Examination of Bids and Determination of Responsive
9	Clarification of Bidding Document	27	Correction of Errors
10	Amendment of Bidding Document	28	Evaluation and Comparison of Financial Bids
	<b>C. Preparation of Bids</b>	29	Price Preference
11	Language of Bid		<b>F. Award of Contract</b>
12	Documents Comprising the Bid	30	Award Criteria
13	Bid Prices	31	Employer's Right to Accept any Bid and to reject any or all Bids
14	Currencies of Bid and Payment	32	Notification of Award and signing of agreement
15	Bid Validity	33	Performance of Security
16	Earnest Money/ Bid Security / Forfeiture/ Debarment	34	Advances
17	Alternative Proposals by Bidders	35	Corrupt or Fraudulent Practices
18	Format and Signing of Bid		

## **Section II**

### **Instructions to Bidders (ITB)**

#### **A. General**

#### **1. Scope of Bid**

- 1.1 The Employer (i.e. General Manager, National Highways & Infrastructure Development Corporation Ltd.) invites bids for “as described in these documents and referred to as “the works”. The name and identification number of the works is provided in the Notice Inviting Tender.
- 1.2 The successful bidder will be expected to complete the works by the intended completion date specified in the Contract data.
- 1.3 Throughout these Bidding Documents, the terms “bid” and “tender” and their derivatives (bidder/tenderer, bid/tender, bidding/tendering, etc.) are synonymous.

#### **2. Source of Funds**

- 2.1 The expenditure on this project will be met by National Highways & Infrastructure Development Corporation Ltd (NHIDCL).

#### **3 Eligible Bidders**

- 3.1 This Invitation for Bids is open to all bidders meeting the qualification requirements prescribed in this document.
- 3.2 Bidders shall not be under a declaration of ineligibility for corrupt and fraudulent practices by the Central Government, the State Government or any public undertaking, autonomous body, authority by whatever name called under the Central or the State Government.

#### **4 Qualification of the Bidder**

- 4.1 Deleted
- 4.2 All bidders shall furnish the following information and documents with their bids in Section-III, Qualification Information.
  - a) Scanned copies of Original documents defining the constitution or legal status, place of registration, and principal place of business; scanned copy of written power of attorney of the signatory of the Bid to commit the Bidder; & original copy of Written Power of Attorney to be submitted in the envelop of physical form.(Pl. Refer clause 12.2 of ITB)
  - b) Scanned copy of total monetary value of civil engineering construction works performed for each of the last five years; (2013-14, 2014-15, 2015-16, 2016-17, 2017-18)
  - c) Scanned copy of experience certificate in works of a similar nature and size for each of the last five financial years (commencing from year 2013-14) with certificates from the concerned officer of the rank of Executive Engineer or equivalent;
  - d) Scanned copy of evidence of availability (either owned or leased or rented) of items of construction equipment named in the Appendix to ITB. [Clause 4.4 B(b) (i)]
  - e) Scanned copy of details of the technical personnel proposed to be employed for the Contract having the qualifications defined in Appendix to ITB. [Clause 4.4 B(b) (ii)]
  - f) Scanned copy of reports on the financial standing of the Bidder, and a certificate from Chartered Accountant as a proof of turnover for the last five years;
  - g) Scanned document in support of evidence access to line (s) of credit and availability of other financial resource facilities (10 % of Contract value), certified by bankers (not more than 3 months old).

- h) Scanned undertaking that the bidder will be able to invest minimum cash up to 25 % of contract value of work, during implementation of work.
- i) Deleted
- j) Scanned copy of information regarding any litigation or arbitration during the last five years in which the Bidder is involved, the parties concerned, the disputed amount, and the present status;
- k) Deleted
- l) Deleted.

**4.3 Bids from joint ventures, consortiums, combination or any sort of arrangement between two or more than two entities are not allowed.**

**4.4 A. To qualify for award of the contract, each bidder in its name should have the following; -**

- a) Achieved an average annual financial turnover (in all classes of civil engineering construction works only) equal to the amount indicated in NIT during last five years ending 31<sup>st</sup> March of the previous financial year, duly certified by Chartered Accountant.
- b) satisfactorily completed (not less than 90% of contract value), as a prime contractor (or as a nominated subcontractor, provided further that all other qualification criteria are satisfied) similar works during last five years ending last day of month previous to the one in which bids are invited, at least one contract of Highway (Road/ or Bridge works)/ Airport runway of 40% of the value of contract.

**[The “similar work” constitutes construction/maintenance of bituminous road including clearance of landslide /earth work on National Highways/State Highways/Other roads (The base year should be considered as 2018-19)]**

(Following escalation factor shall be used to bring the value of such completed works at the level of current financial year i.e.2017-18)

Year	Multiplying Factor
2018-19	1.10
2017-18	1.21
2016-17	1.33
2015-16	1.46
2014-15	1.61

**4.4 B.**

- a) Each bidder must upload the scanned copies of following documents along with the submission of online bidding:
  - i. An affidavit on a Stamp Paper, duly attested from the Notary Public, that the information furnished with the bid documents is correct in all respects; and
  - ii. Such other certificates as defined in Section- III.
  - iii. Failure to submit the certificates/documents as specified above shall make the bid non-responsive.
- b) Each bidder must demonstrate:
  - i. Evidence of availability (either owned or leased or rented) of the key equipments for this work as stated in the Appendix to ITB.

- ii. Availability for this work of personnel with qualification & experience as stated in the Appendix to ITB.
- c) Deleted.
- d) Deleted.

#### 4.4 C. Deleted

4.5 Contractors' experience and resources shall not be taken into account in determining the bidder's compliance with the qualifying criteria.

4.6 Bidders who meet the minimum qualification criteria will be qualified only if their available bid capacity is more than the total bid value. The available bid capacity will be calculated as under:

$$\text{Assessed Available Bid capacity} = (A * N * 2 - B)$$

Where,

A = Maximum value of civil engineering works executed in any one year during the last five years (escalation factor as specified in this section shall be used to bring the maximum value of civil engineering works to the level of current financial year i.e., 2016-17) taking into account the completed as well as works in progress.

N = Number of years prescribed for completion of the works for which bid is invited.

B = Value (escalation factor as specified in this section shall be used to bring the value to the level of current financial year i.e., 2016-17) of existing commitments and on-going works to be completed during the next 01 year (period of completion of the works for which bid is invited)

4.7 Even though the bidders meet the above qualifying criteria, they are subject to be disqualified if they have:

- i. Made misleading or false representations in the forms, statements, affidavits and attachments submitted in proof of the qualification requirements; and/or
- ii. Record of poor performance such as abandoning the works, not properly completing the contract, inordinate delays in completion, litigation history, or financial failures etc. or debarring from MoRT&H/NHAI/NHIDCL/State PWD work etc.
- iii. Tampered the bid document in any manner.

## 5 One Bid per Bidder

5.1 Each Bidder shall submit only one Bid for a particular package. A Bidder who submits more than one Bid for the same package will cause be disqualified.

## 6 Cost of Bidding

6.1 The Bidder shall bear all costs associated with the preparation and submission of his Bid, and the Employer will, in no case, be responsible or liable for those costs.

## 7 Site Visit

7.1 The Bidder, at his own cost, responsibility and risk, is encouraged to visit, examine and familiarize himself with the Site of Works and its surroundings including source of earth, water, road aggregates etc. and obtain all information that may be necessary for preparing the Bid and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the Bidder's own expense. He may contact the Branch Office of NHIDCL in this regard.

## Section II

## **Instructions to Bidders (ITB)**

### **B. Bidding Documents (On line)**

#### **8 Content of Bidding Documents**

8.1 The set of bidding documents comprises the documents listed below and addenda (if any) issued in accordance with Clause 10:

##### **Volume- I:-**

1. Notice Inviting Tender
2. Instructions to Bidders & Appendix to Bid
3. Qualification Information
4. Forms Bank Guarantee, Agreement & LOA
5. Conditions of Contract & Contract Data
6. Scope of work
7. Technical Specifications
8. Implementation Manual & Maintenance Intervention Levels

##### **Volume - II:-**

9. Bill of Quantities (Should be filled in the prescribed format given in the bid document)

8.2 DELETED.

8.3 The bidder is expected to examine carefully all instructions, conditions of contract, contract data, forms, terms, specifications, bill of quantities, etc. in the Bid Document. Failure to comply with the requirements of Bid Documents shall be at the bidder's own risk. Pursuant to clause 26 hereof, bids, which are not substantially responsive to the requirements of the Bid Documents, shall be rejected.

#### **9 Clarifications on Bid Documents**

9.1 A prospective Bidder requiring any clarification on the bid documents may notify the Employer in writing or by cable ("cable" includes facsimile) or through e-tender portal at the Employer's address indicated in the Notice Inviting Tender. The Employer will respond to any request for clarification received earlier than 10 days prior to the deadline for submission of bids. Copies of the Employer's response will be hosted on website or which are required in the opinion of the Employer including a description of the enquiry, but without identifying its source.

##### **9.2 Pre-bid meeting**

- 9.2.1 The bidder or his official representative is invited to attend pre-bid meeting which will take place at the address, venue, time and date as indicated in appendix.
  - 9.1.1 The purpose of the meeting will be to clarify issues and to answer question on any matter that may be raised at that stage.
  - 9.1.2 The bidder is requested to submit any questions in writing or by cable/email so as to reach the Employer not later than one week before the meeting.
  - 9.1.3 Minutes of the meeting, including the text of the questions raised (without identifying the source of the enquiry) and the responses given will be transmitted without delay on website. Any modifications of the bid documents listed in Clause 8.1, which may become necessary as a result of the pre-bid meeting or which are required in the opinion of the Employer shall be made by the Employer exclusively through the issue of an Addendum pursuant to Clause 10 and not through the minutes of the pre-bid meeting.

## 10 Amendment of Bidding Documents

- 10.1 Before the deadline for submission of bids, the Employer may modify the Bidding Documents by issuing addenda.
- 10.2 Any addendum thus issued shall be part of the Bidding Documents and shall be hosted on NHIDCL e-tendering portal i.e. <https://eprocure.gov.in> and [www.nhidcl.com](http://www.nhidcl.com). Bidders are advised to keep them self updated of all the addendums issued on e-tendering portal by daily checking the e-tendering portal and, NHIDCL does not assume any responsibility in case the bidder fails to do so and does not take any action, if required, with respect any relevant addendum.
- 10.3 To give prospective bidders reasonable time to take an addendum into account in preparing their bids, the Employer shall extend, as necessary, the deadline for submission of bids, in accordance with Clause 20.2.

## Section II Instructions to Bidders (ITB)

### C. Preparation of Bids

## 11 Language of Bid

- 11.1 All documents relating to the Bid shall be in English.

## 12 Documents Comprising the Bid

- 12.1 The e-bid submitted by the bidder shall be in two separate parts.

Part-I - This shall be named Technical Bid and shall comprise of information submitted in section-III.

Part-II - It shall be named Financial Bid and shall comprise of Priced bill of quantities.

- 12.2 Documents to be submitted in physical form must reach the **General Manager (Projects)**, H. No. 11, Sector - 2, Trikuta Nagar, Jammu-180020 by **[11.00 Hrs]** on Bid Due Date.

Though, the scanned copies of following documents is required to be uploaded during submission of e-bid on the e-tendering portal, As per clause 12.1 above, however, following original documents in physical form shall be submitted in a sealed envelope by **11.00 Hrs** on the date of submission of bid and addressed to the addressee given in the NIT duly super scribed "Name of Work, Bid due date and time". Name and address of the bidder should also be indicated on the envelope.

