STANDARD BIDDING DOCUMENTS

*        *        *        *        *        *

Procurement of Works

*        *        *        *        *        *

The World Bank
India Version

May 2000

Document Finalised by GOI Task Force
Section I – INVITATION FOR BIDS (IFB)

Notes on the Form of Invitation for Bids

The invitation for Bids for contracts, subject to prequalification, is sent only to firms determined by the Borrower to be qualified in accordance with the Borrower’s prequalification procedure. This procedure must be reviewed and commented on by IBRD if the potential contract is to be eligible for IBRD financing (see Guidelines: Procurement under IBRD Loans and IDA Credits, hereinafter referred to as IBRD Guidelines for Procurement Appendix 1, para. 1).

Ideally, the Letter of Invitation for Bids is sent to the qualified bidders at the time that the prequalification results are announced.

For major works prequalification shall be used. If, exceptionally, prequalification is not used, refer to Section XII for the appropriate Invitation for Bids and for other changes to the document.
To: [name of Contractor]  
[Address]  

Reference: [Insert IBRD Loan No. or IDA Credit No.]  

Contract Name, and identification No. _______/_______  

Dear Sirs:

We hereby inform you that you are prequalified for bidding for the above cited contract. A list of prequalified and conditionally prequalified Applicants is attached to this invitation.

On the basis of information submitted in your application, you would [not] (insert if appropriate) appear eligible for application of the domestic bidder price preference in bid evaluation. Eligibility is subject to confirmation at bid evaluation.

We now invite you and other prequalified Applicants to submit sealed bids for the execution and completion of the cited contract.

You may obtain further information from, and inspect and acquire the bidding documents at, our offices at [mailing address, street address, and cable/telex/facsimile numbers].

A complete set of bidding documents may be purchased by you at the above office, on or after [time and date] and upon payment of a nonrefundable fee of [insert amount and currency].

1. This sample “Form of Invitation for Bids” is a basic form that should be adapted appropriately by the Employer to cover the following points as required:
   - the conditions, if any, for prequalification, stating explicitly the deficiencies that must be corrected to meet all the conditions and the time to fulfill them before bid submission.
   - in slice and package bidding, the number of individual contracts (slices) or the specified ceiling amount in total value for which the Applicant is qualified; and
   - the finalization of preliminary joint venture agreement and any modifications required.

2. The Borrower and the Employer may be the same or different entities. The text of the Invitation for Bids and the texts of the other documents herein must be footnoted to indicate which agency will act as the Employer.

3. The Employer should insert the name and identification number of a single contract, or for concurrent slice and package bidding, those of individual contracts (slices) within the package for which Applicants expressed a preference, and for which they are prequalified.

4. The office for inquiries and issues of bidding documents and the office for bid submission may or may not be the same. The place of bid opening may also differ and, if so, should be identified.
All bids must be accompanied by a security in the form and amount specified in the bidding documents, and must be delivered to [address and exact location] at or before [time and date]. Bids will be opened immediately thereafter in the presence of bidders’ representatives who choose to attend.6

Please confirm receipt of this letter immediately in writing by cable, fax, or telex. If you do not intend to bid, we would appreciate being so notified also in writing at your earliest opportunity.

Yours truly,

Authorized signature ________________________________________
Name and title ______________________________________________
Employer ____________________________________________________

5. The chargeable fee should only be nominal, to cover reproduction and mailing costs. An amount of between US$50 and US$500 equivalent is considered appropriate, depending on the size and complexity of the works and the bidding documents.

6. Coordinate this paragraph with Clause 25 of Section II, Instructions to Bidders, “Bid Opening.” Also see footnote 4.
FOR PREQUALIFICATION CASES

SAMPLE BASIC FORM

INVITATION FOR BIDS

[Letterhead paper of the Employer]

To: [name of Contractor] Date

[Address]

Reference: [insert IBRD Loan No. of IDA Credit No.]

Contract Name, and Identification No. __________/__________

Dear Sirs:

We hereby inform you that you are prequalified for bidding for the above cited contract. A list of prequalified and conditionally prequalified Applicants is attached to this invitation.

On the basis of information submitted in your application, you would [not] (insert if appropriate) appear eligible for application of the domestic bidder price preference in bid evaluation. Eligibility is subject to confirmation at bid evaluation.

We now invite you and other prequalified Applicants to submit sealed bids for the execution and completion of the cited contract.

You may obtain further information from, and inspect and acquire the bidding documents at our offices at [mailing address, street address, and cable/telex/facsimile numbers].

A complete set of bidding documents may be purchased by you at the above office, on or after [time and date] and upon payment of a nonrefundable fee of [insert amount and currency].

All bids must be accompanied by a security in the form and amount specified in the bidding documents, and must be delivered to [address and exact location] at or before [time and date]. Bids will be opened immediately thereafter in the presence of bidders’ representatives who choose to attend.

Please confirm receipt of this letter immediately in writing by cable, fax or telex. If you do not intend to bid, we would appreciate being so notified also in writing at your earliest opportunity.

Your truly,

Authorized signature _______________________________________

Name and title ____________________________________________

Employer ________________________________________________

* The Employer should insert the name and no. of a single contract, or for concurrent slice and package bidding, those of individual contracts (slices) within the package for which Applicants expressed a preference, and for which they are prequalified. If the evaluation of applications has been made on the basis of the maximum bidding capacity of Applicants, consult the Guidance Notes (Annex B, Part2).
Section II. Instructions to Bidders
Instructions to Bidders as per SBD Pages 7-33 of May 2000 Edition will be inserted here
Please follow the attached sheets for

Section 3 - Bidding Data
This section should be filled in by the Employer before issuance of the bidding documents. The following specific data for the Works to be procured shall complement, amend, or supplement the provisions in the Instructions to Bidders (ITB). Whenever there is a conflict, the provisions herein shall prevail over those in Instructions to Bidders.

Instructions are provided, as needed, in italics.

<table>
<thead>
<tr>
<th>Clause Reference</th>
<th>Instructions to Bidders</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1</td>
<td>Summary of the Works</td>
</tr>
<tr>
<td></td>
<td>[Insert brief summary, including relationship to other contracts under the Project. If the Works are to be bid in separate contracts, describe all the contracts].</td>
</tr>
<tr>
<td>1.1</td>
<td>Name and address of the Employer.</td>
</tr>
<tr>
<td></td>
<td>...............................................................</td>
</tr>
<tr>
<td>1.2</td>
<td>Period of Completion.</td>
</tr>
<tr>
<td>2.1</td>
<td>Name of the Borrower: ...............................................................</td>
</tr>
<tr>
<td></td>
<td>[Insert name of Borrower and statement of relationship with the Employer, if different from the Borrower. This insertion should correspond to the information provided in the Invitation to Bids.]</td>
</tr>
<tr>
<td>2.1</td>
<td>Name and description of the Project and amount and type of the Bank financing.</td>
</tr>
<tr>
<td>5.1</td>
<td>Prequalification information to be updated.</td>
</tr>
<tr>
<td></td>
<td>All information indicated in para 5, should be updated as a minimum along with the following:</td>
</tr>
<tr>
<td></td>
<td>- Major items of Contractors Equipment proposed for carrying out the contract:</td>
</tr>
<tr>
<td></td>
<td>- The qualifications and experience of key personnel proposed for administration and execution of the contract, both on and off site.</td>
</tr>
<tr>
<td></td>
<td>- Any proposals for subcontracting elements of the works which in aggregate add to more than 10 per cent of the Bid Price. (For each, the qualifications and experience of the identified subcontractor in the relevant field should also be fully furnished.)</td>
</tr>
<tr>
<td></td>
<td>- Evidence of access to lines of credit in prescribed proforma in Section 7.</td>
</tr>
<tr>
<td>5.2</td>
<td>Insert the following in Clause 5.2 and renumber the existing para 5.2 (f) as 5.2 (h) as under:</td>
</tr>
<tr>
<td></td>
<td>“[f] The joint venture agreement should indicate precisely the role of all members of...”</td>
</tr>
</tbody>
</table>
JV in respect of planning, design, construction equipment, key personnel, work execution, and financing of the project. All the members of JV should have active participation in execution during the currency of contract. This should not be varied/modified subsequently without prior approval of the employer;

[g] The joint venture agreement should be registered in ……….* so as to legally valid and binding on partners; and

[h] a copy of the Joint Venture Agreement entered into by the partners shall be submitted with the bid. Alternatively, a Letter of Intent to execute a Joint Venture Agreement in the event of a successful bid shall be signed by all partners and submitted with the bid, together with a copy of the proposed agreement..

[* Fill in the name of the city where contract agreement is to be signed]

5.3 A detailed note should be submitted outlining bidders proposed methodology and program of construction including Environmental Management Plan, backed with equipment planning and deployment, duly supported with broad calculations and quality control procedures proposed to be adopted, justifying their capability of execution and completion of the work as per technical specifications within the stipulated period of completion as per milestones.

5.5 Insert Clause 5.5 as under:

For a bidder (either individually or as a JV partner) to qualify for a group of contracts made up of this and other contracts, he must demonstrate having experience and resources sufficient to meet the aggregate of qualifying the criteria for all the contracts in question.

9 Section XI Explanatory Notes: Deleted.

Section XII Post qualification.

(This may be deleted in all cases where prequalification of bidders has been done.)

Section XIII Disputes Resolution Procedures: Covered in Conditions of Particular Application Clause 67.

12.1 Bid language - English.

13.2 Indicate whether this contract is being bid simultaneously with other contracts on a “slice and package” basis.

14.3 Please insert the following note:

Note: “Bidders may like to ascertain availability of excise/custom duty exemption benefits available in India to the contracts financed under World Bank loan/credits. They are solely responsible for obtaining such benefits which they have considered in their bid and in case of failure to receive such benefits for reasons whatsoever, the employer will not compensate the bidder (contractor). Where the bidder has quoted taking into account such benefits, he must give all information required for issue of certificates in terms of such notifications as per form attached to the Qualification Information in the bid. To the extent the employer determines the quantity indicated therein are reasonable keeping in view the bill of quantities, construction programme and methodology, the
certificates will be issued and no subsequent changes will be permitted. The bids which do not conform to the above provisions will be treated as non responsive and rejected. Any delay in procurement of the construction equipment /machinery/goods as a result of the above shall not be a cause for granting any extension of time.”

<table>
<thead>
<tr>
<th>14.4</th>
<th>Indicate whether the contract is subject to price adjustment.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>[Price adjustment is mandatory for contracts expected to last more than 18 months].</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>15.1</th>
<th>Indicate whether the currency(ies) of the bid is(are) in accordance with Alternative A or Alternative B of Clause 15.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>[Two alternative methods of pricing bids are acceptable for Works contracts:</td>
</tr>
<tr>
<td></td>
<td>(A) bidders quote entirely in the currency of the Employer’s country but specify the percentages of foreign currency or currencies (up to three) they require; or</td>
</tr>
<tr>
<td></td>
<td>(B) bidders quote separately in local and foreign (up to three) currencies. Alternative (A) is the more frequently used arrangement. Alternatives A or B should be used in conjunction with, respectively, Alternatives A or B of Sub-Clause 30.1 of these Instructions and Clause 60 of the Conditions of Contract. ]</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>15.2</th>
<th>Country of the Employer : INDIA</th>
</tr>
</thead>
<tbody>
<tr>
<td>15.2</td>
<td>Currency of the Employer’s country : INDIAN RUPEES</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>16.1</th>
<th>Period of bid validity.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>[Insert number of days after the deadline for bid submission. This period should be realistic, allowing sufficient time to evaluate the bids, bearing in mind the complexity of the works, and the time required for obtaining references, clarifications, clearances, and approvals (including the Bank’s “No Objection”) and for notification of the award. Normally the validity period should not exceed 182 days).</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>16.3</th>
<th>Percentage annual increase for foreign costs to adjust Bid Price.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Percentage annual increase for local costs.</td>
</tr>
<tr>
<td></td>
<td>[The value of the foreign currency factor should be based on, or comparable to, the expected annual increases in international prices. The value of the local currency factor should be based on the projected inflation in the Employer’s country for the period in question.]</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>17.1</th>
<th>Amount of bid security.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>[This amount should be the same as may be quoted in the Invitation for Bids. To avoid disclosure of bidders’ prices originating in the financial institution issuing the security, a fixed sum should be specified, in preference to a percentage of the Bid Price. The sum should be the equivalent of 1 percent of the estimated cost of the Works, for very large</td>
</tr>
</tbody>
</table>
contracts of over US $100 million, ranging to 3 percent of the estimated cost, for small contracts.]

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>18.1</td>
<td>Deleted.</td>
</tr>
</tbody>
</table>
| 19.1 | Venue, time and date of the pre-bid meeting.  
[Insert address of venue, or indicate that the meeting will not take place. The meeting should take place not later than four weeks before the deadline for bid submission. It should take place concurrently with the Site visit, if any (see Sub Clause 8.3) |
| 20.1 | Number of copies of the bid to be completed and returned.  
[Usually two; more if essential.] |
| 21.2 | Employer’s address for the purpose of bid submission (should match the receiving address provided in the Invitation for Bids). |
| 21.2 | Number of the contract. |
| 22.1 | Deadline for submission of bids.  
[The time and date should be the same as that given in the Invitation for Bids, unless subsequently amended pursuant to Sub-Clause 22.2.] |
| 25.1 | Venue, time, and date of bid opening.  
[Time and date should be the same as those given for the deadline for submission of bids (Clause 22).] |
| 30.2 | Currency chosen for the purpose of converting to a common currency - INDIAN RUPEES.  
Source of exchange rate. Bills selling rate of State Bank of India ...................Branch.  
Exchange rate date. Date of opening of bids. |
| 31.2(c) | Deleted. |
| 32.1 | Indicate whether domestic contractors will receive a margin of preference in bid evaluation.  YES |
| 36.2 | Add “and JV agreement as per clause 5.2(f) [if only a letter of intent to execute the JV agreement was submitted with the bid]”. |
| 37.1 | Standard form and amount of Performance Security acceptable to the Employer - Unconditional Bank Guarantee (Annexure A Form Alternate 1 for ____ * percent of contract price.  
* An amount of 5 to 10 percent of the Contract Price is commonly specified for bank guarantees. |
<p>| 38 | Method for dispute resolution - Dispute Review Board |</p>
<table>
<thead>
<tr>
<th>Name of member of the Disputes Review Board proposed by the Employer.</th>
</tr>
</thead>
<tbody>
<tr>
<td>[The Employer should, in such case, include here the curriculum vitae of the proposed experts.]</td>
</tr>
</tbody>
</table>
1. SECTION IV. PART I. GENERAL CONDITIONS OF CONTRACT

NOTES ON THE CONDITIONS OF CONTRACT

The Conditions of Contract comprise two parts:

(a) **Part I: General Conditions of Contract** (Section IV of this document), and

(b) **Part II: Conditions of Particular Application** (Section V of this document).

Over the years, a number of “model” General Conditions of Contract have evolved. The one used in these Standard Bidding Documents was prepared by the International Federation of Consulting Engineers (Fédération Internationale des Ingénieurs-Conseils, or FIDIC) and is commonly known as the FIDIC Conditions of Contract. (The current version is the fourth edition, 1987, reprinted in 1992 with further amendments.)

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

The standard text of the General Conditions of Contract chosen must be retained intact to facilitate its reading and interpretation by bidders and its review by IBRD. Any amendments and additions to the General Conditions, specific to the contract in hand, should be introduced in the Conditions of Particular Application, or in the Appendix to Bid. A number of such Particular Conditions, applicable to the above FIDIC Conditions of Contract, are included in Section V and, in the interest of the Employer, are recommended for use instead of the Particular Conditions published by FIDIC. Some of the clauses are mandatory for works partly financed by the World Bank and are so indicated.

The use of standard conditions of contract for all civil Works will ensure comprehensiveness of coverage, better balance of rights or obligations between Employer and Contractor, general acceptability of its provisions, and savings in time and cost for bid preparation and review, leading to more economical prices.
The Conditions of Particular Application take precedence over the General Conditions of Contract—see Sub-Clause 5.2, Priority of Contract Documents, in the FIDIC General Conditions of Contract.

The FIDIC Conditions of Contract are copyrighted and may not be copied, faxed, or reproduced.

The bidding document may include a purchased copy, the cost of which can be retrieved as part of the selling price of the bidding document. Alternatively, the FIDIC Conditions of Contract can be referred to in the bidding documents, and the bidders advised to obtain copies directly from FIDIC.

Where a copy of Part I of the FIDIC Conditions of Contract is not included in the bidding documents, a page consistent with the example that follows should be completed and incorporated.
Part I: General Conditions of Contract


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

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

FIDIC Secretariat
P.O. Box 86
1000 Lausanne 12
Switzerland
Facsimile: 41 21 653 5432
Telephone: 41 21 653 5003
Please follow the attached sheets for

**Section 5 - Part II -
Conditions of Particular Application**
Conditions of Particular Application

Sub-Clause 1.1 Definitions

(a) The “Bank” includes the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA).

(a) (i) The Employer is the party stipulated in the Appendix to Bid.

(a) (iv) The Engineer is the party stipulated in the Appendix to Bid.

Amend subpara. (a) (iv) also by adding the following words after the word “Conditions”:

“or any other competent person appointed by the Employer, and notified to the Contractor, to act in replacement of the Engineer.”

Amend subpara. (b) (v) of Sub-Clause 1.1 by adding the following words at the end:

“The word ‘tender’ is synonymous with ‘bid’, and the words ‘Appendix to Tender’ with ‘Appendix to Bid’, and the words ‘tender documents’ with ‘bidding documents’.”

Sub-Clause 2.1 Engineer’s Duties and Authority

With reference to Sub-Clause 2.1(b), the following provision shall also apply:

The Engineer shall obtain the specific approval of the Employer before taking any of the following actions specified in Part I:

(a) consenting to the subletting of any part of the Works under Clause 4;

(b) certifying additional cost determined under Clause 12;

(c) determining an extension of time under Clause 44;

(d) issuing a variation under Clause 51, except:

(i) in an emergency situation, as reasonably determined by the Engineer; or

(ii) if such variation would increase the Contract Price by less than the amount stated in the Appendix to Bid; or

(e) fixing rates or prices under Clause 52.

“Notwithstanding the obligation, as set out above, to obtain approval, if, in the opinion of the Engineer, an emergency occurs affecting the safety of life or of the Works or of adjoining property, he may, without relieving the Contractor of any of his duties and responsibilities under the Contract, instruct the Contractor to execute all such work or to do all such things as may, in the opinion of the Engineer, be necessary to abate or reduce the risk. The Contractor shall forthwith comply, despite the absence of approval of the Employer, with any such instruction of the Engineer. The Engineer shall determine an
addition to the Contract Price, in respect of such instruction, in accordance with Clause 52 and shall notify the Contractor accordingly, with a copy to the Employer.”

Sub-Clause 4.1
Sub-contracting

The Engineer should satisfy whether (a) the circumstances brought out warrant such sub-contracting; and (b) the sub-contractors so proposed for the Work possess the necessary experience, qualifications and equipment for the job proposed to be entrusted to them in proportion to the quantum of work to be sub-contracted.

If the contractor proposed payments to be made directly to that sub-contractor, this should be subject to specific authorization by the contractor so that such consent does not relieve him from any liability or obligations under the contract.

Sub-Clause 5.1
Language and Law

(a) The language is stipulated in the Appendix to Bid.
(b) The law is that in force in the country stipulated in the Appendix to Bid.

Sub-Clause 5.2
Priority of Contract Documents

Delete the documents listed 1-6 and substitute:

(1) the Contract Agreement (if completed);
(2) the Letter of Acceptance;
(3) the Bid and the Appendix to Bid;
(4) the Conditions of Contract, Part II;
(5) the Conditions of Contract, Part I;
(6) the Specifications;
(7) the Drawings;
(8) the priced Bill of Quantities; and
(9) other documents, as listed in the Appendix to Bid.

Add the following Sub-Clause 6.6

On the completion of works, the Contractor shall arrange to furnish to the Employer two (2) bound sets of all “As constructed” drawings (in scale ...) for every component of the Work at his own cost, all such copies being on Polyester film of quality to be approved by the Engineer or his Representative. The Taking-Over Certificate of the works, whole or by parts, as per the provisions of Clause 48.1 and 48.2 hereof, shall not be issued by the Engineer in the event of the Contractor’s failure to furnish the aforesaid “As constructed” drawings for the entire Works.

Sub-Clause 10.1
Performance Security

Replace the text of Sub-Clause 10.1 with the following:

“The Contractor shall provide security for his proper performance of the Contract to the Employer within 28 days after the receipt of the Letter of Acceptance. The performance security shall be in the form of a bank guarantee or performance bond, as stipulated by the Employer in the Appendix to Bid. The performance security shall be denominated in the types and proportions of currencies in which the Contract Price is payable.
The Contractor shall notify the Engineer when providing the performance security to the Employer.

If the performance security is a bank guarantee, it shall be issued either (a) by a bank located in the country of the Employer (Nationalized or Scheduled Bank in India) or a foreign bank through a correspondent bank located in the country of the Employer (Nationalized or Scheduled Bank in India), or (b) directly by a foreign bank which has been determined in advance to be acceptable to the Employer.

