**ANENXURE-A**

**1. PROFORMA BANK GUARANTEE FOR CONTRACT PERFORMANCE**

(To be stamped in accordance with Stamp Act)

The non-judicial stamp paper should be in the name of issuing bank

Bank Guarantee No. …………………… Date...................

NOA/Contract No.....................................

*…………..[Name of Independent Engineer]…………………….*

To: *[Name and address of the Employer]*

Dear Ladies and/or Gentlemen,

We refer to the Contract ("the Contract")

signed on ..............*(insert date of the Contract)…*..... between you and M/s ................. *(Name of Independent Engineer)* ..................,

**(or)**

vide notification of award issued on *............ (insert date of the notification of award)….*by you to M/s ................. *(Name of Independent Engineer)* ..................,

having its Principal place of business at ………....*(Address of Independent Engineer)* ............................... and Registered Office at ………....*(Registered address of Independent Engineer)* ........................................................................................ ("**the Independent Engineer**") concerning …….................….. *(Indicate brief scope of work)* ............................... for the complete execution of the …….… *(insert name of Package alongwith name of the Project)……*.. *[Applicable for Bank Guarantees issued by Consultant for those Contracts awarded to them]*

By this letter we, the undersigned, ………*(insert name & address of the issuing bank)* ………, a Bank (which expression shall include its successors, administrators, executors and assigns) organized under the laws of .................................... and having its Registered/Head Office at …..…….*(insert address of registered office of the bank)*……..... do hereby irrevocably guarantee payment to you up to ………………………….. i.e., three percent (3%) of the Contract Price until ninety (90) days beyond scheduled date of final acceptance of work i.e., upto and inclusive of ……………. *(dd/mm/yy)*.

We undertake to make payment under this Letter of Guarantee upon receipt by us of your first written demand signed by your duly authorized officer declaring the *Independent Engineer* to be in default under the Contract and without cavil or argument any sum or sums within the above-named limits, without your need to prove or show grounds or reasons for your demand and without the right of the *Independent Engineer* to dispute or question such demand.

Our liability under this Letter of Guarantee shall be to pay to you whichever is the lesser of the sum so requested or the amount then guaranteed hereunder in respect of any demand duly made hereunder prior to expiry of the Letter of Guarantee, without being entitled to inquire whether or not this payment is lawfully demanded.

This letter of Guarantee shall remain in full force and shall be valid from the date of issue until ninety (90) days beyond scheduled date of final acceptance of work i.e. upto and inclusive of ……………. *(dd/mm/yy)* and shall be extended from time to time for such period (not exceeding one year), as may be desired by M/s. ……………………… on whose behalf this Letter of Guarantee has been given.

Except for the documents herein specified, no other documents or other action shall be required, notwithstanding any applicable law or regulation.

Our liability under this Letter of Guarantee shall become null and void immediately upon its expiry, whether it is returned or not, and no claim may be made hereunder after such expiry or after the aggregate of the sums paid by us to you shall equal the sums guaranteed hereunder, whichever is the earlier.

All notices to be given under shall be given by registered (airmail) posts to the addressee at the address herein set out or as otherwise advised by and between the parties hereto.

We hereby agree that any part of the Contract may be amended, renewed, extended, modified, compromised, released or discharged by mutual agreement between you and the *Independent Engineer*, and this security may be exchanged or surrendered without in any way impairing or affecting our liabilities hereunder without notices to us and without the necessity for any additional endorsement, consent or guarantee by us, provided, however, that the sum guaranteed shall not be increased or decreased.

No action, event or condition which by any applicable law should operate to discharge us from liability hereunder shall have any effect and we hereby waive any right we may have to apply such law so that in all respects our liability hereunder shall be irrevocable and, except as stated herein, unconditional in all respects.

“Notwithstanding anything contained herein:

1. Our liability under this Bank Guarantee shall not exceed \_\_\_\_\_\_\_\_\_ (*value in figures*)\_\_\_\_\_\_\_\_\_\_\_\_ [\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*value in words*)\_\_\_\_\_\_\_\_\_\_\_\_].

2. This Bank Guarantee shall be valid upto *\_\_\_\_\_\_\_\_(validity date)\_\_\_\_\_\_\_\_\_\_.*

3. We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only & only if we receive a written claim or demand on or before \_\_\_\_\_\_\_\_ (*validity date*) \_\_\_\_\_\_\_\_\_\_.”