- a) EMD/Bid Security
- b) Bid Document Fee
- c) Tender Processing fee as per CPP
- d) Written Power of Attorney of the signatory (whose digital signature certificate is used during e-tender submission) of the bidder to commit the bid
- e) Affidavit duly notarized
- f) Original experience certificate or notarized copy of certificate duly signed by authorized signatory.

- 12.3 The following documents, which are not submitted with the bid, will be deemed to be part of the bid.

Section	Particulars
1.	Notice Inviting Tender
2.	Instruction to the bidders
3.	Conditions of Contract
4.	Contract Data
5.	Technical Specifications

### 13 Bid Prices

- 13.1 The Contract shall be for the whole Works, as described in Clause 1.1 based on the priced Bill of Quantities submitted by the Bidder.
- 13.2 The bidder shall quote bid prices on appropriate format enclosed as part of tender document on e-tender portal i.e. <https://eprocure.gov.in>. The items for which no rate or price is entered by the Bidder will be required to be executed free of cost and shall be deemed covered under the other rates and prices in the Bill of Quantities quoted.
- 13.3 All duties, taxes (including GST), royalties and other levies payable by the Contractor under the Contract, or for any other cause, shall be included in the rates, prices, and total Bid price submitted by the Bidder.
- 13.4 The rates and prices quoted by the Bidder shall be fixed for the duration of the Contract and shall not be subject to adjustment.

### 14 Currencies of Bid and Payment

- 14.1 The unit rates and the prices shall be quoted by the bidder entirely in Indian Rupees. All payments shall be made in Indian Rupees.

### 15 Bid Validity

- 15.1 Bids shall remain valid for a period of **120 days** after the deadline date for bid submission specified in Clause 20. A bid valid for a shorter period shall be rejected by the Employer as non-responsive.
- 15.2 In exceptional circumstances, prior to expiry of the original time limit, the Employer may request that the bidders may extend the period of validity for a specified additional period. The request and the bidders' responses shall be made in writing or by cable. A bidder may refuse the request without forfeiting his bid security. A bidder agreeing to the request will not be required or permitted to modify his bid, but will be required to extend the validity of his bid security for a period of the extension, and in compliance with Clause 16 in all respects.

### 16 Earnest Money / Bid Security/ Forfeiture/ Debarment

- 16.1 The Bidder shall furnish, as part of the Bid, Earnest Money/Bid Security, in the amount as specified in the NIT. (Bank guarantee/ demand draft must be in favour of National Highways & Infrastructure Development Corporation Ltd.,B/O-Jammu.
- 16.2 **The Earnest Money shall, at the Bidder's option, be in the form of Bank Guarantee/Demand Draft only (the other form will not be acceptable) of any scheduled commercial bank approved by RBI having a net worth of not less than Rs. 500 crore as per the latest annual report of the bank must be in the name of Employer. In case of foreign bank (issued by a branch in India) the net worth in respect of the Indian operations shall only be taken into account. It shall be valid for 45 days beyond the validity of the bid. Any bid having bid security for lesser value and shorter validity period shall be treated as non-responsive.**
- A. Bank Guarantee or Demand Draft receipts, in the name of the Employer, from following banks
- 16.3 would be accepted:-
- i. State Bank of India or its subsidiaries,



- ii. Any Indian Nationalized Bank
  - iii. IDBI / ICICI Bank
  - iv. **A Foreign Bank (issued by a branch outside India) with a counter guarantee from SBI or its subsidiaries or any Indian Nationalized Bank.**
  - v. Any Scheduled Commercial Bank approved by RBI having a net worth of not less than Rs. 500 Crores as per the latest Annual Report of the Bank. In the case of a Foreign Bank (issued by a branch in India), the net worth in respect of the Indian operations shall only be taken into account.
- B. The acceptance of the guarantees shall also be subject to the following conditions:-
- i. The capital adequacy of the Bank shall not be less than the norms prescribed by RBI (presently 9, with effect from 31<sup>st</sup> March, 2003.).
  - ii. The bank guarantee issued by a Cooperative Bank shall not be accepted.
- 16.3 Any bid not accompanied by an acceptable bid security shall be rejected by the Employer as non - responsive.
- 16.4 The Bid Security of unsuccessful bidders will be returned within 28 days of the end of the Bid validity period specified in Sub-Clause 15.1 or award of contract package, whichever is earlier.
- 16.5 The Bid Security of the successful Bidder will be discharged when the Bidder has signed the Agreement and furnished the required Performance Security.
- 16.6 The Bid Security/ Earnest Money will be forfeited:
- i. if the Bidder withdraws the Bid after its submission during the period of Bid validity;
  - ii. if the Bidder does not accept the correction of the bid price, pursuant to Clause 27; or
  - iii. in the case of a successful Bidder, if the Bidder fails within the specified time limit to
    - a) Sign the Agreement; and/or
    - b) Furnish the required Performance Security.
- 16.7 Deleted

## **17 Alternative Proposals by Bidders**

- 17.1 Bidder shall submit offers that fully comply with the requirement of the Bidding Documents. Conditional offer or alternate offer will not be considered further in the process of evaluation and the bid will be declared non-responsive.

## **18 Format and Signing of Bid**

18.1 The Bidder shall submit e-bid comprising of the documents as described in Clause 12 of the ITB.

18.2 DELETED.

18.3 DELETED.

- 18.4 The documents to be submitted in the physical form along with the demand draft for fees/security shall be typed or written in ink and shall be signed by a person duly authorized to sign on behalf of the bidder. All the pages of the documents as mentioned here shall be signed by the person/persons signing the bid. Documents as mentioned here shall contain no overwriting, 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 made by scoring out the cancelled portion, writing the correction and signing and dating it along with the stamp by the person or persons signing the Bid

## **Section II Instructions to Bidders (ITB)**

### **D. Submission of Bids**

## **19 Marking of Bids**

19.1 The documents to be submitted in physical form as per clause 12.2 of ITB shall be submitted in a sealed Envelope super scribed as “Documents in Physical Form” at the top left corner.

19.2 DELETED.

19.3 DELETED.

19.4 DELETED.

19.5 DELETED.

## **20 Deadline for Submission of Bid**

20.1 Complete e-Bid to be uploaded on NHIDCL e-tender portal before due date & time. The Envelope containing “Documents in Physical Form” must also be received by the Employer at the address General Manager (Projects), National Highways & Infrastructure Development Corporation Ltd., H. No. 11 Sector - 2, Trikuta Nagar, Jammu-180020 not later than the date and time indicated in the NIT. In the event of the specified date for the submission of documents in Physical form being declared a holiday for the Employer, the same will be received up to the specified time on the next working day.

20.2 The Employer may extend the deadline for submission of bids by issuing an amendment in accordance with Clause 10, 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.

## **21 Late Submission of Document in Physical Form:**

21.1 Any document in physical form if received by the Employer after the deadline prescribed in Clause 20 will be returned unopened to the Bidder and also the e-bid submitted by such bidder shall not be considered.

## **22 Modification and Withdrawal of Bids**

22.1 Bidders may modify or withdraw their e-bids as directed on the e-tendering portal, before the Bid Due Date and time as prescribed in Clause 20.

22.2 DELETED.

22.3 No bid may be modified after the deadline for online submission of bids.

22.4 Withdrawal or modification of a Bid between the deadline for submission of bids and the expiration of the original period of bid validity specified in Clause 15.1 above or as extended pursuant to Clause 15.2 shall result in the forfeiture of the Bid security pursuant to Clause 16.

22.5 Bidders may modify the prices of their bids before deadline of online submission of bid.

## **Section II Instructions to Bidders (ITB)**

### **E. Bid Opening and Evaluation**

## **23 Bid Opening**

Bid opening shall be carried out in two stages. Firstly, 'Technical Bid' of all the bids received (except those received late) shall be opened on the date and time mentioned in Notice Inviting Tender (NIT). 'Financial Bid' of those bidders whose technical bid has been determined to be substantially responsive shall be opened on a subsequent date through online process of e-tendering, which will be notified to such bidders.

23.1 The Employer will open the "Technical Bid" of all the bids received (except those received late), in the presence of the bidders/bidders' representatives who choose to attend at the time, date and

place specified in the NIT. In the event of the specified date for the submission of bids being declared a holiday for the Employer, the Bids will be opened at the appointed time and location on the next working day.

#### 23.1.1 DELETED

#### 23.1.2 DELETED

23.2 In all cases, the amount of Bid Security, forms and validity shall be announced. Thereafter, the Employer at the opening as the Employer may consider appropriate, will announce the bidders' names and such other details.

23.3 The Employer will prepare minutes of the Bid opening, including the information disclosed to those present in accordance with Clause 23.1.

#### 23.4

(i) The bids accompanied with valid bid security, bid document fee, Tender Processing fee will be taken up for evaluation with respect to the information furnished in Part I of the Qualification Information and other bid.

(ii) As soon as possible, the Evaluation Committee will finalize the list of responsive bidders whose financial bids are eligible for consideration. However, to assist in the examination, evaluation of technical bids, the Employer may at his discretion, ask any bidder for clarification of his bid, however, no additional documents in support of clarification will be entertained.

23.5 The Employer shall inform the bidders, whose technical bids are found responsive, of the date, time and place of opening of the financial bids. The bidders so informed, or their representative, may attend the meeting of opening of financial bids.

23.6 At the time of the opening of the 'Financial Bid', the names of the bidders whose bids were found responsive in accordance with clause 23.5 will be announced. The financial bids of only these bidders will be opened. The responsive bidders' names, the Bid prices, the total amount of each bid, pursuant to clause 22 and such other details as the Employer may consider appropriate will be announced by the Employer at the time of bid opening. Any Bid price, which is not read out and recorded, will not be taken into account in Bid Evaluation.

23.7 The Employer shall prepare the minutes of the opening of the Financial Bids.

### **24 Process to be Confidential**

24.1 Information relating to the examination, clarification, evaluation, and comparison of bids and recommendations for the award of a contract shall not be disclosed to bidders or any other person not officially concerned with such process until the award to the successful Bidder has been announced. Any attempt by a Bidder to influence the Employer's processing of bids or award decisions may result in the rejection of his Bid

### **25 Clarification of Bids and Contacting the Employer**

25.1. To assist in the examination, evaluation, and comparison of Bids, the Employer may, at his discretion, 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 cable, but no change in the price or substance of the Bid shall be sought, offered, or permitted.

25.2. Subject to sub-clause 25.1, no Bidder shall contact the Employer on any matter relating to his bid from the time of the bid opening to the time the contract is awarded.

25.3. Any effort by the Bidder to influence the Employer in the Employer's bid evaluation, bid comparison or contract award decisions may result in the rejection of the Bidders' bid.

### **26 Examination of Bids and Determination of Responsiveness**

- 26.1 During the detailed evaluation of “Technical Bids”, the Employer will determine whether each Bid
- meets the eligibility criteria defined in Clauses 3 and 4 of ITB;
  - the required documents in physical form submitted by the bidder as well as the documents uploaded by the bidder are in order; and
  - is substantially responsive to the requirements of the Bidding Documents. During the detailed evaluation of the “Financial Bids”, the responsiveness of the bids will be further determined with respect to the remaining bid conditions, i.e., priced bill of quantities, technical specifications etc.

26.2 DELETED.

26.3 DELETED.

## **27 DELETED.**

## **28 Evaluation and Comparison of Financial Bids**

28.1 The Employer will evaluate and compare only the bids determined to be substantially responsive in accordance with Clause 26.