If the performance security is a performance bond, it shall be issued by a bonding or insurance company acceptable to the Employer.

Without limitation to the provisions of the preceding paragraph, whenever the Engineer determines an addition to the Contract Price as a result of a change in cost and/or legislation or as a result of a variation amounting to more than 25 percent of the portion of the Contract Price payable in a specific currency, the Contractor, at the Engineer’s written request, shall promptly increase the value of the performance security in that currency by an equal percentage. The performance security of a joint venture shall be in the name of the joint venture.”

Sub-Clause 10.2
Validity of the Performance Security

The performance security shall be valid until a date 28 days from the date of issue of the Taking-Over Certificate in the case of a bank guarantee, and one year from such date of issue in the case of a performance bond. The security shall be returned to the Contractor within 14 days of expiration.

Sub-Clause 10.3
Claims under Performance Security

Delete Sub-Clause 10.3.

Sub-Clause 10.4
Cost of Performance Security

The cost of complying with the requirements of this clause shall be borne by the Contractor.

Where the bulk or complexity of the data, for reasons of security enforced by the country where the Works are to be executed, makes it impracticable for the Employer to make all data available with the bidding documents and inspection of some data by the Contractor at an office is therefore expected, it would be advisable to make the circumstances clear in a new Sub-Clause 11.2:

Sub-Clause 11.2
Access to Data

Add new Sub-Clause 11.2:

“Data made available by the Employer in accordance with Sub-Clause 11.1 shall be deemed to include data listed elsewhere in the Contract as open for inspection at the address stipulated in the Appendix to Bid.

Sub-Clause 14.1
Program to be

“The time within which the program including Environmental Management Plan shall be submitted shall be the number of days
Submitted stipulated in the Appendix to Bid.”

Sub-Clause 14.3 Cash Flow Estimate to be Submitted “The time within which the detailed cash flow estimate shall be submitted shall be the number of days specified in the Appendix to Bid.

Sub-Clause 15.2 Language Ability of Contractor’s Representative Add the following Sub-Clause 15.2:

“If the Contractor’s authorized representative is not, in the opinion of the Engineer, fluent in the language specified in the Appendix to Bid, the Contractor shall have available on site at all times a competent interpreter to ensure the proper transmission of instructions and information.”

Sub-Clause 16.3 Language Ability of Superintending Staff Add the following Sub-Clause 16.3:

“A reasonable proportion of the Contractor’s superintending staff shall have a working knowledge of the language specified in the Appendix to Bid, or the Contractor shall have available on site at all times a sufficient number of competent interpreters to ensure the proper transmission of instructions and information.”

Where the Employer wishes to encourage the Contractor to engage local staff and labor, the following Sub-clause 16.4 may be inserted:

Sub-Clause 16.4 Employment of Local Personnel “The Contractor is encouraged, to the extent practicable and reasonable, to employ staff and labor with appropriate qualifications and experience from sources within the country of the Employer stipulated in the Appendix to Bid.”

Sub-Clause 17.2 Notice to Engineer Add the following Sub-Clause 17.2:

The Contractor shall give to the Engineer not less than 48 (Forty eight) hours notice of his intention to set out or give levels for any part of the Works so that timely arrangement may be made for checking or issuing instructions. He shall indicate therein by which date the information, if any is required by him.

Sub-Clause 18.1 Bore-holes & Exploratory Executions Replace the text of Sub-Clause 18.1 by the following:

If at any time during the execution of the works the Engineer requires the contractor to make bore-holes or to carry out exploratory excavations in excess of the provisions specified elsewhere in the contract and such requirement shall be the subject of an instructions in accordance with clause 51, unless an item or a provisional sum in respect of such work is included in the bill of quantities.
Add the following sub-para (d) and (e) of Sub-Clause 19.1

(d) Ensure that all lights provided by the Contractor shall be screened so as not to interfere with any signal light on the railways or with any traffic or signal lights of any local or other authority.

(e) During continuance of the contract, the contractor and his sub-contractors shall abide at all times by all existing enactments on environmental protection and rules made thereunder, regulations, notifications and bye-laws of the State or Central Government, or local authorities and any other law, bye-law, regulations that may be passed or notification that may be issued in this respect in future by the State or Central Government or the local authority.

Salient features of some of the major laws that are applicable are given below:

The Water (Prevention and Control of Pollution) Act, 1974, This provides for the prevention and control of water pollution and the maintaining and restoring of wholesomeness of water. 'Pollution' means such contamination of water or such alteration of the physical, chemical or biological properties of water or such discharge of any sewage or trade effluent or of any other liquid, gaseous or solid substance into water (whether directly or indirectly) as may, or is likely to, create a nuisance or render such water harmful or injurious to public health or safety, or to domestic, commercial, industrial, agricultural or other legitimate uses, or to the life and health of animals or plants or of aquatic organisms.

The Air (Prevention and Control of Pollution) Act, 1981, This provides for prevention, control and abatement of air pollution. 'Air Pollution' means the presence in the atmosphere of any 'air pollutant', which means any solid, liquid or gaseous substance (including noise) present in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or property or environment.

The Environment (Protection) Act, 1986, This provides for the protection and improvement of
environment and for matters connected therewith, and the prevention of hazards to human beings, other living creatures, plants and property. 'Environment' includes water, air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property.

The Public Liability Insurance Act, 1991. This provides for public liability insurance for the purpose of providing immediate relief to the persons affected by accident occurring while handling hazardous substances and for matters connected herewith or incidental thereto. Hazardous substance means any substance or preparation which is defined as hazardous substance under the Environment (Protection) Act 1986, and exceeding such quantity as may be specified by notification by the Central Government.

[Employers should note that the Loan Agreement between IBRD and the borrowing country may establish specific measures to be taken during construction of the Works for the protection of the environment. Sub-clause 19.1 should be modified/expanded to take into account such specific measures.]

Sub-Clause 20.4
Employer’s Risks

Amend Sub-Clause 20.4 to read as follows:

The Employer’s risks are

(a) insofar as they directly affect the execution of the Works in the country where the Permanent Works are to be executed:

(i) war and hostilities (whether war be declared or not),
   invasion, act of foreign enemies;

(ii) rebellion, revolution, insurrection, or military or usurped power, or civil war;

(iii) ionizing radiations, or contamination by radioactivity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;

(iv) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds;

(v) riot, commotion or disorder, unless solely restricted to
the employees of the Contractor or of his Sub
contractors and arising from the conduct of the Works;

(b) loss or damage due to the use or occupation by the Employer
of any Section or part of the Permanent Works, except as
may be provided for in the Contract.

(c) loss or damage to the extent that it is due to the design of the
Works, other than any part of the design provided by the
Contractor or for which the Contractor is responsible; and

d) any operation of the forces of nature (insofar as it occurs on
the Site) which an experienced contractor:

(i) could not have reasonably foreseen, or

(ii) could reasonably have foreseen, but against which he
could not reasonably have taken at least one of the
following measures:

(A) prevent loss or damage to physical property
from occurring by taking appropriate measures,
or

(B) insure against such loss or damage.

Sub-Clause 21.1
Insurance of Works
and Contractor’s
Equipment

Add the following words at the end of sub-paras (a) and
immediately before the last word of subpara (b) of
Sub-Clause 21.1:

“it being understood that such insurance shall provide for
compensation to be payable in the types and proportions of
currencies required to rectify the loss or damage incurred.”

Sub-Clause 21.2
Scope of Cover

Amend sub para (a) of Sub-Clause 21.2 by deleting the words
“from the start of work at the Site” and by substituting therefor the
words “from the first working day after the Commencement
Date”.

Sub-Clause 21.2
Scope of Cover

Add the following as Sub-Clause (c) under Sub-Clause 21.2 :

(c) It shall be the responsibility of the Contractor to notify the
insurance company of any change in the nature and extent
of the Works and to ensure the adequacy of the insurance
coverage at all times during the period of the Contract.

Sub-Clause 21.4
Exclusions

Amend Sub-Clause 21.4 to read as follows :

“There shall be no obligation for the insurances in Sub-Clause
21.1 to include loss or damage caused by the risks listed under
Sub-Clause 20.4 subparas (a) (i) to (iv) of the Conditions of
Particular Application.”
Add the following Sub-Clause 21.5:

If the Contractor receives instructions from the Employer to insure against War Risk, such insurance if available shall be effected, at the cost of the Employer, with an Insurance Company acceptable to the employer and shall be in the joint names of the contractor and the Employer.

Amend Sub-Clause 25.1 by inserting the words “as soon as practicable after the respective insurances have been taken out but in any case” before the words “prior to the start of work at the Site”.

Add the following Sub-Clause 25.5:

“The Contractor shall be entitled to place all insurance relating to the Contract (including, but not limited to, the insurance referred to in Clauses 21, 23 and 24) with insurers from any eligible source country as defined in the IBRD “Guidelines for Procurement under IBRD Loans and IDA Credits which have been determined to be acceptable to the Employer.”

The Contractor shall permit the Bank to inspect the Contractor’s accounts and records relating to the performance of the Contract and to have them audited by auditors appointed by the Bank, if so required by the Bank.

In sub-clause 29.1 (b) the word “railway and any other right of way may be added after the word “private road”.

Add the following Sub-Clause 29.2:

"If any equipment (floating or otherwise) belonging to or hired by the Contractor or any sub-contractor or any person employed by the Contractor or by any sub-contractor or any materials or things therein or therefrom sink from any cause whatsoever, it shall immediately be reported by the Contractor to the competent authorities and the Engineer’s Representative, and Contractor shall forthwith, at his cost raise and remove any such equipment, materials or things or otherwise deal with the same as the Engineer may direct.

The fact that such sunken equipment, materials or things are insured or have been declared a total loss or do not represent any further value shall not absolve the Contractor from his obligations under this Clause to raise and remove the same. Until such sunken equipment or materials or things have been raised and removed, the Contractor shall set such buoys and display at night such lights and do all such things for the safety as may be required by the competent authorities or by the Engineer’s Representative.

In the event of the Contractor not carrying out the obligations
imposed on him by this Clause, the Employer may cause to set buoy and display at night light on such equipment and raise and remove the same without prejudice to the right of the Employer to hold the Contractor liable and all expenses and consequences thereon and incidental thereto shall be borne by the Contractor and shall be recoverable from him as a debt by the Employer or may be deducted by the Employer from any moneys due or which may become due to the Contractor."

Sub-Clause 30.2
Transport of Contractor’s Equipment or Temporary Works

Add the following below Sub-Clause 30.2:

“If it is found necessary for the Contractor to move one or more loads of heavy constructional equipment, materials or preconstructed units or parts of units of work over roads, highways, bridges on which such oversized and overweight items are not normally allowed to be moved, the Contractor shall obtain prior permission from the concerned authorities. Payments for complying with the requirements, if any, for protection of or strengthening of the roads, highways or bridges shall be made by the Contractor and such expenses shall be deemed to be included in his contract price”.

Sub-Clause 34.2
Compliance with labour regulations

Add the following Sub-Clause 34.2:

"During continuance of the contract, the Contractor and his sub-Contractors shall abide at all times by all existing labour enactments and rules made thereunder, regulations, notifications and bye laws of State or Central Government or local authority and any other labour law (including rules), regulations, bye laws that may be passed or notification that may be issued under any labour law in future either by the State or the Central Government or the local authority. Salient features of some of the major labour laws that are applicable to construction industry are given below. The Contractor shall keep the Employer indemnified in case any action is taken against the Employer by the competent authority on account of contravention of any of the provisions of any Act or rules made thereunder, 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 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

(i) Workmen Compensation Act 1923
The Act provides for compensation in case of injury by accident arising out of and during the course of employment.

(ii) **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 5 years service or more or on death at the rate of 15 days wages for every completed year of service. The Act is applicable to all establishments employing 10 or more employees.

(iii) **Employees PF and Miscellaneous Provision Act 1952**

The Act provides for monthly contributions by the employer plus workers @10 % or 8.33 %. The benefits payable under the Act are:

(a) Pension or family pension on retirement or death as the case may be.
(b) Deposit linked insurance on the death in harness of the worker.
(c) Payment of PF accumulation on retirement/death etc.

(iv) **Maternity Benefit Act 1951**

The Act provides for leave and some other benefits to women employees in case of confinement or miscarriage etc.

(v) **Contract Labour (Regulation and 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 a License from the designated Officer. The Act is applicable to the establishments or contractor of principle employer if they employ 20 or more contract labour.

(vi) **Minimum Wagers Act 1948**

The employer is supposed 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. Construction of Buildings, Roads, Runways are scheduled employments.

(vii) **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.

viii) Equal Remuneration Act 1979

The Act provides for payment of equal wages for work of equal nature to Male and Female workers and not for making discrimination against Female employees in the matters of transfers, training and promotions etc.

(ix) Payment of Bonus Act 1965

The Act is applicable to all establishments employing 20 or more workmen. The Act provides for payments of annual bonus subject to a minimum of 8.33 % of wages and maximum of 20 % of wages to employees drawing Rs.3,500/- P.M. or less. The bonus to be paid to employees getting Rs.2,500/- PM or above upto Rs.3,500/- PM shall be worked out by taking wages as Rs.2,500/- p.m. only. The Act does not apply to certain establishments. The newly set up establishments are exempted for five years in certain circumstances. Some of the State Governments have reduced the employment size from 20 to 10 for the purpose of applicability of the Act.

(x) 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.

(xi) Industrial Employment (Standing Orders) Act 1946

It is applicable to all establishments employing 100 or more workmen (employment size reduced by some of the States and Central Government to 50). The Act provides for laying down rules governing the conditions of employment by the employer on matters provided in the Act and get the same certified by the designated Authority.

(xii) 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.

(xiii) Child Labour (Prohibition and Regulation) Act 1986

The Act prohibits employment of children below 14 years of
age in certain occupations and processes and provides for regulation of employment of children in all other occupations and processes. Employment of child labour is prohibited in Building and Construction Industry.

(xiv) Inter-State Migrant Workmen’s (Regulation of Employment and Conditions of Service) Act 1979

The Act is applicable to an establishment which employees 5 or more inter-state migrant workmen through an intermediary (who has recruited workmen in one state for employment in the establishment situated in another state). The inter-state migrant workmen, in an establishment to which this Act becomes applicable, are required to be provided certain facilities such as housing, medical aid, travelling expenses from home up to the establishment and back, etc.

(xv) 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 10 or more workers are covered under this Act. All such establishments are required to pay cess at a rate not exceeding 2% of the cost of construction as may be notified 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 accommodation for Workers near the workplace etc. The employer to whom the Act applies has to obtain a registration certificate from the Registering Officer appointed by the Government.

(xvi) The Factories Act 1948

The Act lays down the procedure for approval of plans before setting up a factory, health and safety provisions,

Sub-Clause 36.1
Quality of Materials, Plant, Supplies, and

Add the following paragraph at the end of the Sub-Clause 36.1:

““The Contractor is encouraged, to the extent practicable and reasonable, to use materials, Contractor’s Equipment, Plant, and Supplies, which are...”
Workmanship supplies from sources within the country of the employer, as stipulated in the Appendix to Bid.\textsuperscript{8}

\textsuperscript{8} As with the recruitment of personnel (Sub-Clause 16.4), restrictions on bidders/contractors regarding the sources of other inputs to a works contract reduce the competitive potential, and may affect adversely the economy and efficiency requirements of project execution. The Bank, therefore, will not accept bidding or contractual conditions containing restrictions on sources of materials, Contractor’s Equipment, Plant, and supplies. Bidders/contractors, should have the option to provide all inputs from any eligible source.

\textbf{Where completion is stated to be by a date and not within a period, Sub-Clause 43.1 should be amended.}

\begin{tabular}{|l|l|}
\hline
\textbf{Sub-Clause 43.1} & Time for Completion \\
\hline
Delete the words from 'within the time' to 'such extended time' and substitute 'by the date or dates stated in the Appendix to Bid for the whole of the Works or the Section (as the case may be) or such later date or dates'. \\
\hline
\textbf{Sub-Clause 44.1} & Extension of time for completion \\
\hline
Add at the end of the para the following: \\
“Employer will give his decision on the extension within 4 weeks of receiving the recommendations of the Engineer.” \\
\hline
\end{tabular}
For a Contract located in an isolated area, where environmental restrictions do not apply, or where a Contract comprises work such as tunneling or pouring of concrete that may require continuous working, Sub-Clause 45.1 may be varied:

Sub-Clause 45.1
Restriction on Working Hours

Delete Sub-Clause 45.1 and substitute:

“Subject to any provision to the contrary contained in the Contract, the Contractor, with prior notice to the Engineer-in-Charge, shall have the option to work continuously by day and by night and on locally recognized days of rest.”

The Contractor’s option may be further extended by substituting in place of the last three words “holidays or days of rest.”

Where it is desired to make provision for the payment of a bonus for early completion of the whole Works or partial bonuses for completion of key sections of the Works⁹, an additional Sub-Clause 47.3 may be added. The amount to be paid for bonus(es) should reflect a substantial portion of the true net profit derived by the Employer over the period by which completion was earlier than scheduled. The amount of daily bonus should normally be the same as the amount of daily liquidated damages. A ceiling of total bonus (say, 10 percent of contract Price, as for liquidated damages) may be inserted to discourage unrealistically rapid Contract implementation by the Contractor, which could adversely affect overall performance. Where bonuses for completion of sections will apply, Clause 47 should be complemented with a table attached to the Appendix to Bid, showing the dates of completion and the amounts of liquidated damages and bonus for each Section.

⁹ Partial earlier completion may not always produce net benefits to the Employer, for example where utilization of the completed Works requires (a) the fulfillment of all parts of the Contract (e.g., the training of personnel); or (b) the completion of all Sections (e.g., in a hydroelectric power station, where early completion of the penstocks would not be useful if the powerhouse is still under construction); or (c) certain seasonal effects to take place (e.g., the onset of the rainy season, for impounding a reservoir); or (d) other circumstances. Also, a more rapid drawdown of budgeted funds may be required. All such factors should be considered prior to the inclusion of a bonus clause in the Contract.

Sub-Clause 47.1

Substitute the last sentence with the following:

“Time is the essence of contract and payment or deduction of liquidated damages shall not relieve the contractor from his obligation to complete the works as per agreed construction program and milestones or from any other of his obligations and liabilities under the contract.”
Where it can be foreseen that, when the whole of the Works have been substantially completed, the Contractor may be prevented by reasons beyond his control from carrying out the Tests on Completion, an additional Sub-Clause 48.5 may be added:

Sub-Clause 48.5
Prevention from Testing

If the Contractor is prevented from carrying out the Tests on Completion by a cause for which the Employer or the Engineer or other contractors employed by the Employer are responsible, the Employer shall be deemed to have taken over the Works on the date when the Tests on Completion would have been completed but for such prevention. The Engineer shall issue a Taking-Over Certificate accordingly. Provided always that the Works shall not be deemed to have been taken over if they are not substantially in accordance with the Contract.

If the Works are taken over under this sub-clause, the Contractor shall nevertheless carry out the Tests on Completion during the Defects Liability Period. The Engineer shall require the Tests to be carried out by giving 14 days’ notice.

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

For a Contract that includes a high proportion of Plant, an additional Sub-Clause 49.5 may be necessary:

Sub-Clause 49.5
Extension of Defects Liability

The provisions of this clause shall apply to all replacements or renewals of plant carried out by the Contractor to remedy defects and damages as if the replacements and renewals had been taken over on the date they were completed. The Defects Liability Period for the Works shall be extended by a period equal to the period during which the Works cannot be used by reason of a defect or damage. If only part of the Works is affected the Defects Liability Period shall be extended only for that part. In neither case shall the Defects Liability Period extend beyond the number of years from the date of taking over, as specified in the Appendix to Bid.
When progress in respect of Plant has been suspended under Clause 40, the Contractor’s obligations under this Clause shall not apply to any defects occurring more than the number of years stipulated in the Appendix to Bid after the Time of Completion established on the date of Letter of Acceptance.

Where provision is made in the Contract for payment in foreign currency, Clause 52 may be varied, as follows:

Sub-Clause 52.1
Valuation of Variations

Add final sentences as follows:

“Where the Contract provides for the payment of the Contract Price in more than one currency, and varied work is valued at, or on the basis of, the rates and prices set out in the Contract, payment for such varied work shall be made in the proportions of various currencies specified in the Appendix to Bid for payment of the Contract Price. Where the Contract provides for payment of the Contract Price in more than one currency, and new rates or prices are agreed, fixed, or determined as stated above, the amount or proportion payable in each of the applicable currencies shall be specified when the rates or prices are agreed, fixed, or determined, it being understood that in specifying these amounts or proportions the Contractor and the Engineer (or, failing agreement, the Engineer) shall take into account the actual or expected currencies of cost (and the proportions thereof) of the inputs of the varied work without regard to the proportions of various currencies specified in the Appendix to Bid for payment of the Contract Price.”