For and on behalf of the Bank

[*Signature of the authorised signatory(ies)*]

Signature\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Designation\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

POA Number\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Contact Number(s): Tel.\_\_\_\_\_\_\_\_\_\_\_\_\_\_Mobile\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Fax Number\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

email \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Common Seal of the Bank\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Witness:

Signature\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Contact Number(s): Tel.\_\_\_\_\_\_\_\_\_\_\_\_\_\_Mobile\_\_\_\_\_\_\_\_\_\_\_\_\_\_

email \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Note :

1. For the purpose of executing the Bank Guarantee, the non-judicial stamp papers of appropriate value shall be purchased in the name of Bank who issues the ‘Bank Guarantee’.

2. The Bank Guarantee shall be signed on all the pages by the Bank Authorities indicating their POA nos. and should invariably be witnessed.

3. The Bank Guarantee should be in accordance with the proforma as provided. However, in case the issuing bank insists for additional paragraph regarding applicability of ICC Publication No. 758, the following may be added at the end of the proforma of the Bank Guarantee [*i.e., end paragraph of the Bank Guarantee preceding the signature(s) of the issuing authority(ies) of the Bank Guarantee*]:

Quote

*This guarantee is subjected to uniform Rules for Demand Guarantee, ICC publication No. 758.*

Unquote

1. **At the time of issuance of the Bank Guarantee (including its extensions) through SFMS facility, the issuing bank will input the IFSC code of Beneficiary Bank as mentioned at clause 12.1.4 Section-III, conditions of contract in their Trade Finance Portal.**

**Additional paragraph regarding issuance of the Bank Guarantee through SFMS Platform (if applicable), the following should be added at the end of the proforma of the Bank Guarantee [*i.e., end paragraph of the Bank Guarantee preceding the signature(s) of the issuing authority(ies) of the Bank Guarantee*]:**

**“This Guarantee has been issued using SFMS Platform and the requisite communication in this regard has been forwarded to the Beneficiary Bank.”**

**ANNEXURE-B**

2. Notification of Award

*[on letterhead paper of the Employer]*

Ref. No. : Date :

............*(insert Independent Engineer’s Name & Address)*...........

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

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

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

Attn : Mr......................................

Sub. : Notification of Award for ……….. *(insert name of the Package)* ………. Specification No.: …………………..

Open Tender Invitation. (Project Funding: Domestic).

Dear Sir,

1.0 REFERENCE

This has reference to the following:

1.1 Request for Proposal ref.:…… dated:…………….

1.2 for the subject package were made available for inspection & downloading on MSTCL portal *https://www.mstcecommerce.com/eproc/*. The Bidding documents downloaded by you for the subject package comprising the following:

a) Section-I : Request for Proposals

b) Section-II : Terms of Reference (ToR);

c) Section-III : Conditions of Contract;

d) Section-IV : Special Conditions of Contract

e) Section-IV : Proposal Form (Technical & Financial),

Attachments & Schedules

1.2.1 Amendment/Errata No. …… to RfP Documents issued to you through e-procurement portal [*https://www.mstcecommerce.com/eproc/*](https://www.mstcecommerce.com/eproc/) .

*(Applicable only if any Errata/Amendment to the RfP Documents has been issued subsequently)*

1.2.2 Clarifications to the RfP Documents, pursuant to pre-bid meeting held on …………., issued to you through e-procurement portal *https://www.mstcecommerce.com/eproc/ (Use as applicable)*

*(Applicable only if any clarification to the RfP Documents has been issued subsequently)*

*(INCLUDE AS FURTHER SUB-PARAGRAPHS ANY OTHER CORRESPONDENCE MADE TO THE CONSULTANT AFTER ISSUANCE OF RfP DOCUMENTS UP TO PROPOSALOPENING)*

1.3 First envelope of your Proposal submitted for the subject package under Proposal reference no. ………….. dated ……………………. was opened on ………………. *(Use as applicable)*

1.4 Intimation for Opening of Second Envelope issued to you vide our letter no. …………. dated ……………

1.5 Second Envelope of your Proposal under proposal reference no. ……………. dated ………… was opened on………………. *(Use as applicable)*

1.6 Post bid discussions we had with you on various dates from ……………. to ……………. resulting into the Minutes of Meeting/ Record Notes of Post Bid Discussions enclosed as APPENDIX (NOA)-1with this Notification of Award*.(If applicable)*

2.0 **AWARD OF CONTRACT AND ITS SCOPE**

2.1 We confirm having accepted your Proposal (referred to at para 1.3 & 1.5 above) read in conjunction with all the specifications, terms & conditions of the RfP Documents (referred to at para 1.2, 1.2.1 &1.2.2 *[modify as applicable]* above) and specific confirmations recorded in the Record Notes of Post Bid Discussions (referred to at para 1.6 above), and award on you the Contract for …… *(insert name of Package alongwith name of the Project)* …….. The scope of work inter-alia includes...........……. *(Indicate brief Scope of Work)* ........................ as detailed in the documents referred hereinabove.