28.2 DELETED

28.3 If the Bid of the successful Bidder is seriously unbalanced in relation to the Engineer's/Employer's estimate of the cost of work to be performed under the contract, the Employer may require the Bidder to produce detailed price analyses for any or all items of the Bill of Quantities, to demonstrate the internal consistency of those prices with the construction methods and schedule proposed. After evaluation of the price analyses, the Employer may require that the amount of the performance security set forth in Clause 33 be increased and an additional performance security of 05 (five) percent may be obtained at the expense of the successful Bidder to a level sufficient to protect the Employer against financial loss in the event of default of the successful Bidder under the Contract.

28.4 A bid, which contains several items in the Bill of Quantities which are unrealistically priced low and which cannot be substantiated satisfactorily by the bidder, may be rejected as non-responsive.

## **29 Price Preference**

29.1 There will be no price preference to any bidder.

## **Section II Instructions to Bidders (ITB)**

### **F. Award of Contract**

## **30 Award Criteria**

30.1 Subject to Clause 32, the Employer will award the Contract to the Bidder whose Bid has been determined to be substantially responsive to the bidding documents and who has offered the lowest evaluated Bid Price.

## **31 Employer's Right to Accept any Bid and to Reject any or all Bids**

31.1 Notwithstanding Clause 30, the Employer reserves the right to accept or 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 Employer's action.

## **32 Notification of Award and Signing of Agreement.**

32.1 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 cable, telex or facsimile confirmed by registered letter. This letter (hereinafter and in the Part I *General Conditions of Contract* called the “Letter of

Acceptance”) will state the sum that the Employer will pay to 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”).

32.2 The notification of award (LOA) will constitute the formation of the Contract, subject only to the furnishing of a performance security in accordance with the provisions of Clause 33.

32.3 The Agreement will incorporate all agreements between the Employer and the successful Bidder. It will be signed by the Employer and the successful Bidder after the performance security is furnished.

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

### 33 Performance Security

33.1 Within 10 (ten) days after receipt of the Letter of Acceptance, the successful Bidder shall deliver to the Employer a Performance Security of 5 (five) percent of the Contract Price, valid for the period of 28 days after the expiry of completion period plus additional security for unbalanced Bids in accordance with Clause 28.3 of ITB and sign the contract. The validity shall account for additional 3 months time to account for BG verification, signing of contract and start date.

33.2 The performance security shall be in the form of a Bank Guarantee in the name of the Employer, from a Bank as applicable in case of bid security defined in Appendix to ITB.

33.3 Failure of the successful bidder to comply with the requirement of sub-clause 33.1 shall constitute sufficient ground for cancellation of the award and forfeiture of the bid security and debarment for a period as specified in clause 16.7.

### 34 Advances - Deleted

### 35 Corrupt or Fraudulent Practices

The Employer will reject a proposal for award if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question and will declare the firm ineligible, either indefinitely or for a stated period of time, to be awarded a contract with NHIDCL / State PWD and any other agencies, if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for the contractor, or in execution.

The Employer requires the bidders/Contractors to strictly observe the laws against fraud and corruption enforced in India, namely, Prevention of Corruption Act, 1988.

Appendix to ITB		
Instructions to Bidders	Clause Reference	
(1.1)	The Employer is “General Manager, National Highways & Infrastructure Development Corporation Limited, B/O-Jammu”	
(1.1)	Clearance of landslides in soil, ordinary rock and hard rock from Km 25.000 to 80.000 on Batote-Kishtwar - Sinthanpass road section of NH-244 in the State of Jammu & Kashmir (as and when required basis).	
(4.4) B) (b) (i)	Name of the Equipment	Quantity
	Tipper/Trucks	5
	Dozer	1
	Hydraulic Excavator 1cum bucket capacity	1
	Hydraulic Excavator (JCB etc.)	2
	Any other equipment required for carrying out work as per Ministry’s specification.	
	Note: The bidder must upload scanned copy of the documentary	

	evidence in support of his owning/leased/ rented of the above equipments. In case the bidder proposes to hire or take the above equipment on lease, he should, along with the lease/rent agreement, attach the proof of ownership of these equipments with the company/ entity from whom the equipments are proposed to be hired on lease/ rent. Any conditional evidence of deployment of above equipment or inadequate proof as required for any of the equipment shall make the bid non-responsive and financial bid shall not be opened.			
(4.4) (B) (b) (ii)	<b>The Number of Technical personnel, Qualifications and Experience will be as follows :</b> <b>The Technical Personnel are :</b>			
SL. No.	Personnel	Qualification	Particular Experience (minimum requirement)	No. of Persons
1	Project Manager cum Site Engineer cum Quantity Surveyor	B.E (Civil) or equivalent + 5 Years Exp.	3 years on highway constructions / maintenance work.	1
			<b>Total</b>	<b>1</b>
	<b>Note:</b> The detailed signed and scanned CV's of the Key Technical Personnel at S. No. 1 signed by the key personnel himself, must be uploaded along with the bid. The name and educational qualification of other personnel should be given. Non compliance of the above or non furnishing of the CV as above or conditional deployment of any of the above personnel or proposal to employ lesser number of personnel than above shall make the bid non responsive and financial bid shall not be opened.			

## **SECTION III** **QUALIFICATION INFORMATION**

**(To be Filled by Bidder)**

## SECTION III

### QUALIFICATION INFORMATION

The information to be filled in by the Bidder in this section & document submitted in physical form will be used for the purposes of post qualification as provided for in Clause 4 of the Instructions to Bidders. This information will not be incorporated in the Contract.

#### **1. For Individual Bidders**

##### **1.1**

- a) Year of Constitution
- b) legal status of Bidder (Proprietorship/Partnership or Pvt. Ltd. firm)

*[Upload scanned copy of original]*

- c) Place of registration:

\_\_\_\_\_

- d) Principal place of business:

\_\_\_\_\_

##### **1.2** Power of attorney of signatory of Bid *[Upload scanned copy & also supply Original copy in envelop of physical form]*

##### **1.3** Total value of Civil Engineering construction work performed in the last Five years (in Rs. \_\_\_\_\_ Lakhs) refer ITB Clause 4.4 A (a)

(Upload scanned copies of certificate from Chartered Accountant & also supply original certificate from Chartered Accountant)

2017-2018-----

2016-2017-----

2015-2016-----

2014-2015-----

2013-2014-----

**Total** -----

**Average per year**-----



**1.4 (a)** Work performed as prime contractor, work performed in the past as a nominated sub-contractor provided further that all other qualification criteria are satisfied (in the same name) of a similar nature during the last five years as per ITB Clause 4.4A(b).

Project Name	Name of the Employer *	Description of work	Contract No.	Value of Contract (Rs. Crore)	Date of issue of work order	Stipulated period of completion	Actual date of completion	Remarks explaining reasons for delay & work
--------------	------------------------	---------------------	--------------	-------------------------------	-----------------------------	---------------------------------	---------------------------	---

*\* Upload certificate(s) from the Employer (to be given by an officer at the rank of Executive Engineer or equivalent & also supply original or certified copy in physical form in envelope)*

**Note:** In case of nominated sub-contractor – a certificate from the Executive Engineer or equivalent of the Prime Employer should be obtained from whom an approval for subcontractor has been obtained.

**1.4 (b)** Information on Bid Capacity (works for which bids have been submitted and accepted and works which are yet to be completed) as on the date 7 days before the last date for bid submission (as per Cl 4.6 of the ITB).

(i) Existing commitments and on-going works (B)

Description of works	Place & State	Contract No.	Name & Address of Employer	Value of Contract (Rs Cr)	Stipulated Period of Completion	Value of works remaining to be completed (Rs. Cr)	Escalation factor	Anticipated date of completion factor	Escalated value of remaining work during completion on period of work of which bids are invited
1	2	3	4	5	6	7	8	9	10

\* Upload certificate (s) from the Engineer(s)-in-Charge of the rank of Executive Engineer or equivalent & also supply original or certified copy of certificate in physical form envelop.

(ii) Details of works for which bid submitted and accepted (i.e. where contract signing is pending)

Description of works	Place & State	Name & Address of Employer	Date of issue of Letter of Acceptance (LOA) *	Value given in LOA	Stipulated period for completion	Value of work during completion period of work for which bids are invited
1	2	3	4	5	6	7

\* Upload copy of LOA

(iii) Bid Capacity (Bidder shall calculate, mention his bid capacity and enclose the supporting calculation)

A = Rs. ....lakh (enclose the details)

N = .....years

B = Rs. ....lakh (enclose the details)

Assessed available bid capacity =  $A \times N \times 2 - B$   
= Rs. .... lakhs

**1.5** Availability of Key Equipment essential for carrying out the Works [Ref. Clause 4.4(B)(b) (i)].  
The Bidder should list all the information requested below.

Item of Equipment	Requirement	Availability Proposals			Page no. of the proof attached
		Owned/Leased/ rented	Nos./Capacity	Age/Condition	
Tipper/Trucks					
Dozer					
Hydraulic Excavator 1cum bucket capacity					
Hydraulic Excavator (JCB etc.)					

**Note:** The bidder must upload the documentary evidence in support of his owning/leased/ rented of the above equipments. In case the bidder proposes to hire or take the above equipment on lease, he should, along with the lease/rent agreement, attach the proof of ownership of these equipments with the company/ entity from whom the equipments are proposed to be hired

on lease/ rent. The bidder shall submit an undertaking as per Performa Appendix 1.7 (ITB, Section -2) of the bid document.

**1.6 Qualification and Experience of Key Personnel required for administration and execution of the Contract [Ref. Clause 4.4 (B) (b) (ii)]. Upload biographical data for technical personnel (Refer also to Cl. 4.2 (e) of Instruction to Bidders).**

(Refer also to Sub Clause 9.1 of the Conditions of Contract).

Sl. No.	Position	Name	Qualification	Total Professional Experience (Years)	Experience in the proposed position (Years)
1.	Project Manager cum Site Engineer cum Quantity Surveyor				

**Note:** The detailed and signed CV's of the Key Technical Personnel at S. No. 1 signed by the key personnel himself, must be uploaded along with the bid. The name and educational qualification of other personnel should be given. Non compliance of the above or non furnishing of the CV as above or conditional deployment of any of the above personnel or proposal to employ lesser number of personnel than above shall make the bid non responsive and financial bid shall not be opened.

**1.7 Information on litigation history in which the Bidder is involved.**

Other Party (ies)	Employer	Cause of Dispute	Amount Involved	Remarks showing Present Status

**2. Bidders should upload the scanned copy of the following affidavits/ undertakings as per formats enclosed hereinafter & also send original copy of Affidavit/Undertakings:**

- Affidavit (it should be on stamp paper attested by Notary Public)
- Undertaking regarding minimum investment of cash towards working capital.
- Undertaking that the Bids shall remain valid for the period specified in Clause 15.1.

**SAMPLE FORMAT FOR EVIDENCE OF ACCESS TO OR AVAILABILITY OF  
CREDIT FACILITIES**

(Clause 4.1(i) of ITB)

**BANK CERTIFICATE**

This is to certify that M/s..... is a reputed company with a good financial standing.

If the contract for the work, namely .....is awarded to the above firm, we shall be able to provide overdraft/credit facilities to the extent of Rs..... to meet their working capital requirements for executing the above contract during the contract period.

-----

(Signature)

Name of Bank Senior Bank Manager

Address of the Bank

### **AFFIDAVIT**

I, the undersigned, do hereby certify that all the statements made in the enclosed attachments are true and correct.