Sub-Clause 52.2
Power of Engineer to Fix Rates

Add a final sentence to the first paragraph, as follows:

“Where the Contract provides for the payment of the Contract Price in more than one currency, the amount or proportion payable in each of the applicable currencies shall be specified when the rates or prices are agreed, fixed, or determined as stated above, it being understood that in specifying these amounts or proportions the Contractor and the Engineer (or, failing agreement, the Engineer) shall take into account the actual or expected currencies of cost (and the proportions thereof) of the inputs of the varied work without regard to the proportions of various currencies specified in the Appendix to Bid for payment of the Contract Price.”
In addition, it is usually advisable to establish thresholds below which changes in rates or prices do not apply, by modifying Sub-Clause 52.2 as follows:

Sub-Clause 52.2
Power of Engineer to Fix Rates

Add as a third paragraph:

“Provided further that no change in the rate or price for any item contained in the Contract shall be considered unless such item accounts for an amount more than 2 percent of the Contract Price, and the actual quantity of work executed under the item exceeds or falls short of the quantity set out in the Bill of Quantities by more than 25 percent.”

Sub-Clause 52.3
Variations Exceeding 15 Percent

Add a final sentence, as follows:

“Where the Contract provides for the payment of the Contract Price in more than one currency, the amount or proportion payable in each of the applicable currencies shall be specified when such further sum is agreed or determined, it being understood that in specifying these amounts or proportions the Contractor and the Engineer (or, failing agreement, the Engineer) shall take into account the currencies (and the proportions thereof) in which the Contractor’s Site and general overhead cost of the Contract were incurred without being bound by the proportions of various currencies specified in the Appendix to Bid for payment of the Contract Price.

Sub-clause 53.3
Substantiation of Claims

Insert after word “time” in the first line the words “but not exceeding sixty days”.

Sub-clause 54

Delete Sub-clauses 54.2 and 54.3.

Sub-Clause 54.9
Materials and Plant Supplied by the employer

No material or equipment would be supplied by employer. The contractor would be fully responsible for all materials and plants and equipment required for the construction.

Sub-Clause 55.2
Omissions of Quantities

Sub-Clause 55.2 is added to reflect the warning in the Instructions to Bidders Sub-Clause 14.2 that bidders avoid omissions in pricing the Bill of Quantities.

Items of the Works described in the Bill of Quantities for which no rate or price has been entered in the Contract shall be considered as included in other rates and prices in the Contract and will not be paid for separately by the Employer.
Clause 60: Certificates and Payments

Alternative clauses are given for the cases where (A) the Contract price is expressed entirely in local currency, with proportions thereof payable in a foreign currency or currencies and (B) where the Contract Price is expressed in amounts of local and foreign currencies.

Alternative A: To be used when the Contract Price is expressed in local currency, with proportions of the Contract Price payable in a foreign currency or currencies.

Clause 60 of the General Conditions is deleted and the following Sub-Clauses 60.1-60.14 are substituted therefor:

Sub-Clause 60.1 Monthly Statements

The Contractor shall submit a statement in the number of copies specified in the Appendix to Bid to the Engineer at the end of each month, in a tabulated form approved by the Engineer, showing the amounts to which the Contractor considers himself to be entitled. The statement shall include the following items, as applicable, which shall be taken into account in the sequence listed:

(a) the estimated Contract value of the Temporary and Permanent Works executed up to the end of the month in question, determined in accordance with Sub-Clause 56.1, at the unit rates and prices included in the Contract, in local currency;

(b) the actual value certified for payment for the Temporary and Permanent Works executed up to the end of the previous month, at the unit rates and prices included in the Contract, in local currency;

(c) the estimated Contract value at the unit rates and prices included in the Contract of the Temporary and Permanent Works for the month in question, in local currency, obtained by deducting (b) from (a);

(d) the equivalent of the amount set forth in (c), expressed in the
various currencies in which the Contract Price is payable, and calculated by applying the proportions and the exchange rates set forth in the Appendix to Bid to the amount set forth in (c);

(e) the value of any variations executed up to the end of the month in question, less the amount certified in the previous Interim Payment Certificate, expressed in the relevant amounts of foreign and local currencies, pursuant to Clause 52;

(f) amounts approved in respect of Daywork executed up to the end of the month in question, less the amount for Daywork certified in the previous Interim Payment Certificate, indicating the amounts of foreign and local currencies as determined from the Daywork Schedule of the Bill of Quantities;

(g) amounts reflecting changes in cost and legislation, pursuant to Clause 70, expressed in the relevant amounts of foreign and local currencies;

(h) any credit or debit for the month in question in respect of materials and Plant for the Permanent Works, in the relevant amounts, in foreign and local currencies, and under the conditions set forth in Sub-Clause 60.3;

(i) any amount to be withheld under the retention provisions of Sub-Clause 60.5, determined by applying the percentage set forth in Sub-Clause 60.5 to the amounts in foreign and local currencies due under paragraphs 60.1(d), (e), (f), and (g);

(j) any amounts to be deducted as repayment of the Advance under the provisions of Sub-Clause 60.7; and

(k) any other sum, expressed in the applicable currency or currencies, to which the Contractor may be entitled under the Contract or otherwise.

(l) the amount to be deducted towards the advance income tax shall be at the rate of ______________* (Blank to be filled) percent and the advance works contract tax at the rate of ________ * percent..

* The percentages as indicated above will be subject to change applicable according to law from time to time.

Sub-Clause 60.2 Monthly Payments

The said statement shall be approved or amended by the Engineer in such a way that, in his opinion, it reflects the amounts in various currencies due to the Contractor in accordance with the Contract, after deduction, other than pursuant to Clause 47, of any sums which may have become due and payable by the Contractor to the
Employer. In cases where there is a difference of opinion as to the value of any item, the Engineer’s view shall prevail. Within 14 days of the receipt of the monthly statement referred to in Sub-Clause 60.1, the Engineer shall determine the amounts due to the Contractor and shall issue to the Employer and the Contractor a certificate herein called “Interim Payment Certificate”, certifying the amounts due to the Contractor.

Provided that the Engineer shall not be bound to certify any payment under this Sub-Clause if the net amount thereof, after all retentions and deductions, would be less than the Minimum Amount of Interim Payment Certificates stated in the Appendix to Tender. However, in such case the unpaid certified amount will be added to the next interim payment and the cumulative unpaid certified amount will be compared to the minimum amount of interim payment.

Notwithstanding the terms of this Clause or any other Clause of the Contract, no amount will be certified by the Engineer for payment until the performance security has been provided by the Contractor and approved by the Employer.

Sub-Clause 60.3
Materials and Plant for the Permanent Works

With respect to materials and Plant brought by the Contractor to the Site for incorporation in the Permanent Works, the Contractor shall (a) receive a credit in the month in which these materials and Plant are brought to the Site and (b) be charged a debit in the month in which they are incorporated in the Permanent Works, both such credit and debit to be determined by the Engineer in accordance with the following provisions:

(a) no credit shall be given unless the following conditions shall have been met to the Engineer’s satisfaction:

(i) the materials and Plant are in accordance with the specifications for the Works;

(ii) the materials and Plant have been delivered to the Site and are properly stored and protected against loss, damage, or deterioration;

(iii) the Contractor’s records of the requirements, order, receipts, and use of materials and Plant are kept in a form approved by the Engineer, and such records are available for inspection by the Engineer.

(iv) the Contractor has submitted a statement of his cost of acquiring and delivering the materials and Plant to the Site, together with such documents as may be required for the purpose of evidencing such cost;
the origin of the materials and Plant and the currencies of payment therefor are those indicated in the Appendix to Bid; and

the materials are to be used within a reasonable time.

the amount to be credited to the Contractor shall be the equivalent of 75 percent of the Contractor’s reasonable cost of the materials and Plant delivered to the Site, as determined by the Engineer after review of the documents listed in subpara (a)(iv) above;

the amount to be debited to the Contractor for any materials and Plant incorporated into the Permanent Works shall be equivalent to the credit previously granted to the Contractor for such materials and Plant pursuant to Sub-Clause (b) above, as determined by the Engineer; and

the currencies in which the respective amounts shall be credit or debited as set forth above shall be determined by the Engineer, provided (i) that in the case of a credit, the currencies shall be those listed in the Appendix to Bid for the relevant item of materials or Plant; and (ii) that in the case of a debit, the currencies shall be those in which the credit for the respective item of materials or Plant had been given.

Where the Contractor has to supply large and costly items of Plant, the Bank’s Standard Bidding Document (Supply and Installation) should be considered a more appropriate type of contract.

Payments to the Contractor by the Employer shall be made in the currencies in which the Contract Price is payable into a bank account or accounts nominated by the Contractor.

A retention amounting to the percentage stipulated in the Appendix to Bid of the amounts due in each currency, determined in accordance with the procedure set out in Sub-Clause 60.1 (i) shall be made by the Engineer in the first and following Interim Payment Certificates. The retention money could be converted to Bank Guarantees in installments of [indicate a value] on production of the Bank Guarantee in a format acceptable to the Employer with validity as per terms of contract.

Upon the issue of the Taking-Over Certificate with respect to the whole of the Works, one half of the Retention Money, or upon the issue of a Taking-Over Certificate with respect to a Section or part of the Permanent Works only such proportion thereof as the Engineer determines having regard to the relative value of such Section or part of the Permanent Works, shall be certified by the Engineer for payment to the Contractor. The Contractor may substitute the remaining retention money with an on-demand bank guarantee in a form, and from a source, acceptable to the Employer.
Upon the expiration of the Defects Liability Period of the Works, the other half of the Retention Money shall be certified by the Engineer for payment to the Contractor (or return of the remaining security, which replaced the Retention Money). Provided that, in the event of different Defects Liability Periods being applicable to different Sections or parts of the Permanent Works pursuant to Clause 48, the expression “expiration of the Defects Liability Period” shall, for the purposes of this sub-clause, be deemed to mean the expiration of the latest of such periods.

Provided also that if at such time, there shall remain to be executed by the Contractor any work instructed, pursuant to Clauses 49 and 50, in respect of the Works, the Engineer shall be entitled to withhold certification until completion of such work of so much of the balance of the Retention Money as shall, in the opinion of the Engineer, represent the cost of the work remaining to be executed.

Sub-Clause 60.7
Advance Payment

(a) The Employer will make an interest-free advance payment to the Contractor exclusively for the costs of mobilization in respect of the Works in an amount equivalent to 10 (Ten)\(^8\) percent of the Contract Price named in the Letter of Acceptance, payable in proportions of foreign and local currencies of the Contract Price. Payment of such advance amount will be due under separate certification by the Engineer after (i) execution of the Form of Agreement by the parties hereto; (ii) provision by the Contractor of the performance security in accordance with Sub-Clause 10.1; and (iii) provision by the Contractor of an unconditional bank guarantee in a form and by a bank acceptable to the Employer in amounts and currencies equal to the advance payment. Such bank guarantee shall remain effective until the advance payment has been repaid pursuant to the last paragraph below, but the amount thereof shall be progressively reduced by the amount repaid by the Contractor as indicated in Interim Payment Certificates issued in accordance with this Clause.

(b) In addition to the advance mentioned in subpara (a) above, the Employer will pay another interest free advance against key construction equipment required for the work (as per agreed construction program) and brought to site, if so requested by the contractor subject to the same terms and conditions specified in paragraph (a) above. The maximum of such advance shall be five percent\(^*\) of the contract amount. In case of new equipment, the advance shall be limited to ninety percent of the price of such new plant and equipment, procured by the Contractor, for which the Contractor shall produce satisfactory evidence. In case of used equipment, the amount of such advance shall be limited to fifty percent of the depreciated value of equipment as may

* Please see note 26 on Page 93
be determined by the Engineer. This advance shall be further subject to the condition that (i) such equipment are considered by the Engineer to be necessary for the works, (ii) such equipment are in working order.

[Note: The equipment advance is not applicable for equipment already owned or hired/leased by the contractor]

(c) The advance payment under (a) and (b) above shall be repaid through percentage deductions from the interim payments certified by the Engineer in accordance with this Clause. Deductions shall commence in the next Interim Payment Certificate either following that in which the total of all interim payments certified to the Contractor has reached (30\(\text{Thirty}\)) percent of the Contract Price less Provisional Sums or after____ months after payment of first installment whichever period concludes earlier and shall be made at the rate of 20\(\text{Twenty}\) percent [30\(\text{Thirty}\) percent, if advance under para (b) is also granted] of the amount of all Interim Payment Certificates in the types and proportionate amounts of currencies of the advance payment until such time as the advance payment has been repaid; always provided that the advance payment shall be completely repaid prior to the time when 80 percent of the Contract Price has been certified for payment.

(d) The advance shall be used by the Contractor exclusively for mobilization expenditures, including the acquisition of Constructional Plant, in connection with the Works and must be drawn fully before the start of repayment of advance as stipulated in appendix to bid. Should the Contractor misappropriate any portion of the advance, it shall become due and payable immediately, and no further advance will be made to the Contractor thereafter.

Sub-Clause 60.8
Time of Payment and Interest

(a) The amount due to the Contractor under any Interim Payment Certificate issued by the Engineer pursuant to this Clause, or to any other term of the Contract, shall, subject to Clause 47, be paid by the Employer to the Contractor as follows:

(i) (A) in the case of Interim Payment Certificates, within 42 days after the Contractor’s monthly statement has been submitted to the Engineer for certification, pursuant to Sub-Clause 60.1. Provided that if the Engineer’s Interim Certificate has not yet been issued within said 42 days, the Employer shall pay the amount shown in the Contractor’s monthly statement and that any discrepancy shall be added to, or deducted from, the next payment to the Contractor; and

(B) in the case of any monthly statement submitted by the Contractor at a time when the Bank’s loan or
credit (from which part of the payments to the Contractor are being made) is suspended within 14 days after such monthly statement is submitted. Provided that if the Engineer’s Interim Certificate has not yet been issued within said 14 days, the Employer shall pay the amount shown in the Contractor’s monthly statement and that any discrepancy shall be added to, or deducted from, the next payment to the Contractor.

(ii) (A) in the case of the Final Payment Certificate pursuant to Sub-Clause 60.13, within 84 days after the Final Statement and written discharge have been submitted to the Engineer for certification; and

(B) in the case of a Final Statement submitted by the Contractor at a time when the Bank’s loan or credit (from which part of the payments to the Contractor are being made) is suspended or for which payment under (ii)(A) becomes due after 60 days of the date of notification of the suspension notice. Payment will be made within 60 days after the date of notification of the suspension pursuant to Sub-Clause 69.6(a) provided that if the Engineer’s Final Payment Certificate has not been issued within the said 60 days, the Employer shall pay the undisputed amounts shown in the Final Statement.

(b) In the event of the failure of the Employer to make payment within the times stated, the Employer shall pay to the Contractor interest compounded monthly at the rate(s) stated in the Appendix to Bid upon all sums unpaid from the date upon which the same should have been paid in the currencies in which the payments are due. The provisions of this Sub-Clause are without prejudice to the Contractor’s entitlement under Clause 69 or otherwise.

Sub-Clause 60.9
Correction of Certificates

The Engineer may by any Interim Payment Certificate make any correction or modification in any previous Interim Payment Certificate which has been issued by him, and shall have authority, if any work is not being carried out to his satisfaction, to omit or reduce the value of such work in any Interim Payment Certificate.

Sub-Clause 60.10
Statement at Completion

Not later than 84 days after the issue of the Taking-Over Certificate in respect of the whole of the Works, the Contractor shall submit to the Engineer a Statement at Completion in the number of copies specified in the Appendix to Bid with supporting documents showing in detail, in the form approved by the Engineer,

(a) the final value of all work done in accordance with the Contract up to the date stated in such Taking-Over Certificate;
(b) any further sums which the Contractor considers to be due; and

(c) an estimate of amounts which the Contractor considers will become due to him under the Contract.

Estimated amounts shall be shown separately in such Statement at completion. The Engineer shall certify payment in accordance with Sub-Clause 60.2.

Sub-Clause 60.11 Final Statement
Not later than 56 days after the issue of the Defects Liability Certificate pursuant to Sub-Clause 62.1, the Contractor shall submit to the Engineer for consideration a draft final statement in the number of copies stipulated in the Appendix to Bid with supporting documents showing in detail, in the form approved by the Engineer,

(a) the value of all work done in accordance with the Contract; and

(b) any further sums which the Contractor considers to be due to him under the Contract or otherwise.

If the Engineer disagrees with or cannot verify any part of the draft final statement, the Contractor shall submit such further information as the Engineer may reasonably require and shall make such changes in the draft as may be agreed between them. The Contractor shall then prepare and submit to the Engineer the final statement as agreed (for the purposes of these Conditions referred to as the “Final Statement”).

If, the following discussions between the Engineer and the Contractor and any changes to the draft final statement which may be agreed between them, it becomes evident that a dispute exists, the Engineer shall deliver to the Employer an Interim Payment Certificate for those parts of the draft final statement, if any, which are not in dispute. The dispute shall then be settled in accordance with Clause 67. The Final Statement shall be the agreed upon settlement of the dispute.

Sub-Clause 60.12 Discharge
Upon submission of the Final Statement, the Contractor shall give to the Employer, with a copy to the Engineer, a written discharge confirming that the total of the Final Statement represents full and final settlement of all monies due to the Contractor arising out of or in respect of the Contract. Provided that such discharge shall become effective only after payment due under the Final Payment Certificate issued pursuant to Sub-Clause 60.13 has been made and the performance security referred to in Sub-Clause 10.1 has been returned to the Contractor.

Sub-Clause 60.13 Final Payment Certificate
Within 28 days after receipt of the Final Statement, and the written discharge, the Engineer shall deliver to the Employer (with a copy to the Contractor) a Final Payment Certificate stating
(a) the amount which, in the opinion of the Engineer, is finally
due under the Contract or otherwise, and

(b) after giving credit to the Employer for all amounts
previously paid by the Employer and for all sums to which
the Employer is entitled, other than under Clause 47, the
balance, if any, due from the Employer to the Contractor or
from the Contractor to the Employer as the case may be.

Sub-Clause 60.14
Cessation of
Employer’s Liability

The Employer shall not be liable to the Contractor for any matter
or thing arising out of or in connection with the Contract or
execution of the Works, unless the Contractor shall have included
a claim in respect thereof in his Final Statement and (except in
respect of matters or things arising after the issue of the Taking-
Over Certificate in respect of the whole of the Works) in the
Statement at Completion referred to in Sub-Clause 60.10.

End of Clause 60 - Alternative A
Clause 60 : Certificates and Payment

Alternative B : To be used when the Contract Price is expressed in the currencies of the origin (local and foreign) of the various inputs.

Sub-Clause 60
Certificates and Payment

Clause 60 of the General Conditions is deleted and the following Sub-Clauses 60.1-60.14 are substituted therefor:

Sub-Clause 60.1
Monthly Statements

The Contractor shall submit a statement in the number of copies stipulated in the Appendix to Bid to the Engineer at the end of each month, in a tabulated form approved by the Engineer, showing the amounts to which the Contractor considers himself to be entitled. The statement shall include the following items, as applicable, which shall be taken into account in the sequence listed:

(a) the estimated contract value of the Temporary and Permanent Works executed up to the end of the month in question, determined in accordance with Sub-Clause 56.1, at the unit rates and prices included in the Contract, in the various currencies of the Contract Price;

(b) the actual value certified for payment for the Temporary and Permanent Works executed up to the end of the previous month, at the unit rates and prices included in the Contract, in the various currencies of the Contract Price;

(c) the estimated contract value at the unit rates and prices included in the Contract of the Temporary and Permanent Works for the month in question, in the various currencies of the Contract Price, obtained by deducting (b) from (a);

(d) the value of any variations executed up to the end of the month in question, less the amount certified in the previous Interim Payment Certificate, expressed in the relevant amounts of foreign and local currencies, pursuant to Clause 52;

(e) amounts approved in respect of Daywork executed up to the end of the month in question, less the amount for Daywork certified in the previous Interim Payment Certificate, indicating the amounts of foreign and local currencies as determined from the Daywork Schedule of the Bill of Quantities;

(f) amounts reflecting changes in cost and legislation, pursuant to Clause 70, expressed in the relevant amounts of foreign and local currencies;

(g) any credit or debit for the month in question in respect of materials and Plant for the Permanent Works, in the relevant amounts in foreign and local currencies, and under the
conditions set forth in Sub-Clause 60.3;

(h) any amount to be withheld under the provisions of Sub-Clause 60.5, determined by applying the percentage set forth in Sub-Clause 60.5 to the amounts in foreign and local currencies due under paragraphs 60.1 (c), (d), (e), and (f);

(i) any amounts to be deducted as repayment of the Advance under the provisions of Sub-Clause 60.8; and

(j) any other sum, expressed in the applicable currency or currencies, to which the Contractor may be entitled under the Contract or otherwise.

(k) the amount to be deducted towards the advance income tax shall be at the rate of ___________* percent and the advance works contract tax at the rate of ___________* percent.

* The percentages as indicated above will be subject to change as applicable according to law from time to time.

Sub-Clauses 60.2 to 60.4

[Use Sub-Clauses 60.2 to 60.4 of Alternative A].

Sub-Clause 60.5 Retention Money

[Use Sub-Clause 60.5 of Alternative A, substituting “Sub-Clause 60.1(h)” for “Sub-Clause 60.1(I)”].

Sub-Clauses 60.6, 60.7, and 60.9 to 60.14

[Use Sub-Clauses 60.6, 60.7 and 60.9 to 60.14 of Alternative A].

