

**Bangladesh Agricultural University  
Mymensingh**

**T E N D E R   D O C U M E N T (NATIONAL)  
FOR THE PROCUREMENT OF FLAT**

**Invitation for Tender No:** No.BAU/P&D/Committee/215/2013-14/586  
**Issued on:** 21/04/2016

## **Table of Contents**

Section 1.	Instructions to Tenderers	3-21
Section 2.	Tender Data Sheet	22-23
Section 3.	General Conditions of Contract	24-48
Section 4.	Particular Conditions of Contract	49-50
Section 5.	Tender and Contract Forms	51-64
Section 6.	Bill of Quantities	65
Section 7.	General Specifications	65

## **Section 1. Instructions to Tenderers**

### **A. General**

- 1. Scope of Tender**
  - 1.1 The Procuring Entity, as indicated in the Tender Data Sheet (**TDS**) issues this Tender Document for the procurement of Works and physical services incidental thereto as specified in the **TDS** and as detailed in **Section 6: Bill of Quantities**. The name of the Tender and the number and identification of its constituent lot(s) are stated in the **TDS**.
  - 1.2 The successful Tenderer shall be required to execute the Works and physical services as specified in the General Conditions of Contract
- 2. Interpretation**
  - 2.1 Throughout this Tender Document:
    - (a) the term “in writing” means communication written by hand or machine duly signed and includes properly authenticated messages by facsimile or electronic mail;
    - (b) if the context so requires, singular means plural and vice versa;
    - (c) “day” means calendar days unless otherwise specified as working days;
    - (d) “Person” means and includes an individual, body of individuals, sole proprietorship, partnership, company, association or cooperative society that wishes to participate in Procurement proceedings;
    - (e) “Tenderer” means a Person who submits a Tender;
    - (f) “Tender Document” means the Document provided by a Procuring Entity to a Tenderer as a basis for preparation of the Tender; and
    - (g) “Tender” depending on the context, means a Tender submitted by a Tenderer for execution of Works and physical services to a Procuring Entity in response to an Invitation for Tender.
- 3. Source of Funds**
  - 3.1 The Procuring Entity has been allocated public funds as indicated in the **TDS** and intends to apply a portion of the funds to eligible payments under the Contract for which this Tender Document is issued.
  - 3.2 For the purpose of this provision, “public funds” means any monetary resources appropriated to the Procuring Entity under Government budget, or loan, grants and credits placed at the disposal of the Procuring Entity through the Government by the development partners or foreign states or organisations.
  - 3.3 Payments by the development partner, if so indicated in the **TDS**, will be made only at the request of the Government and upon approval by the development partner or foreign state or Organisation in accordance with the applicable Loan/Credit/ Grant Agreement, and will be subject in all respects to the terms and conditions of that Agreement.
- 4. Corrupt, Fraudulent, Collusive or Coercive Practices**
  - 4.1 The Government requires that the Procuring Entity as well as the Tenderers shall observe the highest standard of ethics during implementation of procurement proceedings and the execution of Contracts under public funds.
  - 4.2 For the purposes of ITT Sub Clause 4.3, the terms set forth below as follows:
    - (a) “corrupt practice” means offering, giving or promising to give, receiving, or soliciting either directly or indirectly, to any officer or employee of the Procuring Entity or other public or private authority or individual, a gratuity in any form; employment or any other thing or service of value as an inducement with respect to an act or decision or method followed by the Procuring Entity in connection with a Procurement proceeding or Contract execution;
    - (b) “fraudulent practice” means the misrepresentation or omission of facts in order to influence a decision to be taken in a Procurement proceeding or Contract execution;

- (c) “collusive practice” means a scheme or arrangement between two (2) or more Persons, with or without the knowledge of the Procuring Entity, that is designed to arbitrarily reduce the number of Tenders submitted or fix Tender prices at artificial, non-competitive levels, thereby denying the Procuring Entity the benefits of competitive price arising from genuine and open competition;
- (d) “coercive practice” means harming or threatening to harm, directly or indirectly, Persons or their property to influence a decision to be taken in the Procurement proceeding or the execution of a Contract, and this will include creating obstructions in the normal submission process used for Tenders.