1. The undersigned also hereby certifies that neither our firm M/s\_\_\_\_\_ has abandoned any work on PWD/NHIDCL nor any contract awarded to us for such works have been rescinded, during last five years prior to the date of this bid.
2. The undersigned hereby authorize(s) and request(s) any bank, person, firm or corporation to furnish pertinent information deemed necessary and requested by PWD/NHIDCL to verify this statement or regarding my (our) competence and general reputation.
3. The undersigned understands and agrees that further qualifying information may be requested, and agrees to furnish any such information at the request of the PWD/NHIDCL and within the prescribed time.

\_\_\_\_\_  
(Signed by an Authorized Representative of the Firm)

\_\_\_\_\_  
Name of the Representative

\_\_\_\_\_  
Name of Firm

\_\_\_\_\_  
DATE

(To be notarized by Notary)

### **UNDERTAKING**

I, the undersigned do hereby undertake that our firm M/s\_\_\_\_\_ would invest minimum cash up to 25% of the value of the work during implementation of the Contract towards the working capital.

\_\_\_\_\_  
(Signed by an Authorized Representative of the Firm)

\_\_\_\_\_  
Name of the Representative

\_\_\_\_\_  
Name of Firm

\_\_\_\_\_  
DATE

(To be notarized by Notary)

**UNDERTAKING**

I, the undersigned do hereby undertake that our firm M/s. \_\_\_\_\_ agree to abide by this bid for a period of \_\_\_\_\_ days after the date fixed for receiving the same and it shall be binding on us and may be accepted at any time before the expiration of that period.

\_\_\_\_\_  
(Signed by an Authorized Representative of the Firm)

\_\_\_\_\_  
Name of the Representative

\_\_\_\_\_  
Name of Firm

\_\_\_\_\_  
DATE

(On the letter head of the bidder)

**Appendix 1.7** [Ref. clause 4.4 B (b) (i)]

**Undertaking**

I, the undersigned do hereby undertake that our firm M/s .....  
agree to provide and will deploy required equipment as mentioned in the Appendix to ITB of the work  
.....  
.....further it is certified that the documents submitted as an evidence of  
availability of the key equipments for this work as stated in the Appendix to ITB, are genuine and correct.  
If anything contrary to the details as submitted is found at any stage NHIDCL would be at liberty to  
debar/blacklist my firm for an appropriate period as decided by NHIDCL.

\_\_\_\_\_  
(Signed by an Authorized Representative of the Firm)

\_\_\_\_\_  
Name of the Representative

\_\_\_\_\_  
Name of Firm  
(Seal of the company)

\_\_\_\_\_  
Date



**(SECTION-IV)**

**FORMS OF BANK GURANTEES,  
LOA & AGREEMENT.**

## FORM OF BANK GUARANTEE FOR BID SECURITY

WHEREAS \_\_\_\_\_ (Name of Tenderer) (hereinafter called the Tenderer) wishes to submit his tender for **“Clearance of landslides in soil, ordinary rock and hard rock from Km 25.000 to 80.000 on Batote-Kishtwar - Sinthanpass road section of NH-244 in the State of Jammu & Kashmir (as and when required basis).** herein called “the Tender” KNOW ALL MEN by these present that we \_\_\_\_\_ (Name of Bank) of \_\_\_\_\_ (Name of country) having our registered office at ( \_\_\_\_\_ ) (hereinafter called the ‘Bank’) are bound unto the General Manager, National Highways & Infrastructure Development Corporation Ltd.”. (hereinafter called “the Employer”) in the sum of the Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_) \*for which payment can truly be made to the said Employer. The Bank bind themselves, their successors and assigns by these presents with the common seal of the Bank this day \_\_\_\_\_ of 2017 and undertake to pay the amount of \_\_\_\_\_ Rs. \_\_\_\_\_ to the employer upon receipt of this written demand without the employer having to substantiate his demand.

The conditions of this obligation are:

If the tenderer withdraws his tender during the period of Tender validity specified in the Form of Tender.

Or

If the Tenderer having been notified of the acceptance of his Tender by the Employer during the period of tender validity.

- a) fails or refuses to execute the Form of Agreement in accordance with the instructions to bidders, if required; or
- b) fails or refuses to furnish the Performance Security, in accordance with the Instruction to Bidders.

We undertake to pay Employer upto the above amount upon receipt of his first written demand, without the employer having to substantiate his demand, provided that in his demand the Employer will note that the amount claimed by him is due to his owing to the occurrence of any one of the above conditions, specifying the occurred condition or conditions.

This guarantee shall also be operatable at our \_\_\_\_\_, Jammu, from whom, confirmation regarding the issue of this guarantee or extension / renewal thereof shall be made available on demand. In the contingency of this guarantee being invoked and payment there under claimed, the said branch shall accept such invocation letter and make payment of amounts so demanded under the said invocation.

This guarantee will remain in force upto and including the date 45 days beyond the validity of the bid stated in the Instructions to Bidders or as it may be extended by the Employer, at any time prior to the closing date for submission of the Tenders Notice of which extension to the Bank is hereby waived. Any demand in respect of this guarantee should be made on the Bank on or before the date of expiry of this guarantee.

Not with standing anything contained herein before, our liability under this guarantee is restricted to Rs. \_\_\_\_\_ (Rs. \_\_\_\_\_ in words) and the guarantee shall remain valid till \_\_\_\_\_. Unless a claim or a demand in writing is served upon us on or before \_\_\_\_\_ all our liability under this guarantee shall cease.

Signature of Authorized  
Representative of the Bank \_\_\_\_\_

Name and Designation \_\_\_\_\_

Seal and address with  
Phone/Fax no. of the Bank \_\_\_\_\_

Signature of Witness \_\_\_\_\_

Name of Witness \_\_\_\_\_

Address of the Witness \_\_\_\_\_

# FORM OF BANK GUARANTEE FOR PERFORMANCE SECURITY

## Contract Package No: Maintenance Work/PKG-I

To  
General Manager,  
National Highways and Infrastructure Development Corporation Ltd.  
H. No. 11, Sector-2,  
Trikuta Nagar,  
Jammu, J&K-180020

WHEREAS..... (name and address of contractor) hereinafter called "the contractor" has undertaken, in pursuance of LOA 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 Nationalised/Scheduled bank of India 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 THEREOF we hereby affirm that we are the guarantor and responsible to you on behalf of the Contractor, up to a total of Rs..... (amount of guarantee) (Rupees..... (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) 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 also be operatable at our ....., New Delhi office, from whom, confirmation regarding the issue of this guarantee or extension / renewal thereof shall be made available on demand. In the contingency of this guarantee being invoked and payment there under claimed, the said branch shall accept such invocation letter and make payment of amounts so demanded under the said invocation.

The liability of Bank under this Guarantee shall not be affected by any change in the constitution of the contractor or of the Bank.

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

Notwithstanding anything contained herein before, our liability under this guarantee is restricted to Rs. \_\_\_\_\_ (Rs. \_\_\_\_\_ in words) and the guarantee shall remain valid till \_\_\_\_\_. Unless a claim or a demand in writing is served upon us on or before \_\_\_\_\_ all our liability under this guarantee shall cease.

Signature and Seal of the Guarantor with Name, Designation, Employee Code

Name of the Issuing Bank/Branch .....

Address, Phone/Fax No. .... Date .....

Name of Controlling Bank/ Branch, Full Address & Telephone/Fax No. on the presence of (if this is to be witnessed as per bank's Policy) \_\_\_\_\_

1. \_\_\_\_\_ (Name, Address, Occupation)

2. \_\_\_\_\_ (Name, Address, Occupation)

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

## **FORM OF LETTER OF APPLICATION**

To,  
M. G. Vijay Kumar  
The General Manager (Projects)  
National Highways & Infrastructure Development Corporation Ltd.  
H. No. 11, Sector-2,  
Trikuta Nagar,  
Jammu, J&K-180020

**DESCRIPTION OF WORKS: Clearance of landslides in soil, ordinary rock and hard rock from Km 25.000 to 80.000 on Batote-Kishtwar - Sinthanpass road section of NH-244 in the State of Jammu & Kashmir (as and when required basis).**

**CONTRACT PACKAGE NO: NHIDCL/JK/Short Term/Maint/NH244/2018/06**

Dear Sir,

Having examined the Bid Document, Instruction to Bidders, Qualification Information, Scope of works, etc. for the subject work, we, hereby submit our bid for the subject work.

It is certified that the information furnished in this document is true and correct. The proposal is unconditional and unqualified. We undersigned accept that NHIDCL reserves the right to reject any or all application without assigning any reason.

Thanking you,

Yours faithfully,

(Authorized Signatory) for and on behalf of

M/s \_\_\_\_\_

## FORM OF LETTER OF ACCEPTANCE

No. ....

Dated .....

To

M/s.....

**Sub.:** ..... **Name of Work** .....

Sir,

Based on your bid submitted on ..... in compliance of bidding document of NHIDCL for execution of the work of ..... , it is hereby notified that your bid for a contract price of **Rs..... (Rupees in words.....)** has been accepted for and on behalf of NHIDCL

You are hereby requested to furnish Performance Security plus additional security in the form detailed in para. 33.2 of ITB for an amount equivalent to **Rs..... (Rupees in words.....)** within 10 days as per provisions of clause 33.1 of ITB of the bid document and sign the contract agreement failing which the actions as stipulated in clause-.33.3 of ITB shall be taken.

Thanking you,

Yours faithfully,

(.....)  
General Manager (Projects)

# **FORM OF AGREEMENT**

## **AGREEMENT**

This agreement made the \_\_\_\_\_ day of \_\_\_\_\_ 2009 between the National Highways & Infrastructure Development Corporation Ltd., New Delhi (hereinafter called "the Employer" of the one part and \_\_\_\_\_ (here in after called "the Contractor") of the other part. AND WHEREAS the Employer invited bids from eligible bidders of the execution of certain works, viz "**Clearance of landslides in soil, ordinary rock and hard rock from Km 25.000 to 80.000 on Batote-Kishtwar - Sinthanpass road section of NH-244 in the State of Jammu & Kashmir (as and when required basis).**" Contract Package no: NHIDCL/JK/Short Term/Maint/NH244/2018/06]" AND WHEREAS pursuant to the bid submitted by the Contractor, vide letter dated ----- (here in after referred to as the "BID" or "ÖFFER") for the execution of works, the Employer by his letter of acceptance dated ----- accepted the offer submitted by the Contractor for the execution and completion of such works and the remedying of any defects thereon, on terms and conditions in accordance with the documents listed in para 2 below.

AND WHEREAS the Contractor by a deed of undertaking dated ----- has agreed to abide by all the terms of the bid, including but not limited to the amount quoted for the execution of Contract, as stated in the bid, and also to comply with such terms and conditions as may be required from time to time.

AND WHEREAS pursuant to the bid submitted by the Contractor vide letter dated ----- (hereinafter referred to as the "the Offer"), the employer has by his letter of acceptance no.----- accepted the offer submitted by the Contractor for the execution and completion of such works and the remedying of any defects therein, on terms and conditions in accordance in the conditions of particular application and condition included hereinafter;

AND WHEREAS the contractor has agreed to undertake such works and has furnished a performance security pursuant to clause 33 of the instructions to bidders (Section-I).