Sub-Clause 60.8(a)

[Use Sub-Clauses 60.8(a) of Alternative A].

Sub-Clause 60.8(b)

[Use Sub-Clauses 60.8(b) of Alternative A].

End of Clause 60 - Alternative B
Sub-Clause 63.1
Default of Contractor

Delete the last paragraph of this sub-clause and substitute:

“then the Employer may, after giving 14 days’ notice to the Contractor, terminate the contract or a part thereof without thereby releasing the Contractor from any of his obligations or liabilities under the Contract, or affecting the rights and powers conferred on the Employer or the Engineer by the Contract, and recover the possession and enter upon the Site and the Works and may himself complete the Works or may employ any other contractor to complete the Works. The Employer or such other contractor may use for such completion so much of the Contractor’s Equipment, Temporary Works and materials which have been deemed to be reserved exclusively for the execution of the works, under the provisions of the contract, as he or they may think proper, and the Employer may, at any time, sell any of the said Contractor’s Equipment, Temporary Works, and unused Plants and materials and apply the proceeds of sale in or towards the satisfaction of any sums due or which may become due to him from the Contractor under the Contract.”

Sub-Clause 63.5
Corrupt or Fraudulent Practices

If in the judgment of the Employer the Contractor has engaged in corrupt or fraudulent practices, in competing for or in executing the Contract, then the Employer may, after having given 14 days notice to the Contractor, terminate the Contractor’s employment under the Contract and expel him from the Site, and the provisions of Clause 63 shall apply as if such expulsion had been made under Sub-Clause 63.1

For the purpose of this sub-clause:

“corrupt practice” means the offering, giving, receiving or soliciting of any thing 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 Borrower, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Borrower of the benefits of free and open competition.”

Sub-Clause 65.2
Special Risks

Amend Sub-Clause 65.2 to read as follows: “The Special Risks are the risks defined under para (a), subparas (I) to (iv) of Sub-Clause 20.4.”

Clause 67
Settlement of Disputes

The procedure for settlement of disputes in this contract is stipulated below under sub-clauses 67.1 through 67.4.

Sub-Clause 67.1
Sub-Clause 67.1 is substituted by the following:
"67.1 If any dispute arises between the Employer and the Contractor in connection with, or arising out of, the Contract or the execution of the Works, whether during the execution of the Works or after their completion and whether before or after the repudiation or other termination of Contract, including any disagreement by either party with any action, inaction, opinion, instruction, determination, certificate or valuation of the Engineer, the matter in dispute shall, in the first place, be referred to the Disputes Review Board ("the Board").

The Board shall be established when each of the three Board Members has signed a Board Member’s Declaration of Acceptance as required by the DRB’s Rules and Procedures (which along with the Declaration of Acceptance form, are attached as Annex A to these Conditions of Particular Application – para 12).

The Board shall comprise three Members experienced with the type of construction involved in the Works and with the interpretation of contractual documents. One Member shall be selected by each of the Employer and the Contractor and approved by the other. If either of these Members is not so selected and approved within 28 days of the date of the Letter of Acceptance, then upon the request of either or both parties such Member shall be selected as soon as practicable by the Appointing Authority specified in the Appendix to Bid. The third Member shall be selected by the other two and approved by the parties. If the two Members selected by or on behalf of the parties fail to select the third Member within 14 days after the later of their selections or if within 14 days after the selection of the third Member, the parties fail to approve that Member, then upon the request of either or both parties such third Member shall be selected promptly by the same Appointing Authority specified in the Appendix to Bid who shall seek the approval of the proposed third Member by the parties before selection but, failing such approval, nevertheless shall select the third Member. The third Member shall serve as Chairman of the Board.

In the event of death, disability, or resignation of any Member, such Member shall be replaced in the same manner as the Member being replaced was selected. If for whatever other reason a Member shall fail or be unable to serve, the Chairman (or failing the action of the Chairman then either of the other Members) shall inform the parties and such non-serving Member shall be replaced in the same manner as the Member being replaced was selected. Any replacement made by the parties shall be completed within 28 days after the event giving rise to the vacancy on the Board, failing which the replacement shall be made by the Appointing Authority in the same manner as described above. Replacement shall be considered completed when the new Member signs the Board Member’s Declaration of Acceptance. Throughout any replacement process the Members not being replaced shall continue to serve and the Board shall continue to function and its activities shall have the same force and effect as if the vacancy had not occurred, provided, however, that the Board shall not conduct a hearing nor issue a Recommendation until the replacement is completed.
Either the Employer or the Contractor may refer a dispute to the Board in accordance with the provisions of the DRB’s Rules and Procedures, attached as Annexure A to these Conditions of Particular Application.

“The recommendation of the Board shall be binding on both parties, who shall promptly give effect to it unless and until the same shall be revised, as hereinafter provided, in an arbitral award. Unless the Contract has already been repudiated or terminated, the Contractor shall, in every case, continue to proceed with the Works in accordance with the contract.

If either the Employer or the Contractor is dissatisfied with any Recommendation of the Board, or if the Board fails to issue its Recommendation within 56 days after receipt by the Chairman of the Board of the written Request for Recommendation, then either the Employer or the Contractor may, within 14 days after his receipt of the Recommendation, or within 14 days after the expiry of the said 56-day period, as the case may be, give notice to the other party, with a copy for information to the Engineer, of his intention to commence arbitration, as hereinafter provided, as to the matter in dispute. Such notice shall establish the entitlement of the party giving the same to commence arbitration, as hereinafter provided, as to such dispute and, subject to Sub-Clause 67.4, no arbitration in respect thereof may be commenced unless such notice is given.

If the Board has issued a Recommendation to the Employer and the Contractor within the said 56 days and no notice of intention to commence arbitration as to such dispute has been given by either the Employer or the Contractor within 14 days after the parties received such Recommendation from the Board, the Recommendation shall become final and binding upon the Employer and the Contractor.

Whether or not it has become final and binding upon the Employer and the Contractor, a Recommendation shall be admissible as evidence in any subsequent dispute resolution procedure, including any arbitration or litigation having any relation to the dispute to which the Recommendation relates.

All Recommendations which have become final and binding shall be implemented by the parties forthwith, such implementation to include any relevant action of the Engineer.

If during the contract period, the Employer and the Contractor are of the opinion that the Disputes Review Board is not performing its functions properly, the Employer and the Contractor may together disband the Disputes Review Board and reconstitute it. A new board shall then be selected in accordance with the provisions applying to the selection of the original Board as specified above, except that words “within 28 days after the letter of Acceptance” shall be replaced by the words “within 28 days after the date on which the notice disbanding the original Board became effective”.

The Employer and the Contractor shall jointly sign a notice specifying that the Board shall stand disbanded with effect from the date specified in the notice. The notice shall be posted by a registered letter with AD or delivered personally to each Member of the Board. A Member shall be
Sub-Clause 67.2 is deleted without a change in the numbering of the other Sub-clauses of this Clause 67.

Sub-Clause 67.3 is modified to read as follows:

“Any dispute in respect of which the Recommendation(s), if any, of the Board has not become final and binding pursuant to Sub-Clause 67.1 shall be finally settled by arbitration as set forth below. The arbitral tribunal shall have full power to open-up, review and revise any decision, opinion, instruction, determination, certificate or valuation of the Engineer and any Recommendation(s) of the Board related to the dispute.

(i) A dispute with an Indian Contractor shall be finally settled by arbitration in accordance with the Arbitration & Conciliation Act, 1996, or any statutory amendment thereof. 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 *President of the Institution of Engineers (India). For the purposes of this Sub-Clause, the term “Indian Contractor” means a contractor who is registered in India and is a juridic person created under Indian law as well as a joint venture between such a contractor and a Foreign Contractor.

(ii) In the case of a dispute with a Foreign Contractor, the dispute shall be finally settled in accordance with the provisions of UNCITRAL Arbitration Rules. The arbitral tribunal shall consist of three 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 *President of the Institution of Engineers (India). For the purposes of this Clause 67, the term “Foreign Contractor” means a contractor who is not registered in India and is not a juridic person created under Indian Law.

(iii) Neither party shall be limited in the proceedings before such tribunal to the evidence or arguments before the Board for the purpose of obtaining its Recommendation(s) pursuant to Sub-Clause 67.1. No Recommendation shall disqualify any Board Member from being called as a witness and giving evidence before the arbitrator(s) on any matter whatsoever relevant to the dispute.

(iv) Arbitration may be commenced prior to or after completion of the Works, provided that the obligations of the Employer, the Engineer, the Contractor and the Board shall not be altered by reason of the arbitration being conducted during the progress of the Works.

(v) If one of the parties fail to appoint its arbitrator in pursuance of sub-clause
(i) and (ii) above, within 30 days after receipt of the notice of the appointment of its arbitrator by the other party, then the President of the Institution of Engineers (India) both in cases of foreign contractors as well as Indian Contractors, shall appoint the arbitrator. A certified copy of the order of the President of the Institution of Engineers (India) making such an appointment shall be furnished to each of the parties.

(vi) Arbitration proceedings shall be held at ________________ India, and the language of the arbitration proceedings and that of all documents and communications between the parties shall be English.

(vii) The decision of the majority of arbitrators shall be final and binding upon both parties. The cost and expenses of Arbitration proceedings will be paid as determined by the arbitral tribunal. However, the expenses incurred by each party in connection with the preparation, presentation, etc., of its proceedings as also the fees and expenses paid to the arbitrator appointed by such party or on its behalf shall be borne by each party itself.

* Insert Chairman of the Executive Committee of the Indian Roads Congress (for highway project) or any other appropriate institution (for other types of works).

Sub-Clause 67.4 Failure to Comply with Recommendation

Sub-Clause 67.4 is amended to read as follows:

“67.4 Where neither the Employer nor the Contractor has given notice of intention to commence arbitration of a dispute within the period stated in Sub-Clause 67.1 and the related Recommendation has become final and binding, either party may, if the other party fails to comply with such Recommendation and without prejudice to any other right it may have, refer the failure to arbitration in accordance with Sub-Clause 67.3. The provisions of Sub-Clause 67.1 shall not apply to any such reference.”

Sub-Clause 68.2 Notice to Employer and Engineer

For the purposes of this Sub-Clause, the addresses are those specified in the Appendix to Bid.

Clause 69 Default of Employer

In Sub-Clause 69.1, 69.4, and 69.5, substitute “Sub-Clause 60.8” for “Sub-Clause 60.10”.

Sub-Clause 69.1(d) Economic Dislocation

Sub-Clause 69.1(d) is deleted.

Sub-Clause 69.3 Payment on Termination

Delete from “, but in addition to the payments specified....” to the end of the sub-clause.

Sub-Clause 69.4 Contractor’s Entitlement to Suspend Work

Add this paragraph:

Without prejudice to the Contractor’s entitlement to interest under Sub-Clause 60.8 (of these conditions of Particular Application) and to terminate under Sub-Clause 69.1 the Contractor may suspend work or reduce the rate of work within 56 days after notification by the Bank to the Employer’s Government that the Bank has suspended disbursements from its loan, which finances in whole or
In the event the Bank suspends the loan or credit from which part of the payments to the Contractor are being made:

(a) The Employer shall notify the Contractor, with copy to the Engineer, of such suspension within 7 days of having received the suspension notice from the World Bank provided (i) that the Employer shall state in such notification whether sufficient funds in appropriate currencies are expected to be available to the Employer to continue making payments to the Contractor beyond a date 60 days after the date of Bank notification of the suspension, and (ii) that, if such funds are not expected to be available, the Employer shall immediately instruct the Engineer to instruct the Contractor to suspend the progress of the Works pursuant to Clause 40.1.

(b) If the Contractor has not received sums due to him upon the expiration of the 14 days referred to in Sub-Clause 60.8(a) (i) (B) for payments under Interim Certificates, the Contractor may without prejudice to the Contractor’s entitlement to interest under Sub-Clause 60.8 immediately take one or both of the following actions, namely (i) suspend work or reduce the rate of work, and (ii) terminate his employment under the Contract by giving notice to the Employer, with a copy to the Engineer, such termination to take effect 14-days after the giving of the notice.
Clause 70 : Changes in Cost and Legislation

In Works contracts financed in whole or in part by the Bank, it is mandatory to include price adjustment provisions if the contracts extend beyond 18 months (or even shorter periods in countries with high inflation rates). The method of price adjustment prescribed (i.e., the use of a formula) is for cases where official or proxy indices for the fluctuation of the prices of constructional inputs are available. Use of the “documentary evidence” method of price adjustment is discouraged, and should only be applied in the rare cases where there are no official indices available and it is not possible to determine proxy indices. Use of the “documentary evidence” method will require different clauses, and care and diligence in the checking of base price documents and actual invoices submitted by the Contractor. If this document is used for a fixed-price contract, only Sub-Clause 70.8 should be retained (and renumbered) with the omission of the last sentence therein.

Delete Clause 70 in its entirety, and substitute:

Sub-Clause 70.1 Price Adjustment

The amounts payable to the Contractor, in various currencies pursuant to Sub-Clause 60.1, shall be adjusted in respect of the rise or fall in the cost of labor, Contractor’s Equipment, Plant, materials, and other inputs to the Works, by applying to such amounts the formulae prescribed in this clause.

Sub-Clause 70.2 Other Changes in Cost

To the extent that full compensation for any rise or fall in costs to the Contractor is not covered by the provisions of this or other Clauses in the Contract, the unit rates and prices included in the Contract shall be deemed to include amounts to cover the contingency of such other rise or fall of costs.

Sub-Clause 70.3 Adjustment Formulae

The adjustment to the Interim Payment Certificates in respect of changes in cost and legislation shall be determined from separate formulae for each of the currencies of payment and each of the types of construction work to be performed and Plant to be supplied. The formulae will be of the following general type:

\[
\frac{\text{pn}}{\text{Lo}} = \frac{A}{\text{Lo}} + b \cdot \frac{\text{Ln}}{\text{Lo}} + c \cdot \frac{\text{Mn}}{\text{Mo}} + d \cdot \frac{\text{En}}{\text{Eo}} + \text{etc.}
\]

Where:

\( \text{pn} \) is a price adjustment factor to be applied to the amount in each specific currency for the payment of the work carried out in the subject month, determined in accordance with Sub-Clause 60.1 (d), and with Sub-Clauses 60.1(e) and (f), where such variations and Daywork are not otherwise subject to adjustment;

\( A \) is a constant, specified in the Appendix to Bid, representing the non-adjustable portion in contractual payments.
b, c, d, etc., are weightings or coefficients representing the estimated proportion of each cost element (labor, materials, equipment usage, etc.) in the Works or sections thereof, net of Provisional Sums, as specified in the Appendix to Bid;

Ln, Mn, En, etc., are the current cost indices or reference prices of the cost elements in the specific currency for month “n”, determined pursuant to Sub-Clause 70.5, applicable to each cost element; and

Lo, Mo, Eo, etc., are the base cost indices or reference prices corresponding to the above cost elements at the date specified in Sub-Clause 70.5.

If a price adjustment factor is applied to payments made in a currency other than the currency of the source of the index for a particular indexed input, a correction factor Zo/Z will be applied to the respective component factor of pn for the formula of the relevant currency. Zo is the number of units of currency of the country of index, equivalent to one unit of the currency of payment on the date of the base index, and Z is the corresponding number of such currency units on the date of the current index.16

---

13 In contracts involving various currencies, formulae or families of formulae which derive price adjustment factors for each currency are essential.

14 For complex Works involving several types of construction work with different inputs, a family of formulae will be necessary. The various items of Daywork may also require different formulae, depending on the nature and source of the inputs.

15 Insert a figure for factor A only where there is a part of the Contractors’ expenditures which will not be subject to fluctuation in cost (for example, stamp duties and other expenses incurred in formalizing the Contract), or to compensate for the unreliability of some indices. A should normally not exceed 0.10. The sum of A, b, c, d, etc., should be one.

16 The correct procedure for price adjustment is to use an index relating to the country of supply for a particular input and to make payment in the currency of that country. However, if price adjustment payments are made in a currency other than the currency of the source of the indexed input, distortions may occur due to differential rates of price variation and periodic exchange rate changes. Hence, the need for a correction factor.
Sub-Clause 70.4
Sources of Indices and Weightings

The sources of indices shall be those listed in the Appendix to Bid, as approved by the Engineer. Indices shall be appropriate for their purpose and shall relate to the Contractor’s proposed source of supply of inputs on the basis of which his Contract Price and expected foreign currency requirements shall have been computed. As the proposed basis for price adjustment, the Contractor shall have submitted with his bid the tabulation of Weightings and Sources of Indices in the Appendix to Bid, which shall be subject to approval by the Engineer.

Sub-Clause 70.5
Base, Current and Provisional Indices

The base cost indices or prices shall be those prevailing on the day 28 days prior to the latest date for submission of bids. Current indices or prices shall be those prevailing on the day 28 days prior to the last day of the period to which a particular Interim Payment Certificate is related. If at any time the current indices are not available, provisional indices as determined by the Engineer will be used, subject to subsequent correction of the amounts paid to the Contractor when the current indices become available.

Sub-Clause 70.6
Adjustment after Completion

If the Contractor fails to complete the Works within the time for completion prescribed under Clause 43, adjustment of prices thereafter until the date of completion of the Works shall be made using either the indices or prices relating to the prescribed time for completion, or the current indices or prices, whichever is more favorable to the Employer, provided that if an extension of time is granted pursuant to Clause 44, the above provision shall apply only to adjustments made after the expiry of such extension of time.

Sub-Clause 70.7
Weightings

The weightings for each of the factors of cost given in the Appendix to Bid shall be adjusted if, in the opinion of the Engineer, they have been rendered unreasonable, unbalanced or inapplicable as a result of varied or additional work already executed or instructed under Clause 51 or for any other reason.

Sub-Clause 70.8
Subsequent Legislation

If, after the date 28 days prior to the latest date for submission of bids for the Contract, there occur in the country in which the Works are being or are to be executed changes to any National or State Statute, Ordinance, Decree, or other Law or any regulation or by-law of any local or other duly constituted authority, or the introduction of any such State Statute, Ordinance, Decree, Law, regulation or by-law which causes additional or reduced cost to the Contractor, other than the preceding sub-clauses of this clause, in the execution of the Contract, such additional or reduced cost shall, after due consultation with the Employer and the Contractor, be determined by the Engineer and shall be added to or deducted from the Contract Price and the Engineer shall notify the Contractor accordingly, with a copy to the Employer. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same shall already have taken into account in the indexing or any inputs to the Price.
Adjustment Formulae in accordance with the provisions of Sub Clauses 70.1 to 70.7.

Sub-Clause 72.2 : Currency Proportions
Alternative A : To be used with Clause 60, Alternative A

Sub-Clause 72.2
Currency Proportions
Alternative A: To be used with Clause 60, Alternative A

Delete the words from “prevailing, as determined by the Central Bank….” To the end of the Sub-clause and substitute with “stated by the Contractor in the Appendix to Bid, included with its original Bid.”

Add to the end of paragraph “all payments shall be made in the currency or currencies specified in the Appendix to Bid pursuant to GCC 72.2.

End of Sub-Clause 72.2, Alternative A

Sub-Clause 72.2 : Currency Proportions
Alternative B : To be used with Clause 60, Alternative B

Sub-Clause 72.2
Currency Proportions
Alternative B : To be used with Clause 60, Alternative B

Delete entirely and replace with ‘All payments shall be made in the currency or currencies specified in the Appendix to Bid.'
Sub-Clause 72.4
Substantial Changes in Currency Requirements

The proportions of foreign and local currency payments of the balance of the Contract Price shall be amended by agreement between the Employer and the Contractor to reflect any substantial changes in the expected foreign and local currency requirements of the Contractor during the execution of the Works, provided that

(a) the Contractor shall inform the Employer and the Engineer whenever any such substantial change may occur; or
(b) the Engineer may recommend a review of such expected requirements if in his judgment there is evidence of a change in the country of origin of materials, Plant, or services to be provided under the Contract which should result in any substantial change of such expected requirements.

Additional Clauses

Clause 73
Taxation

Sub-Clause 73.1
Foreign Taxation

The prices bid by the Contractor shall include all taxes, duties, and other charges imposed outside the Employer’s country on the production, manufacture, sale, and transport of the Contractor’s Equipment, Plant, materials, and supplies to be used on or furnished under the Contract, and on the services performed under the Contract.

Sub-Clause 73.2
Local Taxation

The prices bid by the Contractor shall include all customs duties, import duties, business taxes, and income and other taxes that may be levied in accordance with the laws and regulations in being on the date 28 days prior to the latest date for submission of bids in the Employer’s country on the Contractor’s Equipment, Plant, materials, and supplies (permanent, temporary, and consumable) acquired for the purpose of the Contract and on the services performed under the Contract. Nothing in the Contract shall relieve the Contractor from his responsibility to pay any tax that may be levied in the Employer’s country on profits made by him in respect of the Contract.

Sub-Clause 73.3
Personal Income taxes

The Contractor’s staff and labor will be liable to pay personal income taxes in the Employer’s country in respect of such of their salaries and wages as are chargeable under the laws and regulations for the time being in force, and the Contractor shall perform such duties in regard to such deductions thereof as may be imposed on him by such laws and regulations.