The scope of work under this Notification of Award (NOA) shall also include all such items which are not specifically mentioned in the RfP Documents and/or your Proposal but are necessary for the successful completion of your scope under the Contract for …… *(insert name of Package alongwith name of the Project)* ……., unless otherwise specifically excluded in the RfP Documents or in this NOA.

3.0 **CONTRACT PRICE**

3.1 The total Contract Price for the entire scope of work under this Contract shall be ………….. *(Specify the currency and the amount in figures & words)* …………. as per the following break‑up:

| **Sl. No.** | **Item Description** | **Amount (Rs.)** |
| --- | --- | --- |
| 1.1 |  |  |
| 1.2 |  |
| 1.3 |  |
|  | **Total Contract Price** |

3.2 Notwithstanding the break-up of the Contract Price, the Contract shall, at all times, be construed as a single source responsibility Contract and any breach in any part of the Contract shall be treated as a breach of the entire Contract.

4.0 You are required to furnish at the earliest a Performance Security(ies), as per the RfP Documents, for an amount of …… *(Specify the value)* ………… i.e. equal to 03% (Three percent) of the Contract Price, and valid upto and including ………………….. and any other securities as per the RfP Documents.

*(In case any other performance security is required to be furnished, the same is to be mentioned here)*

5.0 All the bank guarantees shall be furnished from an eligible bank as described in the RfP Documents.

6.0 The schedule for Completion of entire scope of works covered under …… *(insert name of Package along with name of the Project)* …. shall be … *(indicate the completion schedule)* …. months from the date of issue of this Notification of Award for all contractual purposes.

7.0 This Notification of Award constitutes formation of the Contract and comes into force with effect from the date of issuance of this Notification of Award.

8.0 You shall enter into a Contract Agreement with us within Ten days (10) days from the date of this Notification of Award.

9.0 This Notification of Award is being issued to you in duplicate. We request you to return its duplicate copy duly signed and stamped on each page including the enclosed Appendix as a token of your acknowledgement.

Please take the necessary action to commence the work and confirm action.

Yours faithfully,

For and on behalf of

*.................(Name of the Employer) ............*

*(Authorised Signatory)*

Enclosures:

APPENDIX (NOA) – 1 ‑ Record Notes of Post - Bid Discussions held on various dates from …………. to ………………….

ANNEXURE-C

3. Contract Agreement

CONTRACT AGREEMENT BETWEEN .................*(Name of Employer)* ............... AND M/s. ................... *(Name of Independent Engineer)* ...............

THIS CONTRACT AGREEMENT No. ………………… (also referred to as ‘Contract’) is made on the …. day of …………… 20….

BETWEEN

(1) ......................*(Name of Employer)* .................... a company incorporated under the laws of Companies Act 2013 or 1956 and having its Registered Office at ……… *(registered address of the Employer)* ………………… and its Corporate Office at ………… *(address of the Employer)* ….………… (hereinafter called "the Employer" and also referred to as “…. *(insert abbreviated name of the Employer)* …….”)

and

(2) M/s .............*(Name of Independent Engineer)* ............, a company incorporated under the laws of Companies Act 2013 or 1956 and having its Principal place of business at ……….... *(Address of Independent Engineer)* ............................... and Registered Office at ……….... *(Registered address of Independent Engineer)* ............... (hereinafter called "Independent Engineer” and also referred to as “…. *(insert abbreviated name of the Independent Engineer)* …….”).

WHEREAS the Employer desires to engage the *Independent Engineer* for …….................….. *(Indicate brief scope of work)* ............................... for the complete execution of the …… *(insert name of Package along with name of the Project) ……*. as detailed in the Contract Document, and the *Independent Engineer* has agreed to such engagement upon and subject to the terms and conditions hereinafter appearing.

NOW IT IS HEREBY AGREED as follows:

Article 1. Contract Documents

1.1 Contract Documents

The following documents shall constitute the Contract between the Employer and the *Independent Engineer*, and each shall be read and construed as an integral part of the Contract:

VOLUME – A

1. This Contract Agreement and the Appendices thereto.

2. Notification of Award Ref. No. …………..……………. dated ……………..

VOLUME – B

3. “RfP Documents” comprising of the following:

a) Section-I: Request for Proposals

b) Section-II: Terms of Reference (ToR);

c) Section-III: Conditions of Contract;

d) Section-IV : Special Conditions of Contract

e) Section-V: Proposal Form (Technical & Financial), Attachments & Schedules

read in conjunction with Amendments …. to …… to the RfP Documents.