NOW THIS AGREEMENT WITNESSETH as follows:

- 1 In this agreement works and expressions shall have the same meanings as are respectively assigned to them in the conditions of contract hereinafter referred to;
- 2 The following documents shall be deemed to form and be read and constructed as part of this agreement viz.
  - a) The Contract Agreement,
  - b) Letter of Acceptance,
  - c) Notice to proceed with the works,
  - d) Contractor's Bid,
  - e) Contract Data,
  - f) Conditions of Contract including Special Conditions of Contract
  - g) Technical Specifications,
  - h) Drawings, if any
  - i) Scope of work
  - j) Bill of Quantities
  - k) Any other document listed in the Contract Data.
- 3 The foregoing documents shall be constructed as complementary and mutually explanatory one with another. Should any ambiguities or discrepancy be noted then the order of precedence of these documents shall subject to the condition of particular applications be as listed above.
- 4 In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and complete the works and remedy any defects therein in conformity in all respect with the provisions of the contract.
- 5 the employer hereby covenants to pay the contractor in consideration of the execution and completion of the works and the remedying of defects therein the contract price or such other sum as may become payable under the provisions of the contract at the times and in the manner prescribed by the contract.



IN WITNESS WHEREOF the parties here to have caused this agreement to be executed the day and year first before written, signed, sealed and delivered by the said Employer through his Authorized Representative and the said Contractor through his Power of Attorney holder in the presence of:

**Binding Signature of Employer** \_\_\_\_\_

For and on behalf of  
National Highways & Infrastructure Development Corporation Ltd.  
H. No. 11, Sector -2,  
Trikuta Nagar, Jammu, J&K-180020

**Binding Signature of Contractor** \_\_\_\_\_

For and on behalf of \_\_\_\_\_

In the presence of		In the Presence of	
1.	Name:	1.	Name:
	Address:		Address:
2.	Name:	2.	Name:
	Address:		Address:

## **(SECTION-V)**

# **CONDITIONS OF CONTRACT AND CONTRACT DATA**

**Table of Clauses**

<b>Sl. No.</b>		<b>Sl. No.</b>	
	<b>A. General</b>		<b>D. Cost Control</b>
1	Definitions	35	Bill of Quantities
2	Interpretation	36	Variations
3	Language and Law	37	Payments for Variations
4	Engineer's Decisions	38	Cash Flow Forecasts
5	Delegation	39	Payment Certificates
6	Communications	40	Payments
7	Subcontracting	41	Compensation events
8	Other Contractors	42	Tax and currencies for payment
9	Personnel	43	Price adjustment
10	Employer's and Contractor's Risks	44	Security Deposit/ Retention Money
11	Employer's Risks	45	Liquidated damages
12	Contractor's Risks	46	Advance Payment
13	Insurance	47	Securities
14	Site Investigation Reports	48	Cost of Repairs
15	Queries about the Contract Data		<b>E. Finishing the Contract</b>
16	Contractor to Construct the works and do maintenance	49	Completion
17	The works to be Completed by the Intended Completion Date	50	Taking Over
18	Approval by the Engineer	51	Final Account
19	Safety	52	Operating and maintenance manual
20	Discoveries	53	Termination
21	Possession of the Site	54	Payment upon Termination
22	Access to the Site	55	Property
23	Instructions	56	Release from performance
24	Deleted		<b>F. Special Conditions of Contract</b>
25	Arbitration	57	Labour
26	Deleted	58	Compliance with Labour Regulation
	<b>B. Time Control</b>	59	Drawings and Photographs of the works
27	Programme	60	The Apprenticeship Act, 1961
28	Extension of Completion Date		
29	Delays Ordered by the Engineer		
30	Management Meetings		
	<b>C. Quality Control</b>		
31	Identifying Defects		
32	Tests		
33	Correction of Defects		
34	Uncorrected Defects		

## Section V

### CONDITIONS OF CONTRACT

#### Part I General Conditions of Contract (GCC) and Contract Data

##### A. General

##### 1. Definitions

**1.1** Terms which are defined in the Contract Data are not defined in the Conditions of Contract but keep their defined meanings. Capital initials are used to identify defined terms.

**Bill of Quantities** means the priced and completed Bill of Quantities forming part of the Bid.

**Compensation Events** are those defined in Clause 41 hereunder.

**The Completion Date** is the date of completion of the Works as certified by the Engineer, in accordance with Clause 49.1.

**The Contract** is the Contract between the Employer and the Contractor to execute, complete, and maintain the Works. It consists of the documents listed in Clause 2.3.

**The Contract Data** defines the documents and other information, which comprise the Contract.

**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 and includes technical and financial bids.

**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.

A **Defect** is any part of the Works not completed in accordance with the Contract.

**The Defects Liability Certificate** is the certificate issued by Engineer, after the Defect Liability Period has ended and upon correction of Defects by the Contractor. (NA)

**The Defects Liability Period** is 06 months calculated from the Completion Date. (NA)

**Drawings** include calculations and other information provided or approved by the Engineer for the execution of the Contract.

**The Employer** is the party as defined in the Contract Data, who employs the Contractor to carry out the Works. The Employer may delegate any or all of its functions to a person or body nominated by him for specified functions.

**The Engineer** is the person named in the Contract Data (or any other competent person appointed by the Employer and notified to the Contractor, to act in replacement of the Engineer) who is responsible for supervising the execution of the Works and administering the Contract.

**Equipment** is the Contractor's machinery and vehicles brought temporarily to the Site to construct the Works.

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

**The Intended Completion Date** is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date is specified in the Contract Data. The Intended Completion Date may be revised only by the Engineer by issuing an extension of time after the approval from Employer.

**Materials** are all supplies, including consumables, used by the Contractor for incorporation in the Works. (NA)

**Plant** is any integral part of the Works that shall have a mechanical, electrical, electronic, chemical, or biological function. (NA)

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

**Site Investigation Reports** are those that were included in the bidding documents and are factual interpretative reports about the surface and subsurface 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.

The **Start Date** is given in the Contract Data. It is the date when the Contractor shall commence execution of the Works. It does not necessarily coincide with any of the Site Possession Dates.

A **Sub-Contractor** 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. (NA)

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

A **Variation** is an instruction given by the Engineer after the approval from NHIDCL, which varies the Works.

The **Works** are what the Contract requires the Contractor to construct, install, maintain, and handover 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 these 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 Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).

2.3 The documents forming the Contract shall be interpreted in the following order of priority.

- (a) Agreement,
- (b) Letter of Acceptance
- (c) Contractor's Bid,
- (d) Contract Data,
- (e) Conditions of Contract
- (f) Drawings, if any
- (g) Implementation Manual
- (h) Scope of Work
- (i) Bill of Quantities, and
- (j) Any other document listed in the Contract Data.

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

**3.1** The language of the Contract and the law governing the Contract are 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, duly informing the Employer, may delegate any of his duties and responsibilities to other people except to the Adjudicator, after notifying the Contractor, and may cancel any delegation after notifying the Contractor.

### **6. Communications**

**6.1** Communications between parties that are referred to in the Conditions shall be effective only when in writing. A notice shall be effective only when it is delivered.

### **7. Subcontracting**

**7.1** The Contractor is not allowed to sub contract any part or whole work in any condition of work, up to a limit specified in Contract Data.

**7.2** Deleted

**7.3** Deleted

**7.4** Deleted

### **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 of Other Contractors, as referred to in the Contract Data. The Contractor shall also provide facilities and services for them as described in the Schedule. 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 technical personnel named in the Contract Data or other technical persons approved by the Engineer. The Engineer will approve any proposed replacement of technical personnel only if their relevant qualifications and experience are substantially equal to or better than those of the personnel stated in the Contract Data. If the personnel stated in the contract data are not deployed on site by the contractor, it will be treated as a breach of contract and action will be taken as per clause 53.

9.2 If the Engineer asks the Contractor to remove a person who is a member of the Contractor's staff or work force, stating the reasons, the Contractor shall ensure that the person leaves the Site within seven days and has no further connection with the Works in the Contract.

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

**10.1** The Employer carries the risks which this Contract states are Employer's risks, and the Contractor carries the risks which this Contract states are 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 war, hostilities, invasion, act of foreign enemies, rebellion, revolution, insurrection or military or usurped power, civil war, riot commotion or disorder (unless restricted to the Contractor's employees), natural calamities and contamination from any nuclear fuel or nuclear waste or radioactive toxic explosive, or (b) a cause due solely to the 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 the performance of the Contract other than the excepted risks, referred to in clause 11.1, are the responsibility of the Contractor.

## **13. Insurance**

**13.1** The Contractor at his cost shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Start Date to the end of completion period for events (a) to (d), in the amounts and deductibles stated in the Contract Data for the following events which are due to the Contractor's risks:

- a) loss of or damage to the Works, Plant and Materials; (Not applicable)
- b) loss of or damage to Equipment;
- c) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and
- d) Personal injury or death.

**13.2** Insurance policies and certificates for insurance shall be delivered by the Contractor to the Engineer for the Engineer's approval before the Start Date. All such insurance shall provide for compensation to be payable in Indian Rupees 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 debt due.

13.4 Alterations to the terms of insurance shall not be made without the approval of the Engineer.

13.4 Both parties shall comply with any conditions of the insurance policies.

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

**14.1** The Contractor, in preparing the Bid, may rely on any Site Investigation Reports referred to in the Contract Data, supplemented by any other information available to him, before submitting the bid.

#### **15. Queries about the Contract Data**

15.1 Executing Director will clarify queries on the Contract Data.

#### **16. Contractor to Construct the Works & do maintenance**

**16.1** The Contractor shall construct, install and maintain the Works in accordance with the documents forming part of the contract.

#### **17. The Works to Be Completed by the Intended Completion Date**

**17.1** The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the Programme submitted by the Contractor, as updated with the approval of the Engineer, and complete them by the Intended Completion Date.

#### **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 specifications and drawings.

18.2 The Contractor shall be responsible for design of Temporary Works.

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 to the design of the Temporary Works, where 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 on the Site.

#### **20. Discoveries**

**20.1** Anything of historical or other interest or of significant value unexpectedly discovered on 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 give complete possession of the Site to the Contractor on the date of signing of agreement.



## 22. Access to the Site

**22.1** The Contractor shall allow access to the Site and to any place where work in connection with the Contract is being carried out, or is intended to be carried out to the engineer and any person/persons/agency authorized by:

- a. The Engineer b.  
The Employer

## 23. Instructions

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

**23.2** The Contractor shall permit the Employer to inspect the Contractor's accounts and records relating to the performance of the Contractor and to have them audited by Auditors appointed by the Employer if so required by the Employer.