Sub-Clause 73.4

Notwithstanding the provisions of Sub-Clause 73.2, contractor's
Duties on Contractor’s Equipment

Equipment, including essential spare parts imported by the Contractor for the sole purpose of executing the Contract shall be partly exempted from the payment of import duties and taxes upon importation, provided the Contractor shall pay at the port of entry full import duties and taxes which would be payable on the assessed imported value of such Contractor's Equipment and spare parts. Upon export of individual items of Contractor's Equipment or spare parts, or upon completion of the Contract, the Contractor shall prepare, for approval by the Customs authorities, an assessment of the residual value of the Contractor's Equipment and spare parts to be exported, based on the depreciated cost. Duties and taxes on the depreciated value of such Contractor's Equipment and spare parts shall be refundable in accordance with Indian Customs rules in force.

The contractors are however requested to verify latest position in this regard from Department of Revenue, Ministry of Finance, Government of India. (Their attention is also invited to customs notifications 20/99 dated February 28, 1999 and 85/99 of July 6, 1999 wherein customs duty exemption for certain equipment subject to certain conditions have been made available by Government of India)

Sub-clause 75.1 Termination of Contract for Employer’s Convenience

The Employer shall be entitled to terminate this Contract at any time for the Employer’s convenience after giving 56 days’ prior notice to the Contractor, with a copy to the Engineer. In the event of such termination, the Contractor

(a) shall proceed as provided in Sub-Clause 65.7; and

(b) shall be paid by the Employer as provided in Sub-Clause 65.8.

Sub-Clause 76.1 Restrictions on Eligibility

(a) Any Plant, materials, or services which will be incorporated in or required for the Works, as well as the Contractor’s Equipment and other supplies, shall have their origin in any of the countries and territories eligible under the Bank’s Guidelines for Procurement, as defined in section 14 of the bidding documents, “Eligibility for the Provisions of Goods, Works, and Services in Bank-Financed Procurement.”

(b) For the purposes of this clause, “origin” means the place where the materials and equipment were mined, grown, produced, or manufactured, or from which the services are provided.

(c) The origin of Goods and Services is distinct from the nationality of the Supplier.

Sub-Clause 77.1 Joint and Several Liability

If the Contractor is a joint venture of two or more persons, all such persons shall be joint and severally bound to the Employer for the fulfillment of the terms of the Contract and shall designate one of such persons to act as a Partner in charge with authority to bind the joint venture. The composition or the constitution of the joint
venture shall not be altered without the prior consent of the Employer.

**Sub-Clause 78.1**  
Details to be Confidential  
The Contractor shall treat the details of the Contract as private and confidential, save insofar as may be necessary for the purposes thereof, and shall not publish or disclose the same or any particulars thereof in any trade or technical paper or elsewhere without the previous consent in writing of the Employer or the Engineer. If any dispute arises as to the necessity of any publication or disclosure for the purpose of the Contract the same shall be referred to the Employer whose determination shall be final.

**Sub-Clause 79**  
Contractor’s Temporary Moorings  
Should the contractor for the purpose of the Contract desire to provide temporary mooring for his craft and floating plant, he will be allowed to do so in positions and manners approved by the Engineer. The contractor shall not lay such moorings so as to interfere with traffic in the waterways and such moorings shall be removed if and when required by the Engineer.

**Sub-Clause 80**  
Life-saving Appliances and First-aid equipment  
The Contractor shall provide and maintain upon the works sufficient, proper and efficient life-saving appliances and first-aid equipment to the approval of the Engineer and in accordance with the requirements of ILO Convention No. 62. The appliances and equipment shall be available for use at all time.

**Sub-Clause 81**  
Drawings and Photographs of the Works  
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 equipment employed thereon shall be taken or permitted by the contractor to be taken by any of his employees or any employees of his sub-contractors without the prior approval of the Engineer in writing and no such photographs shall be published or otherwise circulated without the approval of the Engineer in writing.

**Sub-Clause 82**  
The Apprentices Act, 1961  
The contractor shall duly comply with the provisions of the Apprentices Act 1961 (III of 1961) the rules made thereunder 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.
Annex A to Conditions of Particular Application

Disputes Review Board’s Rules and Procedures
(see Clause 67 of the Conditions of Particular Application)

1. Except for providing the services required hereunder, the Board Members shall not give any advice to either party or to the Engineer concerning conduct of the Works. The Board Members:

   (a) shall have no financial interest in any party to the Contract, or the Engineer, or a financial interest in the Contract, except for payment for services on the Board;

   (b) shall have had no previous employment by, or financial ties to, any party to the Contract, or the Engineer, except for fee-based consulting services on other projects, and/or Retired Government officers (not connected in whole or part with the project and the Ministry/Department/Agency dealing with the project to which the contract relates), all of which must be disclosed in writing to both parties prior to appointment to the Board;

   (c) shall have disclosed in writing to both parties prior to appointment to the Board any and all recent or close professional or personal relationships with any director, officer, or employee of any party to the Contract, or the Engineer, and any and all prior involvement in the project to which the Contract relates;

   (d) shall not, while a Board Member, be employed whether as a consultant or otherwise by either party to the Contract, or the Engineer, except as a Board Member, without the prior consent of the parties and the other Board Members;

   (e) shall not, while a Board Member, engage in discussion or make any agreement with any party to the Contract, or with the Engineer, regarding employment whether as a consultant or otherwise either after the Contract is completed or after service as a Board Member is completed;

   (f) shall be and remain impartial and independent of the parties and shall disclose in writing to the Employer, the Contractor, the Engineer, and one another any fact or circumstance that might be such as to cause either the Employer or the Contractor to question the continued existence of the impartiality and independence required of Board Members; and

   (g) shall be fluent in the language of the Contract.

2. Except for its participation in the Board’s activities as provided in the Contract and in this Agreement none of the Employer, the Contractor, or the Engineer shall solicit advice or consultation from the Board or the Board Members on matters dealing with the conduct of the Works.

3. The Contractor shall:

   (a) Furnish to each Board Member one copy of all documents that the Board may request including Contract Documents, progress reports, variation orders, and other documents pertinent to the performance of the Contract.

   (b) In cooperation with the Employer, coordinate the Site visits of the Board, including conference facilities, and secretarial and copying services.
4. The Board shall begin its activities following the signing of a Board Member’s Declaration of Acceptance by all three Board Members, and it shall terminate these activities as set forth below:

(a) The Board shall terminate its regular activities when either (i) the Defects Liability Period referred to in Sub-Clause 49.1 (or, if there are more than one, the Defects Liability Period expiring last) has expired, or (ii) the Employer has expelled the Contractor from the Site pursuant to Sub-Clause 63.1, and when, in either case, the Board has communicated to the parties and the Engineer its Recommendations on all disputes previously referred to it.

(b) Once the Board has terminated its regular activities as provided by the previous paragraph, the Board shall remain available to process any dispute referred to it by either party. In case of such a referral, Board Members shall receive payments as provided in paragraphs 7(a)(ii), (iii) and (iv).

5. Board Members shall not assign or subcontract any of their work under these Rules and Procedures. However, the Board may in its discretion decide to seek independent expert advice on a particular specialized issue to assist in reaching a Recommendation, and the cost of obtaining any such expert opinion(s) shall be shared equally by the Employer and the Contractor in accordance with the procedure specified in paragraph 7(d) below.

6. The Board Members are independent contractors and not employees or agents of either the Employer or the Contractor.

7. Payments to the Board Members for their services shall be governed by the following provisions:

(a) Each Board Member will receive payments as follows:

(i) A retainer fee per calendar month equivalent to three times the daily fee established from time to time for arbitrators under the Administrative and Financial Regulations of the International Centre for Settlement of Investment Disputes (the ICSID Arbitrator’s Daily Fee), or such other retainer as the Employer and Contractor may agree in writing. This retainer shall be considered as payment in full for:

(A) Being available, on 7 days’ notice, for all hearings, Site Visits, and other meetings of the Board.

(B) Being conversant with all project developments and maintaining relevant files.

(C) All office and overhead expenses such as secretarial services, photocopying and office supplies (but not including telephone calls, faxes and telexes) incurred in connection with the duties as a Board Member.

(D) All services performed hereunder except those performed during the days referred to in paragraph (ii) below.

(ii) A daily fee equivalent to the ICSID Arbitrator’s Daily Fee, or such other daily fee as the Employer and Contractor may agree in writing. This daily fee shall only be payable in respect of the following days, and shall be considered as payment in full for:
Each day up to a maximum of two days of travel time in each direction for the journey between the Board Member’s home and the Site or other location of a Board meeting.

Each day on Site or other locations of a Board meeting.

Expenses. In addition to the above, all reasonable and necessary travel expenses (including less than first class air fare, subsistence, and other direct travel expenses) as well as the cost of telephone calls, faxes and telexes incurred in connection with the duties as Board Member shall be reimbursed against invoices. Receipts for all expenses in excess of US$ 25.00 (U.S. Dollars Twenty Five) shall be provided.

Reimbursement of any taxes that may be levied in the country of the Site on payments made to the Board Member (other than a national or permanent resident of the country of the Site) pursuant to this paragraph 8.

Escalation. The retainer and fees shall remain fixed for the period of each Board Member’s term.

Phasing out of monthly retainer fee. Beginning with the next month after the Taking Over Certificate referred to in Clause 48 (or, if there are more than one, the one issued last) has been issued, the Board Members shall receive only one-third of the monthly retainer fee. Beginning with the next month after the Board has terminated its regular activities pursuant to paragraph 4(a) above, the Board members shall no longer receive any monthly retainer fee.

Payments to the Board Members shall be shared equally by the Employer and the Contractor. The Contractor shall pay Members’ invoices within 30 calendar days after receipt of such invoices and shall invoice the Employer (through the monthly statements to be submitted in accordance with Sub-Clause 60.1 of the General Conditions) for one-half of the amounts of such invoices. The Employer shall pay such Contractor’s invoices within the time period specified in the Construction Contract for other payments to the Contractor by the Employer.

Failure of either the Employer or the Contractor to make payment in accordance with this Agreement shall constitute an event of default under the Contract, entitling the non-defaulting party to take the measures set forth, respectively, in Clause 63 or Clause 69.

Notwithstanding such event of default, and without waiver of rights therefrom, in the event that either the Employer or the Contractor fails to make payment in accordance with these Rules and Procedures, the other party may pay whatever amount may be required to finance the operation of the Board. The party making such payments, in addition to all other rights arising from such default, shall be entitled to reimbursement of all sums paid in excess of one-half of the amount required to maintain operation of the Board, plus all costs of obtaining such sums.

8. Board Site Visits:

The Board shall visit the Site and meet with representatives of the Employer and the Contractor and the Engineer at regular intervals, at times of critical construction events, at
the written request of either party, and in any case not less than 3 times in any period of 12 months. The timing of Site visits shall be as agreed among the Employer, the Contractor and the Board, but failing agreement shall be fixed by the Board.

(b) Site visits shall include an informal discussion of the status of the construction of the Works, an inspection of the Works, and the review of any Requests for Recommendation made in accordance with paragraph 10 below. Site visits shall be attended by personnel from the Employer, the Contractor and the Engineer.

(c) At the conclusion of each Site visit, the Board shall prepare a report covering its activities during the visit and shall send copies to the parties and to the Engineer.

9. Procedure for Dispute Referral to the Board:

(a) If either party objects to any action or inaction of the other party or the Engineer, the objecting party may file a written Notice of Dispute to the other party with a copy to the Engineer stating that it is given pursuant to Clause 67 and stating clearly and in detail the basis of the dispute.

(b) The party receiving the Notice of Dispute will consider it and respond in writing within 14 days after receipt.

(c) This response shall be final and conclusive on the subject, unless a written appeal to the response is filed with the responding party within 7 days after receiving the response. Both parties are encouraged to pursue the matter further to attempt to amicably settle the dispute.

(d) When it appears that the dispute cannot be resolved without the assistance of the Board, or if the party receiving the Notice of Dispute fails to provide a written response within 14 days after receipt of such Notice, either party may refer the dispute to the Board by written Request for Recommendation to the Board. The Request shall be addressed to the Chairman of the Board, with copies to the other Board Members, the other party, and the Engineer, and it shall state that it is made pursuant to Clause 67.

(e) The Request for Recommendation shall state clearly and in full detail the specific issues of the dispute to be considered by the Board.

(f) When a dispute is referred to the Board, and the Board is satisfied that the dispute requires the Board’s assistance, the Board shall decide when to conduct a hearing on the dispute. The Board may request that written documentation and arguments from both parties be submitted to each Board Member before the hearing begins. The parties shall submit insofar as possible agreed statements of the relevant facts.

(g) During the hearing, the Contractor, the Employer, and the Engineer shall each have ample opportunity to be heard and to offer evidence. The Board’s Recommendations for resolution of the dispute will be given in writing to the Employer, the Contractor and the Engineer as soon as possible, and in any event not more than 56 days after receipt by the Chairman of the Board of the written Request for Recommendation.

10. Conduct of Hearings:

(a) Normally hearings will be conducted at the Site, but any location that would be more convenient and still provide all required facilities and access to necessary documentation
may be utilized by the Board. Private sessions of the Board may be held at any cost effective location convenient to the Board.

(b) The Employer, the Engineer and the Contractor shall be given the opportunity to have representatives at all hearings.

(c) During the hearings, no Board Member shall express any opinion concerning the merit of the respective arguments of the parties.

(d) After the hearings are concluded, the Board shall meet privately to formulate its Recommendations. All Board deliberation shall be conducted in private, with all Members’ individual views kept strictly confidential. The Board’s Recommendations, together with an explanation of its reasoning shall be submitted in writing to both parties and to the Engineer. The Recommendations shall be based on the pertinent Contract provisions, applicable laws and regulations, and the facts and circumstances involved in the dispute.

(e) The Board shall make every effort to reach a unanimous Recommendation. If this proves impossible, the majority shall decide, and the dissenting Member may prepare a written minority report for submission to both parties and to the Engineer.

11. In all procedural matters, including the furnishing of written documents and arguments relating to disputes, Site visits, and conduct of hearings, the Board shall have full and final authority. If a unanimous decision on any such matter proves impossible, the majority shall decide.

12. After having been selected and, where necessary, approved, each Board Member shall sign two copies of the following declaration and make one copy available each to the Employer and to the Contractor.
“BOARD MEMBER’S DECLARATION OF ACCEPTANCE

WHEREAS

(a) a Construction Contract (the Contract) for the ________________ project has been signed on __________________ between _______________ (the Employer) and _______________ (the Contractor);.

(b) Clause 67 of the Conditions of Particular Application of the Construction Contract provides for the establishment and operation of a Disputes Review Board (the Board);

(c) the undersigned has been selected (and where required, approved) to serve as a Board Member on said Board;

NOW THEREFORE, the undersigned Board Member hereby declares as follows:

1. I accept the selection as a Board Member and agree to serve on the Board and to be bound by the provisions of Clause 67 of the Conditions of Particular Application of the Contract and the Disputes Review Board’s Rules & Procedures attached as Annexure A to the Conditions of particular application.

2. With respect to paragraph 1 of said Disputes Review Board’s Rules and Regulations, I declare

   (a) that I have no financial interest of the kind referred to in subparagraph (a);

   (b) that I have had no previous employment nor financial ties of the kind referred to in subparagraph (b); and

   (c) that I have made to both parties any disclosures that may be required by sub-paragraphs (b) and (c).

BOARD MEMBER

_______________________________________________

_____________________

[insert name of Board Member]

Date : _________________________________________”

End of Clause 67
Please follow the attached sheets for

Section 7 - Form of Bid, Appendix to Bid, and Bid
Section 7 - Form of Bid, Appendix to Bid, and Bid Security

Notes: All details marked with an asterisk(*) shall be inserted by the Employer before issue of the bidding documents.

The Bid Appendix and Agreement contained in FIDIC Part I - General Conditions of Contract - are hereby deleted and replaced by the Form of Bid, Appendix to Bid, and Form of Agreement which follow.

Form of Bid

Name of Contract: * ..........................................................................................

To: * ................................................................................................................. [insert name of Employer]

Gentlemen:

1. In accordance with the Conditions of Contract, Specification, Drawings, and Bill of Quantities and Addenda Nos. __________________________ for the execution of the above-named Works we, the undersigned, offer to construct and install such Works and remedy any defects therein in conformity with the Conditions of Contract, Specifications, Drawings, Bill of Quantities, and Addenda for the sum of

[insert amounts in numbers and words]

(as specified in the Appendix to Bid or such other sums as may be ascertained in accordance with the conditions)

2. We acknowledge that the Appendix forms part of our Bid.

3. We undertake, if our Bid is accepted, to commence the Works as soon as is reasonably possible after the receipt of the Engineer’s notice to commence, and to complete the whole of the Works comprised in the Contract within the time stated in the Appendix to Bid.

4. We agree to abide by this Bid until __________________________ [insert date], and it shall remain binding upon us and may be accepted at any time before that date.

88
5. Unless and until a formal Agreement is prepared and executed this Bid, together with your written acceptance thereof, shall constitute a binding Contract between us.

6. We undertake that, in competing for (and, if the award is made to us, in executing) the above contract, we will strictly observe the laws against fraud and corruption in force in India namely “Prevention of Corruption Act 1988”.

7. We understand that you are not bound to accept the lowest or any bid you may receive.

8. We certify/confirm that we comply with the eligibility requirements, as per ITB Clause 3 of the bidding documents.

9. Commissions or gratuities, if any, paid or to be paid by us to agents relating to this Bid, and to contract execution if we are awarded the contract, are listed below:

<table>
<thead>
<tr>
<th>Name and Address of agent</th>
<th>Amount and Currency</th>
<th>Purpose of Commission or gratuity</th>
</tr>
</thead>
<tbody>
<tr>
<td>________________________</td>
<td>___________________</td>
<td>________________________________</td>
</tr>
<tr>
<td>________________________</td>
<td>___________________</td>
<td>________________________________</td>
</tr>
<tr>
<td>________________________</td>
<td>___________________</td>
<td>________________________________</td>
</tr>
</tbody>
</table>

(if none, state “none”).

10. We attach herewith our current income tax clearance certificate*.

Dated this ________________ day of _____________________ 19_______________

Signature ________________________ in the capacity of ________________________
duly authorized to sign bids for and on behalf of ________________________________

[in block capitals or typed]

Address _______________________________________________________________________

_____________________________________________________________________________

Witness _______________________________________________________________________

Address _______________________________________________________________________

_____________________________________________________________________________

Occupation ____________________________________________________________________

* This is applicable for all bidders from India and for Indian partners of all Joint Venture bids.
Appendix to Bid

The Employer should insert relevant data for all the items marked * prior to the issue of the bidding documents, and for all related clauses which have been included in the Conditions of Particular Application. Where a number of days is to be inserted, it is desirable for the number to be a multiple of seven, for consistency with the Conditions of Contract.

Bidders should fill in all the appropriate blank spaces. Bidders are required to sign each page of the Appendix to Bid.

Conditions of Contract

Sub-Clause

Definitions 1.1 (a), 69.6 The “Bank” and/or “World Bank” includes the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA).

* 1.1(a)(i) The Employer is ................................................
............................................................................
[insert name]

* 1.1(a)(iv) The Engineer is ................................................
............................................................................
[insert name]

Engineer’s Authority to Issue Variations *2.1(d)(ii) one percent of the contract price at a time subject to a maximum of 10 (Ten) percent of the Contract Price in aggregate.

* 5.1(a) The language is ENGLISH
* 5.1(b) The law in force is that of the Union of India.

**Performance Security**
* 10.1 The performance security will be in the form of a [insert either “unconditional Bank guarantee” in the amount(s) of __________________________ [insert related figure(s)] percent of the Contract Price, plus additional security for unbalanced bids determined in accordance with Cl.31.5 of ITB.**

**Inspection Site**
* 11.2 Data made available by the Employer under Sub-Clause 11.1 is open for inspection at ________________ [insert address.]

**Program and Environmental Management Plan to be Submitted**
* 14.1 ________________ days.\(^1\)

**Cash Flow Estimate**
* 14.3 ________________ days.\(^1\)

\(^1\) For consistency with the rest of the Conditions of Contract, the number of days inserted should be a multiple of 7. The number of days for submission of the program and cash flow should be between 14 and 35 days after receipt of the Letter of Acceptance.

**Language Ability of Contractor’s representatives and superintending staff**
* 15.2 and 16.3 English.

**Country of the Employer**
* 16.4 The country of the Employer is INDIA

**Minimum Amount of Third Party Insurance**
*23.2 ________________ per occurrence, with the number of occurrences unlimited.

**Time for Issue of the Notice to Commence**
* 41.1 35 @ days after the date of letter of acceptance or 7 days after signing of the contract agreement whichever is earlier

**Time for Completion\(^2\)**
*43.1 ________________ days\(^3\) [or insert date.]

For Section 1 ---- days
For Section 2 ---- days
For Section 3 ---- days

\(^2\) Note: By which time the performance security should have been received and contract agreement signed.
Insert the time for completion of the whole of the Works and also the time for completion of sections, if applicable.

Substitute a specific date, if the optional wording of Sub-Clause 43.1 of the Conditions of Particular Application is used. Further, if times (or dates) are to be specified for various sections of the Works, they should be listed here.