VOLUME – C

4. Proposal Submitted by the *Independent Engineer*.

(Only relevant extracts are attached herewith for easy reference. Should the circumstances warrant, the original Proposal along with the enclosures thereof, shall be referred to.).

1.2 Order of Precedence

In the event of any ambiguity or conflict between the Contract Documents listed above, the order of precedence shall be the order in which the Contract Documents are listed in Article 1.1 (Contract Documents) above.

1.3 Definitions (Reference Conditions of Contract Clause 1.0.0)

1.3.1 Capitalized words and phrases used herein shall have the same meanings as are ascribed to them in the Conditions of Contract.

### Article 2. Contract Price and Terms of Payment

2.1 Contract Price

The Employer hereby agrees to pay to the Independent Engineer the Contract Price in consideration of the performance by the Independent Engineer of its obligations hereunder. The Contract Price shall be the aggregate of .……. *(amount in words)* ................. (...............*(amount in figures)* ….. ........), or such other sums as may be determined in accordance with the terms and conditions of the Contract. The break-up of the Contract price is as under:

| **Sl. No.** | **Item Description** | **Amount (Rs.)** |
| --- | --- | --- |
| 1.1 |  |  |
| 1.2 |  |
| 1.3 |  |
| 1.4 |  |
| 1.5 |  |
| 1.6 |  |
|  | **Total Contract Price** |

The detailed break-up of Contract Price is given in the relevant Appendices hereto.

2.2 Terms of Payment (Reference Conditions of Contract Clause 13.0.0)

The terms and procedures of payment according to which the Employer will reimburse the *Independent Engineer* are given in Appendix 1 (Terms and Procedures of Payment) hereto.

### Article 3. Effective Date for Determining Time for Completion

3.1 Effective Date (Reference Conditions of Contract Clause 1.1.8)

The Time of Completion of entire scope of work shall be determined from the date of the Notification of Award i.e., from …………………

### Article 4. Appendices

The Appendices listed in the List of Appendices, as mentioned below, shall be deemed to form an integral part of this Contract Agreement.

Reference in the Contract to any Appendix shall mean the Appendices attached hereto, and the Contract shall be read and construed accordingly.

List of Appendices

Appendix 1 Terms and Procedures of Payment

Appendix 2 Detail of Price Break-up for Services for complete scope of the work as per ToR

Appendix 3 Price Adjustment

Appendix 4 Time Schedule

Appendix 5 Detail of Key Personnel to be appointed by Consultant

Appendix 6 Contract Co-ordination Procedure

IN WITNESS WHEREOF the Employer and the *Consultant* have caused this Agreement to be duly executed by their duly authorized representatives the day and year first above written.

|  |  |
| --- | --- |
| Signed by for and  on behalf of the Employer  ........................................  Signature  ..............................................  Title  in the presence of | Signed by for and  on behalf of the Independent Engineer  ........................................  Signature  ..............................................  Title  in the presence of |

**Appendix-1 to Contract Agreement**

**TERMS AND PROCEDURES OF PAYMENT**

[This Appendix should be made in accordance with the provisions of Conditions of Contract Clause 41.0 and 42.0, after suitable modifications in line with the Minutes of Meeting on Post Bid Discussions (if any)]

**Appendix-2 to Contract Agreement**

**Detail of Price Break-up for Services for complete scope of the work as per ToR**

(This shall be suitably prepared & included here.)

**Appendix-3 to Contract Agreement**

**PRICE ADJUSTMENT**

The Contract price shall remain **FIRM** and **FIXED** and shall not be subject to Price adjustment for the entire duration of the Contract, in accordance with the provisions of the RfP documents.

**Appendix-4 to Contract Agreement**

**TIME SCHEDULE**

## (This shall be suitably prepared & included here.)

In accordance with Conditions of Contract Clause 39.0, the Time Schedule for carrying out the consultancy assignment, should be as mentioned in the scope of work (ToR).

Penalty for Delay in services for entire or part of Scope of work and its Acceptance by the Employer, at rates specified in Conditions of Contract Clause 46.0 shall be applicable beyond the date specified thereof.

Time for Completion is the essence of Contract

**Appendix-5 to Contract Agreement**

**Detail of Key Personnel to be appointed by Consultant**

(This shall be suitably prepared & included here.)

**Appendix-6 to Contract Agreement**

## Contract Coordination Procedure

## (This shall be suitably prepared & included here.)