## 24. Deleted

## 25. ARBITRATION

The procedure for arbitration will be as follows:

- (a) In case of Dispute or difference arising between the Employer and a domestic contractor relating to any matter arising out of or connected with this agreement, such disputes or difference shall be settled in accordance with the Arbitration and Conciliation Act, 1996. The arbitral tribunal shall consist of 3 arbitrators one each to be appointed by the Employer and the Contractor. The third Arbitrator shall be chosen by the two Arbitrators so appointed by the Parties and shall act as presiding arbitrator. In case of failure of the two arbitrators appointed by the parties to reach upon a consensus within a period of 30 days from the appointment of the arbitrator appointed subsequently, the Presiding Arbitrator shall be appointed by the Secretary General of Indian Road Congress.
- (b) If one of the parties fails to appoint its arbitrator in pursuance of sub-clause (a) and (b) above within 30 days after receipt of the notice of the appointment of its arbitrator by the other party, then the Secretary General of Indian Road Congress shall appoint the arbitrator. A certified copy of the order of the Secretary General of Indian Road Congress making such an appointment shall be furnished to each of the parties.
- (c) Arbitration proceedings shall be held at New Delhi, India, and the language of the arbitration proceedings and that of all documents and communications between the parties shall be English.
- (d) The decision of the majority of arbitrators shall be final and binding upon both parties.
- (e) The cost and expenses of Arbitration proceedings will be borne equally by both parties in accordance with the following fee structure (the signing of the contract shall be the acceptance of the fee structure given below by both the parties):

S. No.	Particulars of fee and other charges	Schedule Amount payable per Arbitrator/ per case
1.	Arbitrator fee	Rs.15,000/- per day subject to a publishing the Award within 12 months. 12 months will be reckoned from the date of first meeting.
2.	Reading Charges	Rs.15,000/-
3.	Secretarial Assistance and Incidental Charges (telephone, fax, postage etc.)	Rs.20,000/-

4.	Charges for Publishing/ declaration of the Award	Maximum of Rs.20,000/-
5.	Other expenses (As per actual Against bills subject to maximum of the prescribed ceiling given below) Traveling Expenses, Lodging and Boarding	Economy class by air, first class AC by train, AC car by road. (i) Up to Rs.15,000/- per day (metro cities) (ii) Up to Rs.7,000/- per day (other cities) (iii)Rs.3,000/- per day own arrangement)
6.	Local Travel	Rs.1,500/- per day
7.	Extra charges for days other than hearing / meeting days (maximum for 2 days)	Rs.3,500/- per day
Note:-	<b>Lodging, boarding and traveling expenses shall be allowed only for those members who are residing 100kms. Away from place of meeting. Delhi, Mumbai, Chennai, Kolkata, Bangalore and Hyderabad shall be considered as Metro Cities.</b>	

However, the expenses incurred by each party in connection with the preparation, presentation, etc. of its proceedings shall be borne by each party itself.

(f) Performance under the contract shall continue during the arbitration proceedings and payments due to the contractor by the employer shall not be withheld, unless they are the subject matter of the arbitration proceedings.

## 26 Deleted

### B. Time Control

## 27. Programme

**27.1** The Engineer shall issue the indent of work in stages specifying the time limit for the same as and when required. The Contractor shall submit to the Engineer for approval a programme within the time stipulated in the Contract Data showing the general methods, arrangements, order, and timing for all the activities in the Works, along with monthly cash flow forecasts.

**27.2** An update of the Programme shall be a programme showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining Works, including any changes to the sequence of the activities.

**27.3** The Contractor shall submit to the Engineer for approval an updated Programme at intervals. If the Contractor does not submit an updated Programme 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 Programme has been submitted.

**27.4** The Engineer's approval of the Programme shall not alter the Contractor's obligations. The Contractor may revise the Programme and submit it to the Engineer again at any time. A revised Programme shall show the effect of Variations and Compensation Events.

## 28. Extension of the Intended Completion Date

**28.1** The Engineer shall extend the Intended Completion Date only after the approval of NHIDCL if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Intended Completion Date without the Contractor taking steps to accelerate the remaining Works, which would cause the Contractor to incur additional cost.

**28.2** The Engineer shall decide whether and by how much time to extend the Intended Completion Date

within 21 days of the Contractor asking the Engineer for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Indented Completion Date.

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

**29.1** The Engineer may instruct the Contractor to delay the start or progress of any activity within the Works. Delay/delays totalling more than 30 days will require prior written approval of the Employer.

## **30. Management Meetings**

**30.1** The Engineer may require the Contractor to attend a management meeting. The business of a management meeting shall be to review the plans for the Works.

**30.2** The Engineer shall record the business of management meetings and provide copies of the record to those attending the meeting. The responsibility of the parties for actions to be taken shall be decided by the Engineer either at the management meeting or after the management meeting and stated in writing to all those who attended the meeting.

## **C. Quality Control**

### **31. Identifying Defects**

**31.1** 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.

### **32. Deleted**

### **33. Deleted**

### **34. Uncorrected Defects**

**34.1** If the Contractor has not corrected a Defect/completed the work, to the satisfaction of the Engineer, within the time specified in the Engineer's notice, the Engineer will assess the cost of having the Defect corrected/completed, and the Contractor will pay this amount.

## **D. Cost Control**

### **35. Bill of Quantities**

**35.1** The Bill of Quantities shall contain items for the construction, installation, testing, and commissioning and maintaining works to be done by the Contractor.

**35.2** The Bill of Quantities is used to calculate the Contract Price. The Contractor is paid for the quantity of the work done at the rates in the Bill of Quantities for each item for the work executed.

### **35.3 Changes in the Quantities**

**35.3.1** If the final quantity of the work-done differs from the quantity in the Bill of Quantities for the particular item by more than 25 percent provided the change exceeds 1% of initial Contract Price, the

Engineer shall adjust the rate to allow for the change. The Engineer shall follow the guidelines of the Employer to determine the changed rate.

35.3.2 The Engineer shall not adjust rates from changes in quantities if thereby the Initial Contract Price is exceeded by more than 15 percent, except with the Prior approval of the Employer. If requested by the Engineer, the Contractor shall provide the Engineer with a detailed cost breakdown of any rate in the Bill of Quantities.

### **35.3.3 Change of scope due to six laning or OMT**

The proposed section of National Highway in the contract is proposed to be Two laned in the future hence, the contractor shall not claim anything from NHIDCL on account of earlier termination of the contract i.e. before the expiry of the scheduled contract period on account of award of work for Two laning of the Highway.

## **36. Variations**

36.1 The Engineer shall, having regard to the scope of the Works and the sanctioned estimated cost, have power to order only after approval from NHIDCL / as per NHIDCL guidelines, in writing, Variations within the scope of the Works he considers necessary or advisable during the progress of the Works. Such Variations shall form part of the Contract and the Contractor shall carry them out and include them in updated Programmes produced by the Contractor. Oral orders of the Engineer for Variations, unless followed by written confirmation, shall not be taken into account.

## **37. Payments for Variations**

37.1 If rates for Variation items are specified in the Bill of Quantities, the Contractor shall carry out such work at the same rate. This shall apply for Variations only up to the limit prescribed in the Clause 35. If the Variation exceeds this limit, the rate shall be derived under the provisions of clause 37.2 and 37.3 for quantities (higher) exceeding the deviation limit.

37.2 If the rates for Variation are not specified in the Bill of Quantities, the Engineer shall derive the rate from similar items in the Bill of Quantities.

37.3 If the rate for Variation item cannot be determined in the manner specified in Clause 37.1 or 37.2, the Contractor shall, within 14 days of the issue of order of Variation work, inform the Engineer the rate which he proposes to claim, supported by analysis of the rates. The Engineer shall assess the quotation and determine the rate based on prevailing market rates within one month of the submission of the claim by the Contractor and approval from NHIDCL will be taken. As far as possible, the rate analysis shall be based on the standard data book and the current schedule of rates of the district public works division. The decision of the Employer on the rate so determined shall be final and binding on the Contractor.

## **38. Cash Flow Forecasts**

38.1 When the Programme is updated, the Contractor shall provide the Engineer with an updated cash flow forecast.

## **39. Payment Certificates**

39.1 The Contractor shall submit to the Engineer monthly statements of the value of the work executed less the cumulative amount certified previously supported with detailed measurement of the items of work executed.

39.2 The Engineer shall check the Contractor's monthly statement within 14 days and certify the amount to be paid to the Contractor after taking into account any credit or debit for the month in question.

39.3 The value of work executed shall be determined, based on measurements by the Engineer.

39.4 The value of work executed shall comprise the value of the quantities of the items in the Bill of Quantities completed.

39.5 The value of work executed shall also include the valuation of Variations and Compensation Events.

39.6 The Engineer / Employer may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.

**39.7** The final bill shall be submitted by the contractor within one month of the actual date of completion of the work; otherwise the Engineers certificate of the measurement and of the total amount payable for work accordingly shall be final and payment made accordingly within a period of sixty days as far as possible.

#### **40. Payments**

40.1 Payments shall be adjusted for deductions for advance payments, security deposit, other recoveries in terms of the Contract and taxes at source, as applicable under the law. The Employer shall pay the Contractor the amounts Engineer had certified within 28 days of the date of each certificate.

40.2 The Authorized Representative of the Employer shall make the payment certified by the Engineer.

40.3 Items of the Works for which no rate or price has been entered in the Bill of Quantities, will not be paid for by the Employer and shall be deemed to be covered by other rates and prices in the Contract.

#### **41. Compensation Events**

41.1 The following shall be Compensation Events unless they are caused by the Contractor:

- a) The Engineer orders a delay or delays exceeding a total of 30 days.
- b) The effects on the Contractor of any of the Employer's Risks.

41.2 If a Compensation Event would prevent the Works being completed before the Intended Completion Date, the Intended Completion Date shall be extended. The Engineer shall decide whether and by how much the Intended Completion Date shall be extended after the approval of the employer.

41.3 The contractor shall not be entitled to compensation 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/Employer.

#### **42. Taxes & Currencies for payments**

42.1 The rates quoted by the Contractor shall be deemed to be inclusive of the sales and other levies, duties, royalties, cess, toll, taxes (including GST) of Central and State Governments, local bodies and authorities 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.

42.2 All payments will be made in Indian Rupees.

#### **43. Price Adjustment - Deleted**

43.1. Deleted

43.2. Deleted

#### **44. Security Deposit / Retention Money**

44.1 The Employer shall retain security deposit of 06 % (six percent) of the amount from each payment due to the Contractor until Completion of the whole of the Works.

44.2 The security deposit/retention money and the performance security will be released to the Contractor when the contract period is over.

44.3 If the contractor so desires then the Security Deposit/retention money can be released on submission of unconditional Bank Guarantee at the following two stages:-

- (a) At a point after the progress of work in financial term (gross value of work done) has reached 50% of the contract amount
- (b) After the retention money has been deducted to the full value (6% of the Contract Amount).

#### **45. Liquidated Damages**

45.1 The Contractor shall pay liquidated damages to the Employer at the rate or part thereof stated in the Contract Data for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount defined in

the Contract Data. The Employer may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor's other liabilities.

**45.2** If the Intended Completion Date is extended after liquidated damages have been paid, the Engineer shall correct any overpayment of liquidated damages by the Contractor by adjusting in the next payment certificate. The contractor shall not be paid interest on the over payment of liquidated damages.

#### **46. Advance Payment: Deleted**

#### **47. Securities**

**47.1** Subject to further condition in contract data, the Performance Security equal to Five percent of the contract price and additional security for unbalanced bids shall be provided to the Employer no later than the date specified in the Letter of Acceptance and shall be issued in the form given in the Contract Data and by a prescribed bank. The Performance Security shall be valid until a date 28 days after the expiry of Completion Period and the additional performance security for unbalanced bids shall be valid until a date 28 days from the date of issue of the certificate of completion. The validity shall account for additional 3 months time to account for BG verification, signing of contract and start date

#### **48. Cost of Repairs**

**48.1** Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the completion period shall be remedied/ rectified by the Contractor at their cost if the loss or damage arises from the Contractor's acts or omissions.

#### **E. Finishing the Contract**

#### **49. Completion**

**49.1** 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 Works is completed.

#### **50. Taking Over**



**50.1** The Employer shall take over the Site and the Works within seven days of the Engineer's issuing a certificate of Completion.

## **51. Final Account**

**51.1** The Contractor shall supply to the Engineer with a detailed account of the total amount that the Contractor considers payable under the Contract within 01 month after completion Period. The Engineer shall issue a completion Certificate and certify any final payment that is due to the Contractor within 56 days of receiving the Contractor's account if it is correct and complete. If it is not, the Engineer shall issue within 56 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 56 days of receiving the Contractor's revised account.