4.3 Should any corrupt, fraudulent, collusive or coercive practice of any kind come to the knowledge of the Procuring Entity, it will, in the first place, allow the Tenderer to provide an explanation and shall, take actions only when a satisfactory explanation is not received. Such exclusion and the reasons thereof, shall be recorded in the record of the procurement proceedings and promptly communicated to the Tenderer concerned. Any communications between the Tenderer and the Procuring Entity related to matters of alleged corrupt, fraudulent, collusive or coercive practices shall be in writing.

4.4 If corrupt, fraudulent, collusive or coercive practices of any kind is determined by the Procuring Entity against any Tenderer or Contractor in competing for, or in executing, a contract under public fund, the Procuring Entity shall :

- (a) exclude the concerned Tenderer from further participation in the concerned procurement proceedings;
- (b) reject any recommendation for award that had been proposed for that concerned Tenderer; and
- (c) declare, at its discretion, the concerned Tenderer to be ineligible to participate in further Procurement proceedings, either indefinitely or for a specific period of time.

4.5 Tenderers shall be aware of the provisions on corruption, fraudulence, collusion and coercion in Section 64 of the Public Procurement Act, 2006 and Rule 127 of the Public Procurement Rules, 2008 and others as stated in GCC Clause 38.

## 5. Eligible Tenderers

5.1 This Invitation for Tenders is open to all potential Tenderers from all countries, except for any specified in the **TDS**.

5.2 Tenderers shall have the legal capacity to enter into the Contract under the Applicable law.

5.3 Tenderers shall be enrolled in the relevant professional or trade organisations registered in Bangladesh.

5.4 Tenderers may be a physical or juridical individual or body of individuals, or company, association or any combination of them in the form of a Joint Venture (JV) invited to take part in public procurement or seeking to be so invited or submitting a Tender in response to an Invitation for Tenders.

5.5 Tenderers shall have fulfilled its obligations to pay taxes and social security contributions under the provisions of laws and regulations of the country of its origin.

5.6 Tenderers should not be associated, or have been associated in the past, directly or indirectly, with a consultant or any of its affiliates which have been engaged by the Procuring Entity to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the works to be performed under this Invitation for Tenders.

5.7 Tenderers in its own name or its other names or also in the case of its Persons in different names shall not be under a declaration of ineligibility for corrupt, fraudulent, collusive or coercive practices as stated under ITT

- Sub Clause 4.4.
- 5.8 Tenderers are not restrained or barred from participating in Public Procurement on grounds of poor performance in the past under any Contract.
- 5.9 Tenderers shall not be insolvent, be in receivership, be bankrupt, be in the process of bankruptcy, be not temporarily barred from undertaking business and it shall not be the subject of legal proceedings for any of the foregoing.
- 5.10 Government-owned enterprise in Bangladesh may also participate in the Tender if it is legally and financially autonomous, it operates under commercial law, and it is not a dependent agency of the Procuring Entity.
- 5.11 Tenderers shall provide such evidence of their continued eligibility satisfactory to the Procuring Entity, as the Procuring Entity will reasonably request.
- 5.12 These above requirements for eligibility will extend, as applicable, to each JV partner and Subcontractor proposed by the Tenderers.
- 5.13 Tenderers shall have the up-to-date valid license(s), issued by the corresponding competent authority, as specified in the **TDS**.
6. **Eligible Materials, Equipment and Associated Services**
- 6.1 All materials, equipment and associated services to be supplied under the Contract are from eligible sources, unless their origin is from a country specified in the **TDS**.
- 6.2 For the purposes of this Clause, “origin” means the place where the Materials and Equipments are mined, grown, cultivated, produced or manufactured or processed, or through manufacturing, processing, or assembling, another commercially recognized new product results that differs substantially in its basic characteristics from its components or the place from which the associated services are supplied.
- 6.3 The origin of materials and equipment and associated services is distinct from the nationality of the Tenderer.
7. **Site Visit**
- 7.1 Tenderers are advised to visit and examine the Site of Works and its surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the Tender and entering into a contract for construction of the Works. The costs of visiting the Site shall be at Tenderer’s own expense.