<table>
<thead>
<tr>
<th>Amount of Liquidated Damages</th>
<th>*47.1</th>
<th>_________ per day.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>For Section 1 ---- per day</td>
</tr>
<tr>
<td></td>
<td></td>
<td>For Section 2 ---- per day</td>
</tr>
<tr>
<td></td>
<td></td>
<td>For Section 3 ---- per day</td>
</tr>
</tbody>
</table>

Limit of Liquidated Damages

*47.1 10 percent of the final Contract Price.

Insert amounts of liquidated damages for sections, at 0.05% of contract value per day of each section.

Deleted.

Deleted.

Taking Over of Sections

*48.2 (a) [if applicable, listed under Sub-Clause 43.1].

Defects Liability Period

*49.1 ____________ days.

*49.5 ____________ years [if applicable].

Number of Copies of Monthly Statement

*60.1 ____________.

Minimum Amount of Interim Payment Certificates

*60.2 ____________.

Retention Money*25

*60.5 Six percent of Interim Payment Certificates subject to a maximum of 5% of final contract price.

Note that one-half will be repaid on Taking-Over, and only the balance will remain as security during the Defects Liability Period.
Maximum Amount of Advance Payment\textsuperscript{26} \hspace{1cm} *60.7 \hspace{1cm} ________ percent of the Contract Price.

\textsuperscript{26} The advance payment is usually 10 to 15 percent, but may be up to 20 percent in special cases, and its repayment should commence only when about 30 percent of the Contract payments have been made.

Start Repayment of Advance Payment\textsuperscript{27} \hspace{1cm} *60.7 \hspace{1cm} After certification of 30 percent of the Contract Price or \underline{__________} months after payment of first installment of advance whichever period concludes earlier. No further advance beyond this date is payable.

\textsuperscript{27} Deleted.

Monthly Recovery of Advance Payment\textsuperscript{28} \hspace{1cm} *60.7 \hspace{1cm} \underline{__________} percent\textsuperscript{28} of the amount of monthly Interim Payment Certificates.

\textsuperscript{28} The percentage of each monthly Interim Payment Certificate to be deducted for repayment should be calculated so as to obtain full recovery of the advance payment by the time 80 percent of the Contract Price has been certified for payment.

\textsuperscript{29} A form of Bank Guarantee for Advance Payment is provided in Section 9.

Number of Copies of Statement of Completion and Final Statement\textsuperscript{60.1} \hspace{1cm} 60.10 \hspace{1cm} 60.11 

\textsuperscript{60.1} \underline{__________} number.
Procedure for Settlement of Disputes

*67. The procedure for Settlement of Disputes is Version 1 as specified in Clause 67 of Conditions of Particular Application.

*67.1 The appointing authority shall be President, Institution of Engineers (India) or Chairman of the Executive Committee, Indian Road’s Congress*.

Notice to Employer and Engineer

*68.2 The Employer’s address is

[insert name and address]

* The Engineer’s address is

[insert name and address]

* For Highways’ projects only. Consider other appropriate institutions for specific types of works.
The items on the following pages are to be filled in by bidder as part of its bid. Except for the items Marked
Summary of payment currencies of the Bid for _______________________________ [insert name of section of the Works]^{30}

<table>
<thead>
<tr>
<th>Name of currency</th>
<th>A Amount of Currency</th>
<th>B Rate of exchange (local currency per unit of foreign)</th>
<th>C Local currency equivalent ( C = A \times B )</th>
<th>D Percentage of Bid Price (NBP) ( \frac{100 \times C}{NBP} )</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local currency</td>
<td></td>
<td>1.00</td>
<td></td>
<td>100.00</td>
</tr>
<tr>
<td>Foreign Currency #1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Foreign Currency #2</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Foreign Currency #3</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net Bid Price</td>
<td></td>
<td></td>
<td></td>
<td>123,456</td>
</tr>
<tr>
<td>Provisional sums expressed in local currency(^1)</td>
<td>123,456</td>
<td>-</td>
<td>123,456</td>
<td></td>
</tr>
<tr>
<td>Total Bid Price</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

\(^1\) To be entered by Employer.

---

Separate tables may be required if the various sections of the Works (or of the Bill of Quantities) will have substantially different foreign and local currency requirements. The Employer should insert the names of each section of the Works.

---

End of Alternative A

---

Alternative B : For use with Alternatives B of Clause 60 and Sub-Clause 72.2
Summary of currencies of the Bid for ________________________________ [insert name of section of the Works]^{31}

<table>
<thead>
<tr>
<th>Name of Currency</th>
<th>Amounts Payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Currency:</td>
<td></td>
</tr>
<tr>
<td>Foreign Currency No. 1</td>
<td></td>
</tr>
<tr>
<td>Foreign Currency No. 2</td>
<td></td>
</tr>
<tr>
<td>Foreign Currency No. 3</td>
<td></td>
</tr>
</tbody>
</table>

^{31} Separate tables may be required if the various sections of the Works (or of the Bill of Quantities) will have substantially different foreign and local currency requirements. The Employer should insert the names of each section of the Works.

**End of Alternative B**

<table>
<thead>
<tr>
<th>Origin of Materials and Plants</th>
<th>Item</th>
<th>Origin</th>
<th>Currency</th>
</tr>
</thead>
<tbody>
<tr>
<td>60.3 (a) (v)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>60.3 (d)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Bidder to complete*

| Rate of Interest upon Unpaid Sums | *60.8* | percent for payments in local currency. For other currencies, refer to the table below. |
The above rates of interest for foreign currencies shall be supplied by the Bidder, and these rates are subject to clarification before formalizing the Contract.

Approximate Weightings for Price Adjustment Formulae

<table>
<thead>
<tr>
<th>Description of index</th>
<th>% of weighting</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Labour</td>
<td>*_____%</td>
</tr>
<tr>
<td>(b) Cement</td>
<td>*_____%</td>
</tr>
<tr>
<td>(c) Steel</td>
<td>*_____%</td>
</tr>
<tr>
<td>(d) Bitumen</td>
<td>*_____%</td>
</tr>
<tr>
<td>(e) P.O.L.</td>
<td>*_____%</td>
</tr>
<tr>
<td>(f) Plant &amp; Equipment Spares</td>
<td>*_____%</td>
</tr>
<tr>
<td>(g) Other materials</td>
<td>*_____%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

32 As guidance to bidders and for the purpose of checking their submissions, the Employer has estimated and provided a range of acceptable weightings for related major construction inputs in accordance with the potential range of construction methodologies, based on estimated cost in a common currency.

Weightings and Indices

70.3 [See table below.]

70.4
The Employer shall enter the amount of the fixed element A in the tables below, and the source of indexing of local currency elements of cost.

In the tables immediately below, bidders shall (a) indicate their amounts of local currency payment, (b) indicate their proposed source and base values of indices for the different foreign currency elements of cost, (c) derive their proposed weightings for local and foreign currency payment as indicated below, and (d) list the exchange rates used in the currency conversion. If payment is to be made in more than one foreign currency, the bidder shall complete a similar table of source indices for each currency. In the case of very large and/or complex works contracts, it may be necessary to specify several families of price adjustment formulae corresponding to the different works involved.

A. Local Currency

<table>
<thead>
<tr>
<th>Index code *</th>
<th>Index description *</th>
<th>Source of index *</th>
<th>Base value and date*</th>
<th>Bidder’s related currency amount</th>
<th>Bidder’s proposed weighting</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-adjustable</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>A: *</td>
</tr>
<tr>
<td>b:</td>
<td>c:</td>
<td>d:</td>
<td>e:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total 1.00

If the bidder wishes to quote in more than one foreign currency (up to three), the table below should be repeated for each foreign currency.

B. Foreign Currency 1 (FC1). State type: ___________________________.

<p>| Index code * | Index | Source of index | Base value | Bidder’s related | Equivalent in | Bidder’s |</p>
<table>
<thead>
<tr>
<th>description *</th>
<th>*</th>
<th>and date*</th>
<th>currency amount</th>
<th>FCI</th>
<th>proposed weighting</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-adjustable</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>A: *</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>b:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>c:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>d:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>e:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td>1.00</td>
<td></td>
</tr>
</tbody>
</table>
SCHEDULE OF SUBCONTRACTORS (Clause 5.1 of Bidding Data)

<table>
<thead>
<tr>
<th>Item</th>
<th>Element of work</th>
<th>Approximate value</th>
<th>Name and address of subcontractor</th>
<th>Qualification and Experience on similar works executed</th>
</tr>
</thead>
</table>

The Bidder shall enter in this schedule a list of the major sections and appropriate value of the work for which he proposes to use subcontractors, together with the names and addresses of the proposed subcontractors.
(i) **DETAILS OF PARTICIPATION IN THE JOINT VENTURE**

*(Clause 5.1 of Bidding Data)*

<table>
<thead>
<tr>
<th>PARTICIPATION DETAILS</th>
<th>FIRM ‘A’ (Lead Partner)</th>
<th>FIRM ‘B’</th>
<th>FIRM ‘C’</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financial</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Name of the Banker(s)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Planning</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Construction Equipment</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Key Personnel</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Execution of Work</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The Joint Venture should indicate the details of participation as above.
FORMAT FOR EVIDENCE OF ACCESS TO OR AVAILABILITY OF
OVERDRAFT/ CREDIT FACILITIES*

Clause 5.1 of Bidding Data:

BANK CERTIFICATE

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

If the contract for the works, namely _________________________________________
[funded by the World Bank] is awarded to the above firm, we shall be able to provide
overdraft/credit facilities to the extent of USD equivalent ______ to meet their capital
requirements for executing the above contract.

-- Sd. --

Name of Bank Manager
Senior Bank Manager
Address of the Bank

* Change the text as follows for Joint venture:

This is to certify that M/s. ............................................ who has formed a JV with M/s.
................................. and M/s. ................................. for participating in this bid, is a
reputed company with a good financial standing.

If the contract for the work, namely .................................................................
funded by the World Bank] is awarded to the above Joint Venture, we shall be able to
provide overdraft/credit facilities to the extent of Rs. ............... to meet the working capital
requirements for executing the above contract.

[This should be given by the JV members in proportion to their financial participation.]
Information on Bid Capacity (works for which bids have been submitted and works which are yet to be completed) as on the date of this bid [ITB Clause 5.1(b)]

(A) Existing commitments and on-going works:

<table>
<thead>
<tr>
<th>Description of Work</th>
<th>Place &amp; State</th>
<th>Contract No. &amp; Date</th>
<th>Name and Address of Employer</th>
<th>Value of Contract ($ million)</th>
<th>Stipulated period of completion</th>
<th>Value of works* remaining to be completed (Rs. million)</th>
<th>Anticipated date of completion</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
<td>(5)</td>
<td>(6)</td>
<td>(7)</td>
<td>(8)</td>
</tr>
</tbody>
</table>

(B) Works for which bids already submitted:

<table>
<thead>
<tr>
<th>Description of Work</th>
<th>Place &amp; State</th>
<th>Name and Address of Employer</th>
<th>Estimated value of works ($ million)</th>
<th>Stipulated period of completion</th>
<th>Date when decision is expected</th>
<th>Remarks if any</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
<td>(5)</td>
<td>(6)</td>
<td>(7)</td>
</tr>
</tbody>
</table>

* Attach certificate(s) from the Engineer(s)-in-Charge.
(Name of the Project)

(Declaration regarding customs/excise duty exemption for materials/construction equipment bought for the work)

(Bidder’s Name and Address)

To: ………………………
(Name of the Employer)

Dear Sir:

Re: [Name of Work] ………………………… - Certificate for Import/Procurement of Goods/Construction Equipment

1. We confirm that we are solely responsible for obtaining customs/excise duty waivers which we have considered in our bid and in case of failure to receive such waivers for reasons whatsoever, the Employer will not compensate us.

2. We are furnishing below the information required by the Employer for issue of the necessary certificates in terms of the Government of India Central Excise Notification No. 108/95 and Customs Notification No. 85/99.

3. The goods/construction equipment for which certificates are required are as under:

<table>
<thead>
<tr>
<th>Items</th>
<th>Make/ Brand Name</th>
<th>Capacity [where applicable]</th>
<th>Quantity</th>
<th>Value</th>
<th>State whether it will be procured locally or imported [if so from which country]</th>
<th>Remarks regarding justification for the quantity and their usage in work</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goods</td>
<td>[a] Bitumen</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>[b] Others</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Construction Equipment</th>
</tr>
</thead>
<tbody>
<tr>
<td>[a]</td>
</tr>
<tr>
<td>[b]</td>
</tr>
<tr>
<td>[c]</td>
</tr>
<tr>
<td>[d]</td>
</tr>
</tbody>
</table>

4. We agree that the certificate will be issued only to the extent considered reasonable by the Employer for the work, based on the Bill of Quantities and the construction programme and methodology as furnished by us alongwith the bid.

5. We confirm that the above goods will be exclusively used for the construction of the above work and construction equipment will not be sold or otherwise disposed of in any manner for a period of five years from the date of acquisition.

Date: ___________________    (Signature) ____________________
Place: __________________    (Printed Name) _________________
               (Designation) __________________
               (Common Seal) ________________

105
The Bidder shall complete either the following form of Bank Guarantee or may provide another security acceptable to the Employer.

**FORM OF BID SECURITY (BANK GUARANTEE)**

WHEREAS, __________________________ [name of Bidder*] (hereinafter called “the Bidder”) has submitted his Bid dated _____________ [date] for the execution of __________________________ [name of Contract] (hereinafter called “the Bid”).

KNOW ALL PEOPLE by these presents that We __________________________ [name of Bank] of __________________________ [name of country] having our registered office at __________________________ (hereinafter called “the Bank”) are bound unto __________________________ [name of Employer] (hereinafter called “the Employer”) in the sum of __________________________ 34 for which payment well and truly to be made to the said Employer the Bank binds himself, his successors, and assigns by these presents.

SEALEd with the Common Seal of the said Bank this _______ day of ______ 19__.

THE CONDITIONS of this obligation are:

(1) (a) if the Bidder withdraws his Bid during the period of Bid validity specified in the Form of Bid;

    or

(b) if the Bidder refuses to accept the correction of errors in his Bid;

or

(2) if the Bidder, having been notified of the acceptance of his Bid by the Employer during the period of Bid validity;

Note: * In the case of JV, please state “Joint Venture consisting of ...............and .............”

[Please state the names of all the partners]
(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 to the Employer up to 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 him owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This Guarantee will remain in force up to and including the date 28 days after the date of expirations of the bid validity deadline for as stated in the Instructions to Bidders or as it may be extended by the Employer, notice of which extension(s) to the Bank is hereby waived. Any demand in respect of this Guarantee should reach the Bank not later than the above date.

DATE _______________________ SIGNATURE OF THE BANK _____________________

WITNESS ____________________ SEAL _________________________________________

[signature, name and address]
FORM OF BID SECURITY (BID BOND)

BOND NO. ______________________

BY THIS BOND [insert name of Bidder] as Principal (hereinafter called “the Principal”), and [insert name, legal title, and address of surety], authorized to transact business in [insert name of country of Employer], as Surety (hereinafter called “the Surety”), are held and firmly bound unto [insert name of Employer] as Obligee (hereinafter called “the Employer”) in the sum of [insert amount of Bond] [insert amount in words], for the payment of which sum, well and truly to be made, we, the said Principal and Surety, bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Principal has submitted a written Bid to the Employer dated the ___ day of ______, 20__, for the construction of [insert name of Contract] (hereinafter called the “Bid”).

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal:

(1) withdraws its Bid during the period of bid validity specified in the Form of Bid; or
(2) refuses to accept the correction of its Bid Price, pursuant to Sub-Clause 29.2 of the Instructions to Bidders; or
(3) having been notified of the acceptance of its Bid by the Employer during the period of Bid 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 Instructions to Bidders;

then the Surety undertakes to immediately pay to the Employer up to the above amount upon receipt of the Employer’s first written demand, without the Employer having to substantiate its demand, provided that in its demand the Employer shall state that the demand arises from the occurrence of any of the above events, specifying which event(s) has occurred.

The Surety hereby agrees that its obligation will remain in full force and affect up to and including the date 28 days after the date of expiration of the Bid validity as stated in the

---

1 The amount of the Bond shall be denominated in the currency of the Employer’s country or the equivalent amount in a freely convertible currency.
Invitation to Bid or extended by the Employer at any time prior to this date, notice of which extension(s) to the Surety being hereby waived.

IN TESTIMONY WHEREOF, the Principal and the Surety have caused these presents to be executed in their respective names this ___ day of ____________ 20__.  

Principal: _______________________ Surety: ______________________________  

Corporate Seal (where appropriate)  

_______________________________ ____________________________________  

(Signature) (Signature)  

_______________________________ ____________________________________  

(Printed name and title) (Printed name and title)
Section 8. – Bill of Quantities

Notes for Preparing a Bill of Quantities

Objectives

The objectives of the Bill of Quantities are

(a) to provide sufficient information on the quantities of Works to be performed to enable bids to be prepared efficiently and accurately; and

(b) when a contract has been entered into, to provide a priced Bill of Quantities for use in the periodic valuation of Works executed.

In order to attain these objectives, Works should be itemized in the Bill of Quantities in sufficient detail to distinguish between the different classes of Works, or between Works of the same nature carried out in different locations or in other circumstances which may give rise to different considerations of cost. Consistent with these requirements, the layout and content of the Bill of Quantities should be as simple and brief as possible.

Content

The Bill of Quantities should be divided generally into the following sections:

(a) Preamble;
(b) Work Items (grouped into parts);
(c) Daywork Schedule; and
(d) Summary.

Preamble

The Preamble should indicate the inclusiveness of the unit prices, and should state the methods of measurement that have been adopted in the preparation of the Bill of Quantities and that are to be used for the measurement of any part of the Works.

Rock

Where excavation, boring, or driving is included in the Works, a comprehensive definition of rock (always a contentious topic in contract administration), if not given in the Technical Specification, should be given in the Preamble, and this definition should be used for the purposes of measurement and payment.
Work Items

The items in the Bill of Quantities should be grouped into sections to distinguish between those parts of the Works that by nature, location, access, timing, or any other special characteristics may give rise to different methods of construction, phasing of the Works, or considerations of cost. General items common to all parts of the Works may be grouped as a separate section in the Bill of Quantities. When a family of Price Adjustment Formulae are used, they should relate to appropriate sections in the Bill of Quantities.

Quantities

Quantities should be computed net from the Drawings, unless directed otherwise in the Contract, and no allowance should be made for bulking, shrinkage, or waste. Quantities should be rounded up or down where appropriate, and spurious accuracy should be avoided.

Units of Measurement

The following units of measurement and abbreviations are recommended for use (unless other national units are mandatory in the country of the Employer).

<table>
<thead>
<tr>
<th>Unit</th>
<th>Abbreviation</th>
<th>Unit</th>
<th>Abbreviation</th>
</tr>
</thead>
<tbody>
<tr>
<td>cubic meter</td>
<td>m³ or cu m</td>
<td>millimeter</td>
<td>mm</td>
</tr>
<tr>
<td>hectare</td>
<td>ha</td>
<td>month</td>
<td>mon</td>
</tr>
<tr>
<td>hour</td>
<td>h</td>
<td>number</td>
<td>nr</td>
</tr>
<tr>
<td>kilogram</td>
<td>kg</td>
<td>square meter</td>
<td>m² or sq m</td>
</tr>
<tr>
<td>lump sum</td>
<td>sum</td>
<td>square millimeter</td>
<td>mm² or sq mm</td>
</tr>
<tr>
<td>meter</td>
<td>m</td>
<td>week</td>
<td>wk</td>
</tr>
<tr>
<td>metric ton</td>
<td>t</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1,000 kg)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Ground and Excavation Levels

The commencing surface should be identified in the description of each item for work involving excavation, boring, or driving, for which the commencing surface is not also the original surface. The excavated surface should be identified in the description of each item for work involving excavation for which the excavated surface is not also the final surface. The depths of work should be measured from the commencing surface to the excavated surface, as defined.
Daywork Schedule

A Daywork Schedule should be included if the probability of unforeseen work, outside the items included in the Bill of Quantities, is relatively high. To facilitate checking by the Employer of the realism of rates quoted by the bidders, the Daywork Schedule should normally comprise:

(a) a list of the various classes of labor, materials, and Contractor’s Equipment for which basic Daywork rates or prices are to be inserted by the bidder, together with a statement of the conditions under which the Contractor will be paid for work executed on a Daywork basis; and

(b) a percentage to be entered by the bidder against each basic Daywork Subtotal amount for labor, materials, and Plant representing the Contractor’s profit, overheads, supervision, and other charges.

Provisional Quantities and Sums

Provision for quantity contingencies in any particular item or class of work with a high expectation of quantity overrun should be made by entering specific “Provisional Quantities” or “Provisional Items” in the Bill of Quantities, and not by increasing the quantities for that item or class of work beyond those of the work normally expected to be required. To the extent not covered above, a general provision for physical contingencies (quantity overruns) should be made by including a “Provisional Sum” in the Summary of the Bill of Quantities. Similarly, a contingency allowance for possible price increases should be provided as a “Provisional Sum” in the Summary of the Bill of Quantities. The inclusion of such Provisional Sums often facilitates budgetary approval by avoiding the need to request periodic supplementary approvals as the future need arises.