## **52. Operating and Maintenance Manual**

**52.1** If "as built" Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them within 28 days from date of issue of certificate of completion.

**52.2** If the Contractor does not supply the Drawings and/or manuals by the stipulated date or they do not receive the Engineer's approval, the Engineer shall withhold the amount equal to Rs. 5 lakhs from payments due to the Contractor.

## **53. Termination**

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

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

- a) the Contractor stops work for 28 days when no stoppage of work is shown on the current Programme and the stoppage has not been authorized by the Engineer;
- b) the Contractor is declared as bankrupt or goes into liquidation other than for approved reconstitution or amalgamation;
- c) the Engineer/Employer 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;
- d) the Contractor does not maintain a Security, which is required;
- e) the Contractor has delayed the completion of the Works by the number of days for which the maximum amount of liquidated damages can be paid, as defined in clause 45;
- f) the Contractor fails to provide insurance cover as required under clause 13;
- g) if the Contractor, in the judgement of the Employer, has engaged in the corrupt or fraudulent practice in competing for or in executing the Contract. For the purpose of this clause, "corrupt practise" means 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. "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 process at artificial non-competitive levels and to deprive the Employer of the benefits of free and open competition.  
if the Contractor has not completed at least thirty percent of the value of Work required to be completed after half of the completion period has elapsed;  
if the Contractor fails to set up a field laboratory with the prescribed equipment, within the period specified; and

any other fundamental breach as specified in the Contract Data.

53.3 Notwithstanding the above, the Employer may terminate the Contract for convenience.

53.4 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 but in no case later than 7 days.

#### **54. Payment upon Termination**

54.1 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 and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of 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.

54.2 Save and except Cl 35.3.3, if the Contract is terminated at the Employer's convenience, 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 outstanding on 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.

In case of termination on account of award of 2 laning work stated in Cl 35.3.3, the Engineer shall issue a certificate for the value of work done till termination, less advance payments outstanding, less other recoveries due in terms of contract and less taxes due to be deducted at source as per applicable law.

#### **55. Property**

55.1 All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the Employer for use for completing balance work if the Contract is terminated because of the Contractor's default.

#### **56. Release from Performance**

56.1 If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of 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 a commitment was made.

#### **F. Other Conditions of Contract**

##### **57. Labour**

57.1 The Contractor shall, make arrangements of his own cost and expanses for the engagement of all staff and labour, local or others; for their payment, housing, feeding and transport; and for compliance with various labour laws/ regulations.

57.2 The Contractor shall, as asked 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.

#### **58. COMPLIANCE WITH LABOUR REGULATIONS**



**58.1** During the currency 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 notified already or that may be notified 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 from his performance security/ retention money. 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:** - The Act provides for compensation in case of injury by accident arising out of and during the course of employment.
- b) **Payment of Gratuity Act 1972:** - Gratuity is payable to an employee under the Act on satisfaction of certain conditions on separation if an employee has completed the prescribed minimum years (say, five years) of service or more or on death the rate of prescribed minimum days" (say, 15 days) wages for every completed year of service. The Act is applicable to all establishments employing the prescribed minimum number (say, 10) or more employees.
- c) **Employees P.F. and Miscellaneous Provision Act 1952:** The Act Provides for monthly contributions by the Employer plus workers at the rate prescribed (say, 10% or 8.33%). The benefits payable under the Act are:
  - i. Pension or family pension on retirement or death as the case may be.
  - ii. Deposit linked insurance on the death in harness of the worker.
  - iii. Payment of P.F. accumulation on retirement/death etc.
- d) **Maternity Benefit Act 1951:** - The Act provides for leave and some other benefits to women employees in case of confinement or miscarriage etc.
- e) **Contract Labour (Regulation & Abolition) Act 1970:** - The Act provides for certain welfare measures to be provided by the Contractor to contract labour and in case the Contractor fails to provide, the same are required to be provided, by the Principal Employer by Law. The principal Employer is required to take Certificate of Registration and the Contractor is required to take license from the designated Officer. The Act is applicable to the establishments or Contractor of Principal Employer if they employ prescribed minimum (say 20) or more contract labour.
- f) **Minimum Wages Act 1948:** - The Employer is to pay not less than the Minimum Wages fixed by appropriate Government as per provisions of the Act if the employment is a scheduled employment. Constructions of buildings, roads, runways are scheduled employment.
- g) **Payment of Wages Act 1936:** - It lays down as to by what date the wages are to be paid, when it will be paid and what deductions can be made from the wages of the workers.

- h) Equal Remuneration Act 1979:** - The Act provides for payment of equal wages for work of equal nature to male and female workers and for not making discrimination against female employees in the matters of transfers, training and promotions etc.
- i) Payment of Bonus Act 1965:** - The Act is applicable to all establishment employing prescribed minimum (say, 20) or more workmen. The Act provides for payments of annual bonus within the prescribed range of percentage of wages to employees drawing up to the prescribed amount of wages, calculated in the prescribed manner. The Act does not apply to certain establishments. The newly set-up establishments are exempted for five years in certain circumstances. States may have different number of employment size.
- j) Industrial Disputes Act 1947:** - The Act lays down the machinery and procedure for resolution of industrial disputes, in what situations a strike or lock-out becomes illegal and what are the requirements for laying off or retrenching the employees or closing down the establishment.
- k) Industrial Employment (Standing Orders) Act 1946:** - It is applicable to all establishments employing prescribed minimum (say, 100, or 50). The Act provides for laying down rules governing the conditions of employment by the Employer on matters provided in the Act and get these certified by the designated Authority.
- l) Trade Unions Act 1926:** - The Act lays down the procedure for registration of trade unions of workmen and Employers. The Trade Unions registered under the Act have been given certain immunities from civil and criminal liabilities.
- m) Child Labour (Prohibition & Regulation) Act 1986:** - The Act prohibits employment of children below 14 years of age in certain occupations and processes and provides for regulations of employment of children in all other occupations and processes. Employment of child labour is prohibited in building and construction industry.
- n) Inter-State Migrant Workmen's (Regulation of Employment & Conditions of Service) Act 1979:** - The Act is applicable to an establishment which employs prescribed minimum (say, five) 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.
- o) The Building and Other Construction workers (Regulation of Employment and Conditions of Service) Act 1996 and the Cess Act of 1996:** - All the establishments who carry on any building or other construction work and employs the prescribed minimum (say, 10) or more workers are covered under this Act. All such establishments are required to pay cess at the rate not exceeding 2% of the cost of construction as may be modified by the Government. The Employer of the establishment is required to provide safety measures at the building or construction work and other welfare measures, such as canteens, first-aid facilities, ambulance, housing accommodations for workers near the work place etc. The Employer to whom the Act applies has to obtain a registration certificate from the Registering Officer appointed by the Government.
- p) Factories Act 1948:** - The Act lays down the procedure for approval of plans before setting up a factory, health and safety provisions, welfare provisions, working hours, annual earned leave and rendering information regarding accidents or dangerous occurrences to designated authorities. It is applicable to premises employing the prescribed minimum (say, 10) persons or more with aid of power or another prescribed minimum (say, 20) or more persons without the aid of power engaged in manufacturing process.

## **59. Drawings and Photographs of the Works**

59.1 The contractor shall do photography/videography of the site firstly before the start of the work, secondly mid-way in the execution of different stages of work and lastly after the completion of the work. No separate payment will be made to the contractor for this.

59.2 The Contractor shall not disclose details of Drawings furnished to him and works on which he is engaged without the prior approval of the Engineer in writing. No photograph of the works or any part thereof or plant employed thereon, except those permitted under clause 59.1, shall be taken or permitted to be taken by the Contractor or by any of his employees or any employees of his sub-Contractors without the prior approval of the Engineer in writing. No photographs/ Videography shall be published or otherwise circulated without the approval of the Engineer in writing.

## **60. The Apprenticeship Act 1961**

**60.1** The Contractor shall duly comply with the provisions of the Apprenticeship Act 1961 (III of 1961), the rules made there under and the orders that may be issued from time to time under the said Act and the said Rules and on his failure or neglect to do so he shall be subject to all liabilities and penalties provided by the said Act and said Rules.

## CONTRACT DATA TO GENERAL CONDITIONS OF CONTRACT

### Clause Reference

Items marked “N/A” do not apply in this Contract.

[CL.1.1]

The Employer is:-

The General Manager (Projects)

National Highways & Infrastructure Development

Corporation Ltd.

H. No. 11, Sector-2,

Trikuta Nagar,

Jammu, J&K-180020

Name of Authorized Representative:-

Sh. MG Vijay Kumar

The General Manager (Projects)

National Highways & Infrastructure Development

Corporation Ltd.

H. No. 11, Sector-2,

Trikuta Nagar,

Jammu, J&K-180020

2. The Engineer is :

[CL.1.1]

Designation: General Manager (Projects)

Address: National Highways & Infrastructure Development

Corporation Ltd.

H. No. 11, Sector-2,

Trikuta Nagar,

Jammu, J&K-180020

3. The intended Completion Date for the whole of the works is **12 months** from start date.

[CL.1.1, 17 & 28]

4. The location of site is given in the Bid notice (SECTION I)

[CL.1.1]

5. The start date shall be reckoned within 15 days after the date of issue of the notice to proceed with the work.

[CL.1.1]

6. (a) The name and identification number of the contract is given in the table given in Bid Notice (SECTION I)

[CL.1.1]

7. (a) The law which applies to the contract is the law of Union of India.

[CL.3.1]

(b) The language of the contract documents is English

[CL.3.1]

8. Subcontracting is not allowed

[CL.7.1]

9. Schedule of other contractor –NIL

[CL.8.1]

10. Technical Personnel are as given in the ITB (SECTION II)

[CL.7.1]

11. Amount of Insurance are:

[CL.13.1]

(a) Rupees equivalent to contract price (NA)

(b) Rupees equivalent to 5% of contract price

(c) Rupees equivalent to 5% of contract price

(d) Rupees 20 lakhs for multiple incidents

And deductible as per premium rate.

12. Site investigation report-NIL

[CL.14.1]

13. (A) The period for submission of the programme for approval of Engineer shall be 21 days from the issue of

[CL.27.1]

Letter of Commencement.

(B) (a) Identified indented work

(1) Weekly Indent, Monthly Indent, Quarterly Indent and Bi-annual Indent – 3 days before start of week; 7 days before start of month; 15 days before start of quarter and 28 days before bi-annual period concerned

(2) Emergent Indents – Within 24 hours

14. Amount to be withheld for delays in submission of updated programme: 1% of value of work corresponding to the updated programme.

15. The period for setting up a field laboratory with the prescribed equipment relevant to items of work in BOQ is 30 days from the days from the date of notice to start work. (NA)

16. (a) Amount of liquidated damages for delay in completion of works

For whole of work (1/2000)th of the Initial Contract Price, rounded off to the nearest Thousand, per day.

For Sectional Completion (wherever specified, in item 6 of Contract Data (1/200)th of initial contract price for 5 km section, rounded off to the nearest thousand per day.

(b) Maximum limit of liquidated damages for delay in completion of work.

10 percent of the initial contract price rounded off to the nearest thousand.

[CL.45.1]

17. The standard form of Performance Security acceptable to the Employer shall be an unconditional Bank Guarantee of the type as presented in the Bidding Documents.

[CL.47.1]

18. Other fundamental breach is that the contractor has failed to complete 75% of value of indented work in any 3 indents issued by the Engineer.