## **B. Tender Document**

8. **Tender Document: General**
- 8.1 The Sections comprising the Tender Document are listed below, and should be read in conjunction with any Addendum issued under ITT Clause 11.
- Section 1 Instructions to Tenderers (ITT)
  - Section 2 Tender Data Sheet (**TDS**)
  - Section 3 General Conditions of Contract (GCC)
  - Section 4 Particular Conditions of Contract (**PCC**)
  - Section 5 Tender and Contract Forms
  - Section 6 Bill of Quantities (**BOQ**)
  - Section 7 General Specifications
  - Section 8 Particular Specifications
  - Section 9 Drawings
- 8.2 The Procuring Entity is not responsible for the completeness of the Tender Document and their addenda, if these were not purchased directly from the Procuring Entity, or through its agent as specified in the **TDS**.
- 8.3 Tenderers are expected to examine all instructions, forms, terms, and specifications in the Tender Document as well as in addendum to Tender, if any.

- |  |  |
|--|--|
| 9. <b>Clarification of Tender Document</b> | <p>9.1     A prospective Tenderer requiring any clarification of the Tender Document shall contact the Procuring Entity in writing at the Procuring Entity's address and within time as specified in the <b>TDS</b>.</p> <p>9.2     The Procuring Entity is not obliged to answer any clarification request received after that date as stated under ITT Sub Clause 9.1.</p> <p>9.3     The Procuring Entity shall respond in writing within five (5) working days of receipt of any such request for clarification received under ITT Sub Clause 9.1.</p> <p>9.4     The Procuring Entity shall forward copies of its response to all those who have purchased the Tender Document, including a description of the enquiry but without identifying its source.</p> <p>9.5     Should the Procuring Entity deem it necessary to revise the Tender Document as a result of a clarification, it will do so following the procedure under ITT Clause 11.</p>  |
| 10. <b>Pre-Tender Meeting</b>              | <p>10.1    To clarify issues and to answer questions on any matter arising in the Tender Document, the Procuring Entity may, if stated in the <b>TDS</b>, hold a pre-Tender Meeting at the place, date and time as specified in the <b>TDS</b>. All potential Tenderers are encouraged and invited to attend the meeting, if it is held.</p> <p>10.2    Tenderers are requested to submit any questions in writing so as to reach the Procuring Entity not later than one day prior to the date of the meeting.</p> <p>10.3    Minutes of the pre-Tender meeting, including the text of the questions raised and the responses given, together with any responses prepared after the meeting, will be transmitted within five (5) working days after holding the meeting to all those who purchased the Tender document and to even those who did not attend the meeting. Any revision to the Tender Document listed in ITT Sub Clause 8.1 that may become necessary as a result of the pre-Tender meeting will be made by the Procuring Entity exclusively through the issue of an Addendum pursuant to ITT Sub Clause 11 and not through the minutes of the pre-Tender meeting.</p> <p>10.4    Non-attendance at the Pre-Tender meeting will not be a cause for disqualification of a Tenderer.</p>  |
| 11. <b>Addendum to Tender Document</b>     | <p>11.1    At any time prior to the deadline for submission of Tenders, the Procuring Entity, on its own initiative or in response to an inquiry in writing from a Tenderer, having purchased the Tender Document, or as a result of a pre-Tender meeting may revise the Tender Document by issuing an Addendum.</p> <p>11.2    The Addendum issued under ITT Sub Clause 11.1 shall become an integral part of the Tender Document and shall have a date and an issue number and must be circulated by fax, mail or e-mail, to Tenderers who have purchased the Tender Documents, within five (5) working days of issuance of such Addendum, to enable Tenderers to take appropriate action</p> <p>11.3    The Procuring Entity shall also ensure posting of the relevant addenda with the reference number and date on their websites including notice boards, where the Procuring Entity had originally posted the IFTs.</p> <p>11.4    To give a prospective Tenderer reasonable time in which to take an addendum into account in preparing its Tender, the Procuring Entity may, at its discretion, extend the deadline for the submission of Tenders, pursuant to ITT Sub Clause 42.2.</p> <p>11.5    If an addendum is issued when time remaining is less than <b>one-third</b> of the time allowed for the preparation of Tenders, the Procuring Entity at its discretion shall extend the deadline by an appropriate number of days for the submission of Tenders, depending upon the nature of the Procurement requirement and the addendum. In any case, the minimum time for such extension shall not be less than three (3) working days.</p> |