The estimated cost of specialized work to be carried out, or of special goods to be supplied, by a Nominated Subcontractor (reference Clause 59 or Part I) should be indicated in the relevant part of the Bill of Quantities as a particular Provisional Sum with an appropriate brief description. A separate bidding procedure is normally carried out by the Employer to select the specialists, who are then nominated as subcontractors to the main or prime contractor. To provide an element of competition among the main bidders (or prime contractors) in respect of any facilities, amenities, attendance, etc., to be provided by the successful bidder as prime contractor for the use and convenience of the specialist or nominated subcontractor, each related Provisional Sum should be following by an item in the Bill of Quantities inviting a percentage (to be quoted by the main bidder) payable on the actual expenditure from the Provisional Sum.
Summary

The Summary should contain a tabulation of the separate parts of the Bill of Quantities carried forward, with provisional sums for Daywork, for physical (quantity) contingencies, and for price contingencies (upward price adjustment) where applicable. These Notes for Preparing a Bill of Quantities are intended only as information for the Employer or the person drafting the bidding documents. They should not be included in the final documents.
Sample

Bill of Quantities

A. Preamble

1. The Bill of Quantities shall be read in conjunction with the Instructions to Bidders, General and Special Conditions of Contract, Technical Specifications, and Drawings.

2. The quantities given in the Bill of Quantities are estimated and provisional, and are given to provide a common basis for bidding. The basis of payment will be the actual quantities of work ordered and carried out, as measured by the Contractor and verified by the Engineer and valued at the rates and prices bid in the priced Bill of Quantities, where applicable, and otherwise at such rates and prices as the Engineer may fix within the terms of the Contract.

3. The rates and prices bid in the priced Bill of Quantities shall, except insofar as it is otherwise provided under the Contract, include all Constructional Plant, labor, supervision, materials, erection, maintenance, insurance, profit, taxes, and duties, together with all general risks, liabilities, and obligations set out or implied in the Contract.

4. A rate or price shall be entered against each item in the priced Bill of Quantities, whether quantities are stated or not. The cost of Items against which the Contractor has failed to enter a rate or price shall be deemed to be covered by other rates and prices entered in the Bill of Quantities.

5. The whole cost of complying with the provisions of the Contract shall be included in the Items provided in the priced Bill of Quantities, and where no Items are provided, the cost shall be deemed to be distributed among the rates and prices entered for the related Items of Work.

6. General directions and descriptions of work and materials are not necessarily repeated nor summarized in the Bill of Quantities. References to the relevant sections of the Contract documentation shall be made before entering prices against each item in the priced Bill of Quantities.

7. Provisional Sums included and so designated in the Bill of Quantities shall be expended in whole or in part at the direction and discretion of the Engineer in accordance with Sub-Clause 52.4 and Clause 58 of Part I of the Conditions of Contract.
8. The method of measurement of completed work for payment shall be in accordance with [insert the name of a standard reference guide, or full details of the methods to be used].

9. Errors will be corrected by the Employer for any arithmetic errors in computation or summation as follows:

   (a) where there is a discrepancy between amounts in figures and in words, the amount in words will govern; and

   (b) where there is a discrepancy between the unit rate and the total amount derived from the multiplication of the unit price and the quantity, the unit rate as quoted will govern, unless in the opinion of the Employer, there is an obviously gross misplacement of the decimal point in the unit price, in which event the total amount as quoted will govern and the unit rate will be corrected.

10. Rock is defined as all materials that, in the opinion of the Engineer, require blasting, or the use of metal wedges and sledgehammers, or the use of compressed air drilling for their removal, and that cannot be extracted by ripping with a tractor of at least 150 brake hp with a single, rear-mounted, heavy-duty ripper.

---

2 The method of measurement should be spelled out precisely in the Preamble to the Bill of Quantities, describing for example the allowances (if any) for timbering in excavation, etc. Many national standard reference guides have been prepared on the subject, and one such guide is the Standard Method of Measurement of the U.K. Institution of Civil Engineers.
Sample

Bill of Quantities

B. Work Items

1. The Bill of Quantities usually contains the following part Bills, which have been grouped according to the nature or timing of the work:

   Bill No. 1—General Items;
   Bill No. 2—Earthworks;
   Bill No. 3—Culverts and Bridges;
   Bill No. 4—etc., as required;
   Daywork Schedule; and
   Summary Bill of Quantities.

2. Bidders shall price the Bill of Quantities in local currency only and shall indicate in the Appendix to Bid the percentage expected for payment in foreign currency or currencies.³

³ The example given illustrates one of the two alternative methods of setting up a Bill of Quantities, in which rates and prices are entered in local currency only, with bidders stating separately their proportionate requirements in different types and amounts of foreign currencies. The second method is where rates and prices are broken down for each item into local and foreign currency components. The first method is administratively more convenient and hence is more commonly used in Works contracts.
## Bill of Quantities

**Bill No. 1: General Items**

<table>
<thead>
<tr>
<th>Item no.</th>
<th>Description</th>
<th>Unit</th>
<th>Quantity</th>
<th>Rate</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>101</td>
<td>Performance Bond/Guarantee</td>
<td>sum</td>
<td>item</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>102</td>
<td>Insurance of the Works</td>
<td>sum</td>
<td>item</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>103</td>
<td>Insurance of Contractor’s Equipment</td>
<td>sum</td>
<td>item</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>104</td>
<td>Third-Party Insurance</td>
<td>sum</td>
<td>item</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>105</td>
<td>Allow for maintenance of Works for 12 months after completion</td>
<td>month</td>
<td>12</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>106</td>
<td>— etc. —</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>112</td>
<td>Provide and equip Engineer’s offices</td>
<td>nr</td>
<td>2</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>113</td>
<td>Maintain Engineer’s offices for 24 months, including services</td>
<td>month</td>
<td>24</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>114</td>
<td>— etc. —</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>121</td>
<td>Provide diversion road</td>
<td>sum</td>
<td>item</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>122</td>
<td>Provide for traffic control and maintenance of diversion road</td>
<td>month</td>
<td>24</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>123</td>
<td>— etc. —</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>132</td>
<td>Provide for cleaning up the Site on completion</td>
<td>sum</td>
<td>item</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td></td>
<td>— etc. —</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Total for Bill No. 1**

(carried forward to Summary, p.)
Sample

Bill of Quantities

Bill No. 2: Earthworks

<table>
<thead>
<tr>
<th>Item no.</th>
<th>Description</th>
<th>Unit</th>
<th>Quantity</th>
<th>Rate</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>201</td>
<td>Excavate topsoil to maximum depth 25 cm and stockpile for reuse, maximum haul distance 1 km</td>
<td>m³</td>
<td>3</td>
<td>95,000</td>
<td></td>
</tr>
<tr>
<td>202</td>
<td>Excavate topsoil to maximum depth 25–50 cm, and dispose</td>
<td>m³</td>
<td>3</td>
<td>15,000</td>
<td></td>
</tr>
<tr>
<td>203</td>
<td>— etc. —</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>206</td>
<td>Excavate fill material from cuttings or approved borrow pits, haul up to 1 km, deposit, shape, and compact to fill</td>
<td>m³</td>
<td>3</td>
<td>258,000</td>
<td></td>
</tr>
<tr>
<td>207</td>
<td>Excavate rock in cuttings and dispose, any depth</td>
<td>m³</td>
<td>3</td>
<td>25,000</td>
<td></td>
</tr>
<tr>
<td>208</td>
<td>— etc. —</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total for Bill No. 2 (carried forward to Summary, p. ____)

116
### Sample

#### Bill of Quantities

**Bill No. 3: Culverts and Bridges**

<table>
<thead>
<tr>
<th>Item no.</th>
<th>Description</th>
<th>Unit</th>
<th>Quantity</th>
<th>Rate</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>301</td>
<td>Excavate in all materials other than rock from ground level to underside of foundations, maximum depth 5 m, and dispose</td>
<td>m³</td>
<td>18,500</td>
<td></td>
<td></td>
</tr>
<tr>
<td>302</td>
<td>Excavate in all materials other than rock, depth 5 m to 7.5 m</td>
<td>m³</td>
<td>2,500</td>
<td></td>
<td></td>
</tr>
<tr>
<td>303</td>
<td>Provisional Item As Item 302, depth 7.5 m to 10 m</td>
<td>m³</td>
<td>500</td>
<td></td>
<td></td>
</tr>
<tr>
<td>304</td>
<td>— etc. —</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>311</td>
<td>Concrete class B in abutments</td>
<td>m³</td>
<td>18,500</td>
<td></td>
<td></td>
</tr>
<tr>
<td>312</td>
<td>— etc. —</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>318</td>
<td>Mild steel reinforcement in abutments and piers up to 20 mm diameter</td>
<td>t</td>
<td>370</td>
<td></td>
<td></td>
</tr>
<tr>
<td>319</td>
<td>— etc. —</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Total for Bill No. 3**

(carried forward to Summary, p. 117)
C. Daywork Schedule

General

1. Reference should be made to Sub-Clause 52.4 of Part I of the Conditions of Contract. Work shall not be executed on a daywork basis except by written order of the Engineer. Bidders shall enter basic rates for daywork items in the Schedules, which rates shall apply to any quantity of daywork ordered by the Engineer. Nominal quantities have been indicated against each item of daywork, and the extended total for Daywork shall be carried forward as Bill No. .......... to the Summary Total Bid Amount [for items priced competitively]. Unless otherwise adjusted, payments for daywork shall be subject to price adjustment in accordance with the provisions in the Conditions of Contract.

Daywork Labor

2. In calculating payments due to the Contractor for the execution of daywork, the hours for labor will be reckoned from the time of arrival of the labor at the job site to execute the particular item of daywork to the time of return to the original place of departure, but excluding meal breaks and rest periods. Only the time of classes of labor directly doing work ordered by the Engineer and for which they are competent to perform will be measured. The time of gangers (charge hands) actually doing work with the gangs will also be measured but not the time of foremen or other supervisory personnel.

3. The Contractor shall be entitled to payment in respect of the total time that labor is employed on daywork, calculated at the basic rates entered by him in the Schedule of Daywork Rates: 1. Labor, together with an additional percentage payment on basic rates representing the Contractor’s profit, overheads, etc., as described below:

---

4 (i) A “Daywork Schedule” is commonly found in contracts where the likely incidence of unforeseen work cannot be covered by definitive descriptions and approximate quantities in the Bill of Quantities. The preferred alternative is to value the additional work in accordance with Sub-Clauses 52.1 and 52.2 of Part I of the Conditions of Contract. A Daywork Schedule normally has the disadvantage of not being competitive among bidders, who may therefore load the rates assigned to some or all the items. If a Daywork Schedule is to be included at all in the bidding documents, it is preferable to include nominal quantities against the items most likely to be used, and to carry the sum of the extended amounts forward into the Bid Summary in order to make the basic Schedule of Daywork Rates competitive.

(ii) The total amount assigned to such competitive daywork is normally 3–5 percent of the estimated base Contract Price and is regarded as a Provisional Sum for contingencies to be expended under the direction and at the discretion of the Engineer. A limitation on quantity should not apply, and the unit rate quoted should be invariable whatever quantities of work are ordered.

5 This method of indicating profit and overheads separately facilitates the addition of further items of daywork, if needed, the basic costs of which can then be checked more easily. An alternative is to make Daywork rates all-inclusive of the Contractor’s overhead and profit, etc., in which case this paragraph and the relevant Daywork Schedule should be modified accordingly.
(a) The basic rates for labor shall cover all direct costs to the Contractor, including (but not limited to) the amount of wages paid to such labor, transportation time, overtime, subsistence allowances, and any sums paid to or on behalf of such labor for social benefits in accordance with [country of Borrower] law. The basic rates will be payable in local currency only.

(b) The additional percentage payment to be quoted by the bidder and applied to costs incurred under (a) above shall be deemed to cover the Contractor’s profit, overheads, superintendence, liabilities, and insurances and allowances to labor, timekeeping, and clerical and office work, the use of consumable stores, water, lighting, and power; the use and repair of stagings, scaffolding, workshops, and stores, portable power tools, manual plant, and tools; supervision by the Contractor’s staff, foremen, and other supervisory personnel; and charges incidental to the foregoing. Payments under this item shall be made in the following currency proportions:

(i) foreign: ____ percent (to be stated by bidder).\(^6\)

(ii) local: _____ percent (to be stated by bidder).

Daywork Materials

4. The Contractor shall be entitled to payment in respect of materials used for daywork (except for materials for which the cost is included in the percentage addition to labor costs as detailed heretofore), at the basic rates entered by him in the Schedule of Daywork Rates: 2. Materials, together with an additional percentage payment on the basic rates to cover overhead charges and profit, as follows:

(a) The basic rates for materials shall be calculated on the basis of the invoiced price, freight, insurance, handling expenses, damage, losses, etc., and shall provide for delivery to store for stockpiling at the Site. The basic rates shall be stated in local currency, but payment will be made in the currency or currencies expended upon presentation of supporting documentation.

(b) The additional percentage payment shall be quoted by the bidder and applied to the equivalent local currency payments made under (a) above. Payments under this item will be made in the following currency proportions:

(i) foreign: ____ percent (to be stated by the bidder).\(^7\)

(ii) local: _____ percent (to be stated by the bidder).\(^6\)

\(^6\) The bidder shall state the percentage in a common foreign currency equivalent required for payment and the exchange rates and official sources used.

\(^7\) The bidder shall state the percentage in a single foreign currency equivalent and the exchange rates and official sources used.
(c) the cost of hauling materials for use on work ordered to be carried out as daywork from the store or stockpile on the Site to the place where it is to be used will be paid in accordance with the terms for Labor and Construction in this schedule.

**Daywork Contractor’s Equipment**

5. The Contractor shall be entitled to payments in respect of Contractor’s Equipment already on Site and employed on daywork at the basic rental rates entered by him in the **Schedule of Daywork Rates: 3. Contractor’s Equipment**. Said rates shall be deemed to include due and complete allowance for depreciation, interest, indemnity, and insurance, repairs, maintenance, supplies, fuel, lubricants, and other consumables, and all overhead, profit, and administrative costs related to the use of such equipment.\(^8\) The cost of drivers, operators, and assistants will be paid for separately as described under the section on Daywork Labor.\(^9\)

6. In calculating the payment due to the Contractor for Contractor’s Equipment employed on daywork, only the actual number of working hours will be eligible for payment, except that where applicable and agreed with the Engineer, the traveling time from the part of the Site where the Contractor’s Equipment was located when ordered by the Engineer to be employed on daywork and the time for return journey thereto shall be included for payment.

7. The basic rental rates for Contractor’s Equipment employed on daywork shall be stated in local currency, but payments to the Contractor will be made in currency proportions, as follows:

   (a) foreign: ____ percent (to be stated by the bidder).\(^{10}\)

   (b) local: ______ percent (to be stated by the bidder).\(^{59}\)

---

\(^8\) This is an example of wording to include overhead and profit, etc., in the daywork rates. A separate percentage addition could be used as for labor and materials.

\(^9\) An alternative, sometimes adopted for administrative convenience, is to include the cost of drivers, operators, and assistants in the basic rates for Contractor’s Equipment. The last sentence of paragraph 5 should then be modified accordingly.

\(^{10}\) The bidder shall state the percentage in a single foreign currency equivalent and the exchange rates and official sources used.
### Schedule of Daywork Rates: 1. Labor

<table>
<thead>
<tr>
<th>Item no.</th>
<th>Description</th>
<th>Unit</th>
<th>Nominal quantity</th>
<th>Rate</th>
<th>Extended amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>D100</td>
<td>Ganger</td>
<td>hour</td>
<td></td>
<td>500</td>
<td></td>
</tr>
<tr>
<td>D101</td>
<td>Laborer</td>
<td>hour</td>
<td></td>
<td>5,000</td>
<td></td>
</tr>
<tr>
<td>D102</td>
<td>Bricklayer</td>
<td>hour</td>
<td></td>
<td>500</td>
<td></td>
</tr>
<tr>
<td>D103</td>
<td>Mason</td>
<td>hour</td>
<td></td>
<td>500</td>
<td></td>
</tr>
<tr>
<td>D104</td>
<td>Carpenter</td>
<td>hour</td>
<td></td>
<td>500</td>
<td></td>
</tr>
<tr>
<td>D105</td>
<td>Steelwork Erector</td>
<td>hour</td>
<td></td>
<td>500</td>
<td></td>
</tr>
<tr>
<td>D106</td>
<td>—etc.—</td>
<td>hour</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>D113</td>
<td>Driver for vehicle up to 10 tons</td>
<td>hour</td>
<td></td>
<td>1,000</td>
<td></td>
</tr>
<tr>
<td>D114</td>
<td>Operator for excavator, dragline, shovel, or crane</td>
<td>hour</td>
<td></td>
<td>500</td>
<td></td>
</tr>
<tr>
<td>D115</td>
<td>Operator for tractor with dozer blade or ripper</td>
<td>hour</td>
<td></td>
<td>500</td>
<td></td>
</tr>
<tr>
<td>D116</td>
<td>—etc.—</td>
<td>hour</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Subtotal**

| D122     | Allow ___ percent\(^a\) of Subtotal for Contractor’s overhead, profit, etc., in accordance with paragraph 3 (b) above. |      |      |                 |

Total for Daywork: Labor ______
(carried forward to Daywork Summary, p. ___)

---

\(^a\) To be entered by the bidder.
## Sample Bill of Quantities

### Schedule of Daywork Rates: 2. Materials

<table>
<thead>
<tr>
<th>Item no.</th>
<th>Description</th>
<th>Unit</th>
<th>Nominal quantity</th>
<th>Rate</th>
<th>Extended amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>D201</td>
<td>Cement, ordinary Portland, or equivalent in bags</td>
<td>t</td>
<td>200</td>
<td></td>
<td></td>
</tr>
<tr>
<td>D202</td>
<td>Mild steel reinforcing bar up to 16 mm diameter to BS 4449 or equivalent</td>
<td>t</td>
<td>100</td>
<td></td>
<td></td>
</tr>
<tr>
<td>D203</td>
<td>Fine aggregate for concrete as specified in Clause ___</td>
<td>m³</td>
<td>1,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>D204</td>
<td>—etc.—</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>D222</td>
<td>Gelignite (Nobel Special Gelatine 60%, or equivalent) including caps, fuse, wire, and requisite accessories</td>
<td>t</td>
<td>10</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Subtotal**

D122 Allow ___ percent\(^a\) of Subtotal for Contractor’s overhead, profit, etc., in accordance with paragraph 3 (b) above.

Total for Daywork: Materials  _____
(carried forward to Daywork Summary, p. ___)

---

\(^a\) To be entered by the bidder.
**Sample Bill of Quantities**

**Schedule of Daywork Rates: 3. Contractor’s Equipment**

<table>
<thead>
<tr>
<th>Item no.</th>
<th>Description</th>
<th>Nominal quantity (hours)</th>
<th>Basic hourly rental rate</th>
<th>Extended amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>D301</td>
<td>Excavator, face shovel, or dragline:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>.1</td>
<td>Up to and including 1 m³</td>
<td></td>
<td>500</td>
<td></td>
</tr>
<tr>
<td>.2</td>
<td>Over 1 m³ to 2 m³</td>
<td></td>
<td>400</td>
<td></td>
</tr>
<tr>
<td>.3</td>
<td>Over 2 m³</td>
<td></td>
<td>100</td>
<td></td>
</tr>
<tr>
<td>D302</td>
<td>Tractor, including bull or angle dozer:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>.1</td>
<td>Up to and including 150 kW</td>
<td></td>
<td>500</td>
<td></td>
</tr>
<tr>
<td>.2</td>
<td>Over 150 kW to 200 kW</td>
<td></td>
<td>400</td>
<td></td>
</tr>
<tr>
<td>.3</td>
<td>Over 200 kW to 250 kW</td>
<td></td>
<td>200</td>
<td></td>
</tr>
<tr>
<td>D303</td>
<td>Tractor with ripper:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>.1</td>
<td>Up to and including 200 kW</td>
<td></td>
<td>400</td>
<td></td>
</tr>
<tr>
<td>.2</td>
<td>Over 200 kW to 250 kW</td>
<td></td>
<td>200</td>
<td></td>
</tr>
<tr>
<td>D304</td>
<td>etc.—</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total for Daywork: Contractor’s Equipment 123
(carried forward to Daywork Summary, p. ____)

123
## Sample

### Bill of Quantities

#### Daywork Summary

<table>
<thead>
<tr>
<th></th>
<th>Amount(^a)</th>
<th>% Foreign</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Total for Daywork: Labor</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Total for Daywork: Materials</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Total for Daywork: Contractor’s Equipment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total for Daywork (Provisional Sum) (carried forward to Bid Summary, p. _)</td>
<td>______</td>
<td>______</td>
</tr>
</tbody>
</table>

\(^a\) The Employer should insert local currency unit.
### Bill of Quantities

**Summary of Specified Provisional Sums**

<table>
<thead>
<tr>
<th>Bill no.</th>
<th>Item no.</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>2.8</td>
<td>Supply and install equipment in pumping station</td>
<td>1,250,000</td>
</tr>
<tr>
<td>4</td>
<td>4.32</td>
<td>Provide for ventilation system in subway tunnel</td>
<td>3,500,000</td>
</tr>
</tbody>
</table>

**Total for Specified Provisional Sums** 4,750,000

(carried forward to Grand Summary (B), p. ___)
## Sample Bill of Quantities

### Grand Summary

Contract Name:

Contract No.:

<table>
<thead>
<tr>
<th>General Summary</th>
<th>Page</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bill No. 1: Preliminary Items</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bill No. 2: Earthworks</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bill No. 3: Drainage Structures</td>
<td></td>
<td></td>
</tr>
<tr>
<td>— etc. —</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bill No. N – Total for Daywork (Provisional Sum)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subtotal of Bills</td>
<td>(A)</td>
<td></td>
</tr>
<tr>
<td>Specified Provisional Sums included in subtotal of bills</td>
<td>(B)</td>
<td>4,750,000b</td>
</tr>
<tr>
<td>Total of Bills Less Specified Provisional Sums (A - B)</td>
<td>(C)</td>
<td></td>
</tr>
<tr>
<td>Add Provisional Sum(^a) for Contingency Allowance</td>
<td>(D)</td>
<td>[sum](^b)</td>
</tr>
<tr>
<td>Bid Price (A + D) (Carried forward to Form of Bid)</td>
<td>(E)</td>
<td></td>
</tr>
</tbody>
</table>

---

a. All Provisional Sums are to be expended in whole or in part at the direction and discretion of the Engineer in accordance with Sub-Clause 52.4 and Clause 58 of Part I of the Conditions of Contract.

b. To be entered by the Employer.

c. Amounts priced competitively
2. SECTION IX. FORM OF AGREEMENT, LETTER OF ACCEPTANCE, FORMS OF PERFORMANCE SECURITY, BANK GUARANTEE FOR ADVANCE PAYMENT AND CONVERSION OF RETENTION MONEY
AGREEMENT

THIS AGREEMENT made the ____________ day of ______________________ 20 _____
between ___________________________ of ___________________________
(hereinafter called “the Employer”) of the one part and ___________________________
of ___________________________ (hereinafter called “the Contractor”) of the other part.