[CL.53.2]

19. The percentage to apply to the value of work not completed representing the Employer's additional cost for completing the work shall be 20%.

[CL.54.1]

# **INTEGRITY PACT**

BETWEEN

**NATIONAL HIGHWAYS & INFRASTRUCTURE DEVELOPMENT CORPORATION LIMITED** (NHIDCL) hereinafter referred to as **"The Principal"** (which expression, unless repugnant to the context thereof, shall mean and include its legal representatives, heirs and assigns)

AND

..... hereinafter referred to as **"The Bidder/Contractor"** (which expression, unless repugnant to the context thereof, shall mean and include its legal representatives, heirs and assigns)

## **Preamble**

The Principal intends to award, under laid down organizational procedures, contract(s) for **(Name of the contract) (hereinafter referred to as the 'Project')**. The Principal necessarily requires full compliance with all relevant laws of the land, rules, regulations, economic use of resources and of fairness/ transparency in its relations with its Bidder(s) and/or Contractor(s).

In order to achieve these goals, the Principal may appoint an Independent External Monitor (IEM), who will monitor the tender process and the execution of the contract for compliance with the Integrity Pact by all parties concerned, for all works covered in the Project.

## **Section 1 - Commitments of the Principal**

- (1) The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles: -
  - a. No employee of the Principal, personally or through family members or through any other channel, will in connection with the tender for or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit, which the person is not legally entitled to.
  - b. The Principal will, during the tender process treat all Contractor(s)/Bidder(s) with equity and reason. The Principal will in particular, before and during the tender process, provide to all Contractor(s)/Bidder(s) the same information and will not provide to any Contractor(s)/Bidder(s), confidential/additional information through which the Contractor(s)/Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.
  - c. The Principal will exclude from the process all known prejudiced persons. **The Principal shall** obtain bids from **only** those parties who have been short-listed or pre qualified or through a process of open advertisement/web publishing or any combination thereof.
- (2) If the Principal obtains information on the conduct of any of its employees, Contractor(s) and/or Bidder(s), which is a criminal offence under the IPC/PC Act, or if there be a substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer and **subject to its discretion,** can **additionally** initiate disciplinary actions.
- (3) The Principal will enter into agreements with identical conditions with all Contractor(s)/Bidder(s) **for the different Work Packages in the aforesaid Project**
- (4) The Principal will disqualify from the tender process all Contractor(s)/Bidder(s) in the range of Rs 50 Crore and above, who do not sign this Pact or violate its provisions.

## **Section 2 - Commitments of the Bidder(s) / Contractor(s)**

- (1) The Bidder(s) / Contractor(s) commit(s) itself/themselves to take all measures necessary to prevent corruption. He commits himself to observe the following



principles during his participation in the tender process and during the contract execution.

- (a) The Bidder(s)/Contractor(s) will not, directly or through any other person or firm offer, promise or give to any of the Principal's employees involved in the tender process or the execution of the contract any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage, of any kind whatsoever, during the tender process or during the execution of the contract.
  - (b) The Bidder(s)/Contractor(s) will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
  - (c) The Bidder(s)/Contractor(s) will not use improperly, for purpose of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
  - (d) The Bidder(s)/Contractor(s) of foreign origin shall disclose the name and address of the Agents/representatives in India, if any. Similarly the Bidder(s)/Contractor(s) of Indian Nationality shall furnish the name and address of the foreign principals, if any. Further details as mentioned in the "Guidelines on Indian Agents of Foreign Suppliers" shall be disclosed by the Bidder(s)/Contractor(s). Further, as mentioned in the Guidelines all the payments made to the Indian agent/representative have to be in Indian Rupees only. Copy of the "Guidelines on Indian Agents of Foreign Suppliers" is annexed and marked as Annex-"A".
  - (e) The Bidder(s)/ Contractor(s) will, when submitting his bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
- (2) The Bidder(s)/Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

### **Section 3: Disqualification from tender process and/ or exclusion from future contracts.**

- (1) If the Bidder(s)/ Contractor(s), before awarding the Project or during execution has committed a transgression by violating Section 2 above or in any other form so as to put his reliability or credibility in question, the Principal, at its sole discretion, is entitled to disqualify the Bidder(s)/ Contractor(s) from the tender process or terminate the contract, if already awarded, for that reason, without prejudice to any other legal rights or remedies available to the Principal under the relevant clauses of GCC /SCC of the tender/contract.
- (2) If the Contractor(s)/Bidder(s) has committed a transgression through a violation of any of the terms under Section 2 above or in any other form such as to put his reliability or credibility into question, the Principal will also be entitled to exclude such Contractor(s)/Bidder(s) from future tenders/contract award processes. The imposition and duration of the exclusion will be determined by the Principal, keeping in view the severity of the transgression. The severity will be determined by the circumstances of the case, in particular, the number of transgressions and/or the amount of the damage.
- (3) If it is observed after payment of final bill but before the expiry of validity of Integrity Pact that the contractor has committed a transgression, through a violation of any of the terms under Section 2 above or any other term(s) of this Pact, during the execution of contract, the Principal will be entitled to exclude the contractor from

further tender/contract award processes.

- (4) The exclusion will be imposed for a minimum period of six (6) months and a maximum period of three (3) years.
- (5) If the Contractor(s)/Bidder(s) can prove that he has restored/recouped the damage to the Principal caused by him and has installed a suitable corruption prevention system, the Principal may, at its sole discretion, revoke or reduce the exclusion period before the expiry of the period of such exclusion.

#### **Section 4: Compensation for Damages**

- (1) If the Principal has disqualified the Bidder(s)/Contractor(s) from the tender process prior to the awarding of the Project according to Section 3, the Earnest Money Deposit (BID SECURITY)/Bid Security furnished, if any, along with the offer, as per terms of the Invitation of Tender, shall also be forfeited. The Bidder(s)/Contractor(s) understands and agrees that this will be in addition to the disqualification and exclusion of the Contractor (s)/Bidder(s) as may be imposed by the Principal, in terms of Section 3 above.
- (2) If, at any time after the awarding of the Project, the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to Section 3, the Security Deposit/Performance Bank Guarantee furnished by the contractor, if any, as per the terms of the NIT/Contract shall be forfeited without prejudice to any other legal rights and remedies available to the Principal under the relevant clauses of General/ Special Conditions of Contract.

The Contractor(s)/Bidder(s) be in addition to the Bidder(s)/Contractor(s), as terms of Section 3 above, understands and agrees that this will disqualification and exclusion of the may be imposed by the Principal in

#### **Section 5: Previous transgression**

- (1) The Bidder(s)/Contractor(s) herein declares that it has committed no transgressions in the last 3 years with any other Company in any country conforming to the anti corruption approach as detailed herein or with government/ any other Public Sector Enterprise in India that could justify its exclusion from the tender process.
- (2) If at any point of time during the tender process or after the awarding of the Contract, it is found that the Bidder(s)/Contractor(s) has made an incorrect statement on this subject, he can be disqualified from the tender process or if, as the case may be, that the Contract, is already awarded, it will be terminated for such reason and the Bidder(s)/Contractor(s) can be black listed in terms of Section 3 above.

#### **Section 6: Independent External Monitor / Monitors**

- (1) The Principal shall, in case where the Project Value is in excess of Rs 50 Crore and above, appoint competent and credible Independent External Monitor(s) with clearance from Central Vigilance Commission. The Monitor shall review independently, the cases referred to it to assess whether and to what extent the parties concerned comply with the obligations under this Integrity Pact.
- (2) In case of non-compliance of the provisions of the Integrity Pact, the complaint/non-compliance is to be lodged by the aggrieved party with the Nodal Officer only, as shall be appointed by the MD, NHIDCL. The Nodal Officer shall refer the complaint/non-compliance so received by him to the aforesaid Monitor.
- (3) The Monitor will not be subject to any instructions by the representatives of the parties and will perform its functions neutrally and independently. The Monitor shall report to the Managing Director, NHIDCL.
- (4) The Bidder(s)/Contractor(s) accepts that the Monitor shall have the right to access,



without restriction, all Project documentation of the Principal including that provided by the Contractor. The Contractor will also grant the Monitor, upon his/her request and demonstration of a valid interest, unrestricted and unconditional access to its project documentation. The Monitor is under contractual obligation to treat the information and documents of the Bidder (s) /Contractor(s) with confidentiality.

- (5) The Principal will provide to the Monitor, sufficient information about all meetings among the parties related to the Project, provided such meetings could have an impact on the contractual relations between the Principal and the Contractor.
- (6) As soon as the Monitor notes, or believes to note, a violation of this Pact, he will so inform the Principal and request the Principal to discontinue and/or take corrective action, or to take other relevant action (s). The Monitor can in this regard submit non-binding recommendations. However, beyond this, the Monitor has no right to demand from the parties that they act in a specific manner and/or refrain from action and/or tolerate action.
- (7) The Monitor will submit a written report to the MD, NHIDCL within 4 to 6 weeks from the date of reference or intimation to it and, should the occasion arise, submit proposals for corrective actions for the violation or the breaches of the provisions of the agreement noticed by the Monitor.
- (8) If the Monitor has reported to the MD, NHIDCL, of a substantiated suspicion of an offence under relevant IPC/PC Act, and the MD, NHIDCL, has not, within the reasonable time taken visible action to proceed against such offence or reported it to the Chief Vigilance Officer, the Monitor may also transmit this information directly to the Chief Vigilance Officer, NHIDCL / MD.
- (9) The word 'Monitor' means Independent External Monitor and includes both singular and plural forms.

#### **Section 7 Criminal Contractor(s)/charges against violating Bidder(s) / Subcontractor(s)**

If the Principal obtains knowledge of conduct of a Bidder/Contractor or any employee or a representative or an associate of a Bidder/Contractor, which constitutes a criminal offence under the IPC/PC Act, or if the Principal has substantive suspicion in this regard, the Principal will forthwith inform the same to the Chief Vigilance Officer, NHIDCL/MD.

#### **Section 8 - Duration of the Integrity Pact**

This Pact shall come into force when both parties have legally signed it. The Pact shall expire, in case of the Contractor(s), 3 (three) months after the last payment under the Contract is made and in case of the unsuccessful Bidder(s), 2 (two) months after the contract for the project has been awarded.

If any claims is made/lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged/determined by MD of NHIDCL.

The Bidder(s)/Contractor(s), however, understands and agrees that even upon the completion of the Project and/or the last payment under the Contract having been made, if any transgression/violation of the terms of this Pact comes/is brought to the notice of the Principal, it may, subject to its discretion, blacklist and/or exclude such Bidder(s)/Contractor(s) as provided for in Section 3, without prejudice to any other legal right or remedy so available to the Principal.

#### **Section 9 - Other provisions**

- (1) This Agreement is subject to Indian Law. Place of performance and jurisdiction is the Registered Office of the Principal, i.e. New Delhi.

- (2) Changes and supplements as well as termination notices need to be made in writing.
- (3) If the Bidder/Contractor is a partnership or a consortium, this Agreement must be signed by all partners or consortium members.
- (4) Should one or several provisions of this Agreement turn out to be invalid, the remainder of this Agreement shall remain valid and binding. In such a case, the parties will strive to come to an Agreement in accordance to their original intentions.
- (5) Wherever he or his as indicated in the above sections, the same may be read as he/she or his/her, as the case may be.

(For & On behalf of the Principal)

(For & On behalf of Bidder/ Contractor)

(Office Seal)

(Office Seal)

Place \_

Date \_

**Witness 1:**

(Name & Address)

**Witness 2:**

(Name & Address)