### C. Qualification Criteria

- |                                |      |  |
|--------------------------------|------|--|
| 12. <b>General Criteria</b>    | 12.1 | Tender Tenderers shall possess the necessary professional and technical qualifications and competence, financial resources, equipment and other physical facilities, managerial capability, specific experience, reputation, and the personnel, to perform the contract, which entails setting pass/fail criteria, which if not met by the Tenderers, will result in consideration of its Tender as non-responsive.  |
|                                | 12.2 | In addition to meeting the eligibility criteria, as stated in ITT Clause 5, Tenderers must satisfy the other criteria stated in ITT Clauses 13 to 18 inclusive   |
|                                | 12.3 | To qualify for multiple number of contracts/lots in a package made up of this and other individual contracts/lots for which Tenders are invited in the Invitation for Tenders, the Tenderers shall demonstrate having resources sufficient to meet the aggregate of the qualifying criteria for the individual contracts. The requirement of general experience as stated under ITT Sub Clause 14.1(a) and specific experience, unless otherwise of different nature, as stated under ITT Sub Clause 15.1(b) shall not be separately applicable for each individual lot.   |
| 13. <b>Litigation History</b>  | 13.1 | Litigation history shall comply with the requirement as stated under ITT Sub Clause 15.1(c).   |
| 14. <b>Experience Criteria</b> | 14.1 | <p>Tenderers shall have the following minimum level of construction experience to qualify for the performance of the Works under the Contract:</p> <ul style="list-style-type: none"> <li>(a) a minimum number of years of general experience in the construction of works as Prime Contractor or Subcontractor or Management Contractor as specified in the <b>TDS</b>; and</li> <li>(b) specific experience as a Prime Contractor or Subcontractor or Management Contractor in construction works of a nature, complexity and methods/construction technology similar to the proposed Works, in at least a number of contract(s) and, each with a minimum value over the period, as specified in the <b>TDS</b>.</li> </ul>  |
| 15. <b>Financial Criteria</b>  | 15.1 | <p>Tenderers shall have the following minimum level of financial capacity to qualify for the performance of the Works under the Contract.</p> <ul style="list-style-type: none"> <li>(a) the average annual <b>construction</b> turnover as specified in the <b>TDS</b> during the period specified in the <b>TDS</b>;</li> <li>(b) availability of minimum liquid assets i.e working capital or credit facilities from any scheduled Bank of Bangladesh, net of other contractual commitments, of the amount as specified in the <b>TDS</b>; and</li> <li>(c) satisfactory resolution of all claims under litigation cases and shall not have serious negative impact on the financial capacity of the Tenderers. All pending litigation shall be treated as resolved against the Tenderers.</li> </ul> |
| 16. <b>Personnel Capacity</b>  | 16.1 | Tenderers shall have the following minimum level of personnel capacity to qualify for the performance of the Works under the Contract consisting of a Construction Project Manager, Engineers, and other key staff with qualifications and experience as specified in the <b>TDS</b> .   |
| 17. <b>Equipment Capacity</b>  | 17.1 | Tenderers shall own suitable equipment and other physical facilities or have proven access through contractual arrangement to hire or lease such equipment or facilities for the desired period, where necessary or have assured access through lease, hire, or other such method, of the essential equipment, in full working order, as specified in the <b>TDS</b> .   |
| 18. <b>Joint Venture (JV)</b>  | 18.1 | Tenderers may participate in the procurement proceedings forming a Joint   |