WHEREAS the Employer is desirous that certain Works should be executed by the
Contractor, viz., ___________________________, and has accepted a Bid by the Contractor
for the execution and completion of such Works and the remedying of any defects therein.

NOW THIS AGREEMENT WITNESSETH as follows:

1. In this Agreement, words and expressions shall have the same meanings as are
respectively assigned to them in the Conditions of Contract hereinafter referred to.

2. The following documents shall be deemed to form and be read and construed as part of
this Agreement, and the priority of the documents shall be as follows:

   (a) the Letter of Acceptance;
   (b) the said Bid and Appendix to Bid;
   (c) the Conditions of Contract (Part II);
   (d) the Conditions of Contract (Part I);
   (e) the Specifications;
   (f) the Drawings;
   (g) the Priced Bill of Quantities; and
   (h) other documents, as listed in the Appendix to Bid

3. In consideration of the payments to be made by the Employer to the Contractor as
hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and
complete the Works and remedy any defects therein in conformity in all respects with the
provisions of the Contract.

4. The Employer hereby covenants to pay the Contractor in consideration of the execution
and completion of the Works 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 hereto have caused this Agreement to be executed the day and year first before written.

The Common Seal of ______________________ was hereunto affixed in the presence of:
____________________________________ or ______________________________________

Signed, sealed, and delivered by the said _________________________________
in the presence of: _________________________________

Binding Signature of Employer _____________________________________________

Binding Signature of Contractor ___________________________________________
LETTER OF ACCEPTANCE
(letterhead paper of the Employer)

[date]

To: _________________________________________________________________________

[Name and address of the Contractor]

Dear Sirs,

1. This is to notify you that your Bid dated ____________ for execution of the ____________________________
   [Name of the contract and identification number, as given in the Instructions to Bidders] for the Contract Price of Rupees
   __________________________________ (_____________)[amount in words and figures], as corrected and modified in accordance with
   the Instructions to Bidders is hereby accepted by our Agency.

2. You are hereby requested to furnish Performance Security, plus additional security for unbalanced bids in terms of ITB clause 31.5,
   in the form detailed in Para 37 of ITB, for an amount of Rs.————— within 28 days of the receipt of this letter of acceptance,
   valid upto 28 days from the date of issue of taking over certificate as stated in Clause 10.2 of COPA i.e. upto ............ and sign the contract,
   failing which action as stated in Para 37.4 of ITB will be taken.

3. Please indicate the name of Dispute Review Board Members within 28 days of issue of this letter.

4. We note that as per bid, you do not intend to subcontract any component of work.

   [OR]

   We note that as per bid, you propose to employ M/s. .......................................... as sub-contractor for executing ......................

[Delete whichever is not applicable]

5. We have reviewed the work methods including environmental management plan submitted by you alongwith the bid in response to ITB
   Clause 5.3 read with Bidding Data and our comments are given in the attachment. You are requested to submit a revised Program including
   environmental management plan as per clause 14.1 of General Conditions of Contract within ..........days of receipt of this letter.

Yours faithfully,

Authorized Signature
Name and Title of Signatory
Name of Agency

---

1 Delete "corrected and" or "and modified" if only one of these actions applies. Delete "as corrected and modified in accordance with the Instructions to Bidders" if corrections or modifications have not been effected.
Samples of acceptable forms of performance security are annexed. Bidders should not complete the forms at this time. Only the successful bidder will be required to provide performance security in accordance with one of the samples, or in a similar form acceptable to the Employer.

**Annex A Form:**

**Alternative 1** Performance Bank Guarantee (Unconditional)

**Annex B Form:**

Bank Guarantee for Advance Payment

---

11. The Employer should select one or more of the alternatives indicated and include it (them) in the bidding documents prior to issue.

12. The Employer should omit annex B if no Advance Payment is to be provided.
Annex A Form: Alternative 1

Performance Bank Guarantee (Unconditional)\textsuperscript{13}

To: [name and address of Employer]

WHEREAS [name and address of Contractor\textsuperscript{*}} (hereinafter called “the Contractor”) has undertaken, in pursuance of Contract No. ____ dated ____ to execute [name of Contract and brief description of Works] (hereinafter called “the Contract.”);

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

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

NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Contractor, up to a total of [amount of Guarantee], [amount in words],\textsuperscript{14} 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 thereunder or of any of the Contract documents that may be made between you and the Contractor shall in any way release us from any

\textsuperscript{13} The unconditional (or “on-demand”) bank guarantee has the merit of simplicity and of being universally known and accepted by commercial banks. The contracting community, however, strongly objects to this type of security because the guarantee can be called (or threatened to be called) by Employers without justification. Employers should recognize the contractual conditions governing nonperformance by the Contractor and should normally act only on the advice of the Engineer in calling a performance guarantee. Any unjustified calling of a bank guarantee, or unreasonable pressure exercised by an Employer, would be regarded by IBRD as contrary to the spirit and basic principles of international procurement. This type of guarantee is called a “bond” in a number of countries; however, it should be distinguished from the U.S.-style “performance bond” as shown in Alternative 3.

\textsuperscript{14} An amount is to be inserted by the Guarantor, representing the percentage of the Contract Price specified in the Contract, and denominated either in the currency(ies) of the Contract or in a freely convertible currency acceptable to the Employer.

* In the case of JV, please state “a Joint Venture consisting of …………. and ………………” [Please state names of all Joint venture partners]
liability under this guarantee, and we hereby waive notice of any such change, addition, or modification.

This guarantee shall be valid until a date 28 days from the date of issue of the Taking-Over Certificate.

SIGNATURE AND SEAL OF THE GUARANTOR

__________________________________________

Name of Bank: ________________________________
Address: _____________________________________
Date: ________________________________
Annex B Form

Bank Guarantee for Advance Payment

To: [name and address of Employer]

[name of Contract]

Gentlemen:

In accordance with the provisions of the Conditions of Contract, Sub-Clause 60.7 (“Advance Payment”) of the above-mentioned Contract, [name and address of Contractor] (hereinafter called “the Contractor”) shall deposit with [name of Employer] a bank guarantee to guarantee his proper and faithful performance under the said Clause of the Contract in an amount of [amount of Guarantee], [amount in words].

We, the [bank or financial institution], as instructed by the Contractor, agree unconditionally and irrevocably to guarantee as primary obligator and not as Surety merely, the payment to [name of Employer] on his first demand without whatsoever right of objection on our part and without his first claim to the Contractor, in the amount not exceeding [amount of Guarantee], [amount in words], such amount to be reduced periodically by the amounts recovered by you from the proceeds of the Contract.

We further agree that no change or addition to or other modification of the terms of the Contract or of Works to be performed thereunder or of any of the Contract documents which may be made between [name of Employer] 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.

No drawing may be made by you under this guarantee until we have received notice in writing from you that an advance payment of the amount listed above has been paid to the Contractor pursuant to the Contract.

---

15 An amount is to be inserted by the bank representing the amount of the Advance Payment, denominated either in the currency(ies) of the Advance Payment as specified in the Contract or in a freely convertible currency acceptable to the Employer.
This guarantee shall remain valid and in full effect from the date of the advance payment under the Contract until [name of Employer] receives full repayment of the same amount from the Contractor.

Yours truly,

SIGNATURE AND SEAL:

Name of Bank or Financial Institution: ________________________________
Address: ________________________________
Date: ________________________________
Annex C Form

BANK GUARANTEE IN LIEU OF RETENTION MONEY

To: _____________________________________________ [name and address of Employer]

______________________________________________________ [address of the Employer]

WHEREAS ___________________________________________ [name and address of contractor] (hereinafter called the “Contractor”) has undertaken, in pursuance of Contract No. __________ dated ____________ to execute __________________ [name of Contract and brief description of Works] (herein after called the “Contract”);

AND WHEREAS IT HAS BEEN AGREED BY YOU IN THE SAID contract that the Contractor has option to replace the Retention Money with an unconditional Bank Guarantee, in installments of ______________ (indicate the value) from a Bank acceptable to you as security for compliance with contractor’s obligations in accordance with the contract (Sub-clause 60.5 of Conditions of Particular Application).

AND WHEREAS the Contractor has opted to replace the retention money with unconditional Bank Guarantee;

NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Contractor, up to a total of __________________________ [amount of Guarantee in figures], __________________________ [amount 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 thereunder or of any of the Contract documents which may be made between you and the Contractor shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

This guarantee shall be valid till the ‘Engineer’ certifies repayment of retention money in accordance with Sub-clause 60.6 of Conditions of Particular Application i.e., upto ………………

SIGNATURE AND SEAL OF THE GURANTOR

Name of the Bank: ______________________________________
Address: _____________________________________________
Date: ________________________________________________

# An amount is to be inserted by the Guarantor, representing the amount specified in the Contract, and denominated either in the currency(ies) of the Contract or in a freely convertible currency acceptable to the Employer.
Section X. Drawings

Notes for Preparing the Drawings

These Notes for Preparing the Drawings are intended only as information for the Employer or the persons preparing the bidding documents. They should not be included in the final documents.

It is customary to bind the drawings in a separate volume, which is often larger than other volumes of the Contract documents. The size will be dictated by the scale of the drawings, which must not be reduced to the extent that details are rendered illegible.

A simplified map showing the location of the Site in relation to the local geography, including major roads, posts, airports, and railroads, is helpful.

The construction drawings, even if not fully developed, must show sufficient details to enable bidders to understand the type and complexity of the work involved and to price the Bill of Quantities.
Please follow the attached sheets for

Section 12 - Post Qualification
Section 12 - Post Qualification

Form of Invitation for Bids (IFB)
(without Prequalification)
Form of Invitation for Bids (IFB)
(Without Prequalification)

Date: __________________
[of issue of invitation]

Employer Contract Identification No.: __________________
IBRD Loan No.: __________________
IBRD Loan Name: __________________

1. The ________ [name of Borrower] has received a loan [credit] from the International Bank for Reconstruction and Development [International Development Association] in various currencies towards the cost of ____________________________________________________ [name of the project], and it is intended that part of the proceeds of this loan will be applied to eligible payments under the contract for ________________________ [name and identification number of Contract]. Bidding is open to all bidders from eligible source countries as defined in the Guidelines: Procurement under IBRD Loans and IDA Credits.

2. The __________________________ [name of the Employer and statement of its relationship to the Borrower, if different from the Borrower] now invites sealed bids from eligible bidders for the construction and completion of ____________________________________________ [brief description of the Works and statement of the Principal quantities involved].

3. Bidders may obtain further information from, and inspect and acquire the bidding documents, at the office of the Employer at ____________________________________________

---

47 Substitute “has applied for,” of appropriate.
48 Substitute “credit” for “loan” and “IDA” for “IBRD”, where appropriate
49 Substitute “contracts” where bids are called concurrently for several contracts on a “slice and package” basis; add a new para. 2; and renumber paras. 2-5
50 The borrower and the Employer may be the same or different entities. The text of the Invitation for Bids should indicate the agency which will act as the Employer.
4. A complete set of bidding documents may be purchased by interested bidders at the above office upon payment of a nonrefundable fee of [insert amount and currency].

5. All bids must be accompanied by a security of [amount in the currency of the Employer’s country], or an equivalent amount in a freely convertible currency, and must be delivered to [address and exact location] at or before [time and date]. Bids will be opened promptly thereafter in the presence of bidders’ representatives who choose to attend.

The office for inquiries and issue of bidding documents and that for Bid Submission may or may not be the same.

The fee chargeable should only be nominal to cover reproduction and mailing costs and to ensure that only bonafide bidders will apply for bidding documents. An amount of between US$ 50 and US$ 500 equivalent is considered appropriate, depending on the size and complexity of the Works and the bidding documents.

Insert the amount indicated in Sub-clause 17.1 of Section I, Instruction to Bidders, “Bid Security”

Coordinate with clause 25 of Section 1, Instructions to Bidders, “Bid Opening.”

3. Statement of Qualification
In the event of postqualification being required, bidders should be required to complete all the forms and tables of and provide all the information required by the Standard Prequalification Documents: Procurement of Works, last edition. The Employer must, in that case, provide the qualification criteria as indicated therein, such approach requires modification of Clause 5 of the Instructions to Bidders and prior approval by the Bank. This information will not be incorporated in the Contract.

Qualification of the Bidder

Alternative A to Section 1A, Instructions to Bidders:
To be used where prequalification has not taken place.

Note: Necessary Proforma to be prescribed and attached by the World Bank.

3. Eligible Bidders

5. Quantification of the Bidder

To be qualified for award of the Contract, bidders shall provide evidence satisfactory to the Employer of their capability and adequacy of resources to carry out the Contract effectively. Bids shall include the following information:

(a) copies of original documents defining the constitution or legal status, place of registration and principal place of business; written power of attorney of the signatory of the Bid to commit the Bidder;

(b) total annual turnover expressed as total volume of construction work performed in each of the last five years;

(c) performance as prime contractor on works of a similar nature and volume over the last five years, and details of other work in hand and contractual commitments;

(d) major items of Contractor’s Equipment proposed for carrying out the Contract;

(e) the qualifications and experience of key personnel proposed for administration and execution of the Contract; both on and off site;

(f) any proposals for subcontracting elements of the Works such that the total of subcontracting is more than 20 percent of the Bid Price;

(g) reports on the financial standing of the Bidder including profit and loss statements, balance sheets and auditor’s reports for the past five years, and an estimated financial
projection for the next two years;

(h) evidence of access to lines of credit, and availability of other financial resources;

(i) authority to seek references from the Bidder’s bankers;

(j) information regarding any litigation or arbitration resulting from contracts executed by the Bidder in the last five years or currently under execution. The information shall include the names of the parties concerned, the disputed amount, cause of litigation, and matter in dispute; and

(k) proposal of work methods and program, in sufficient detail to demonstrate the adequacy of the Bidder’s proposals to meet the technical specifications and the completion time referred to in Sub-Clause 1.2 above.;

5.2 Bids submitted by a joint venture of two or more firms as partners shall comply with the following requirements:

(a) the Bid shall include all the information listed in Paragraphs 5.1 (a) through (e), and (g) through (j) above for each joint venture partner and Paragraphs 5.1 (f) and (k) for the joint venture;

(b) the Bid, and in case of a successful Bid, the Form of Agreement, shall be signed so as to be legally binding on all partners;

(c) one of the partners shall be nominated as being in charge, and this authorization shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all the partners;

(d) the partner in charge shall be authorized to incur liabilities and receive instructions for and on behalf of any and all partners of the joint venture, and the entire execution of the Contract, including payment, shall be done exclusively with the partner in charge;

(e) all partners of the joint venture shall be liable jointly and severally for the execution of the Contract in accordance with the Contract terms, and a statement to this effect shall be included in the authorization mentioned under (c) above, as well as in the Form of Bid and in the Form of Agreement (in case of a successful Bid); and;

(f) a copy of the Joint Venture Agreement entered into by the partners shall be submitted with the bid. Alternatively, a Letter of Intent to execute a Joint Venture Agreement in the event of a successful bid shall be signed by all partners
and submitted with the bid, together with a copy of the proposed Agreement.

5.3 For the purposes of this particular Contract, bidders shall meet the following minimum qualifying criteria:

(a) annual turnover in construction work during the last five years of [insert figure in international trading currency] equivalent;

(b) successful experience as prime contractor, management contractor, partner in a joint venture, or subcontractor, in the execution of at least one project of a nature and complexity comparable to the Works within the last five years; this experience should include ______________;

(c) proposals for timely acquisition (own, lease, hire, etc.) of the following essential Contractor’s Equipment:

____________________________________________
____________________________________________
____________________________________________

(d) a project manager with 10 years’ experience in works of a comparable nature and complexity, including not less than five years as manager;

(e) liquid assets and/or evidence of access to or availability of credit facilities of no less than ______________ [insert figure in international trading currency] equivalent; and
For projects which are bid in separate contracts, on a “slice and package” basis, insert a new Sub-Clause 5.3 (f):

(f) For the Bidder (either individually or as JV) to qualify for a package of contracts made up of this and other contracts, he must demonstrate having experience and resources sufficient to meet the aggregate of the qualifying criteria for the individual contracts which make up the package in question.

55 Delete from or add to the list as appropriate

56 Usually not less than 2 times the estimated annual payments under the Contract.

57 Indicate an annual production rate for the key construction activity (or activities) in this project, e.g., “One million m³ of rock placed in rockfill dams in one year” The annual rate shown should be a percentage (say 80 percent) of the expected peak rate of construction for the key activity (or activities) in the Works.

58 Add requirements for the other key personnel as necessary.

59 Usually the equivalent of the estimated cash flow over a number of months at the average (straight line distribution) construction rate, accessible or available after taking into account the financial requirements of existing commitments. The number of months is determined as the total time needed by the Employer to pay an invoice, allowing time to prepare the invoice, for the Engineer’s time to certify it, and a one month contingency. The total period should not exceed six months.

5.4 The figures for each of the partners of a Joint Venture shall be added together to determine the bidder’s compliance with the minimum qualifying criteria set out in Sub-Clause 5.3 above.

60 These conditions apply to joint ventures formed by enterprises with similar specialization, for contracts of a homogeneous nature. For contracts which involve different or highly specialized disciplines, and for very large contracts, the conditions may be modified.

5.5 Domestic bidders and joint ventures of domestic bidders applying for eligibility for a 7 ½ percent margin of preference in Bid evaluation shall supply all information required to satisfy the criteria for eligibility as described in clause 32 of these Instruction to Bidders.
61 Delete Sub-clause 5.5 where not applicable (See Clause 32)

5.6 The qualifications, capacity and resources of proposed subcontractors will not be taken into account in assessing those of individual or joint venture bidders, unless they are named specialist subcontractors and the scope of their participation in the works is clearly identified in the bid.

End of Clause 5 – Alternative A
Section 13.

(Covered Under Clause 67 of Conditions of Particular Application)
SECTION - IX

Eligibility for the Provision of Goods, Works and Services in Bank-Financed Procurement.

As of May 2000

For the information of Borrowers and Bidders, and with reference to paragraph 1.6, footnote 9, of the Guidelines: Procurement under IBRD Loans and IDA Credits, dated January 1995 (revised January and August 1996 and September 1997, and January 1999), set forth below is a list of countries from which Bidders, Goods and Services are not eligible to participate in procurement financed by the World Bank or IDA.

- Andorra
- Cuba
- Democratic People’s Republic of Korea (North Korea)
- Liechtenstein
- Monaco
- Nauru
- San Marino
- Tuvalu

In addition, Bidders, Goods and Services from other countries or territories may be declared ineligible by a provision in the Bidding. Documents if the borrower’s country has excluded them by a law, an official regulation, or an act of compliance meeting the requirements of paragraph 1.8 (a) of the Guidelines: Procurement under IBRD Loans and IDA Credits.

The Loan/Credit Agreement also prohibits a withdrawal from the Loan / Credit Account for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the Bank, is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations. At the present time, this prohibition applies to

- Iraq

Notes:
2. Any questions regarding this list should be addressed to the Senior Manager, Procurement Policy and Services Group, Operational Core Services Network, The World Bank