Venture (JV) by an agreement, executed case by case on a non judicial stamp of value as specified in the **TDS** or alternately with the intent to enter into such an agreement supported by a Letter of Intent along with the proposed agreement duly signed by all legally authorised partners of the intended JV and authenticated by a Notary Public, with the declaration that the partners will execute the JV agreement in the event the Tenderer is successful.

- |                             |  |
|-----------------------------|--|
| 18.2                        | The figures for each of the partners of a JV shall be added together to determine the Tenderer's compliance with the minimum qualifying criteria; however, for a JV under ITT Sub Clause 18.1, with number of partners as specified in the <b>TDS</b> to qualify, Leading partner and other partners must meet the criteria as specified in the <b>TDS</b> . Failure to comply with these requirements will result in non-responsiveness of the JV Tender. |
| 18.3                        | Each partner of the JV shall be jointly and severally liable for the execution of the Contract, all liabilities and ethical and legal obligations in accordance with the Contract terms.   |
| 18.4                        | JV shall nominate the <b>Leading Partner</b> as <b>RPRESENTATIVE</b> being entrusted with the Contract administration and management at Site who shall have the authority to conduct all business for and on behalf of any and all the partners of the JV during the Tendering process and, in the event the JV is awarded the Contract, during contract execution including the receipt of payments for and on behalf of the JV.                          |
| <b>19. Subcontractor(s)</b> | <div style="vertical-align: top; padding-right: 20px;">19.1</div> <div style="vertical-align: top; padding-right: 20px;">19.2</div> <div style="vertical-align: top; padding-right: 20px;">19.3</div> <div style="vertical-align: top; padding-right: 20px;">19.4</div> <div style="vertical-align: top; padding-right: 20px;">19.5</div>  |

#### **D. Tender Preparation**

- |   |      |   |
|---|------|---|
| <b>20. Only one Tender</b>                      | 20.1 | Tenderers shall submit only one (1) Tender for each lot, either individually or as a JV. Tenderer who submits or participates in more than one (1) Tender in one (1) lot of a package or in one (1) package with one (1) lot will cause all the Tenders of that particular Tenderer to be rejected.   |
| <b>21. Cost of Tendering</b>                    | 21.1 | Tenderers shall bear all costs associated with the preparation and submission of its Tender, and the Procuring Entity shall not be responsible or liable for those costs, regardless of the conduct or outcome of the Tendering process.  |
| <b>22. Issuance and Sale of Tender Document</b> | 22.1 | The Procuring Entity shall make Tender Documents available immediately to the potential Tenderers, requesting and willing to purchase at the corresponding price by the date the advertisement has been published in the newspaper.   |
|   | 22.2 | There shall not be any pre-conditions whatsoever, for sale of Tender Documents and the sale of such Document shall be permitted up to the day prior to the day of deadline for the submission of Tender.  |
| <b>23. Language of Tender</b>                   | 23.1 | Tenders shall be written in the English language. Correspondences and documents relating to the Tender may be written in English or <i>Bangla</i> . Supporting documents and printed literature furnished by the Tenderers that are part of the Tender may be in another language, provided they are accompanied by an accurate translation of the relevant passages in the English |

		or <i>Bangla</i> language, in which case, for purposes of interpretation of the Tender, such translation shall govern.
	23.2	Tenderers shall bear all costs of translation to the governing language and all risks of the accuracy of such translation.
<b>24. Contents of Tender</b>	24.1	The Tender prepared by the Tenderers will comprise the following: <ul style="list-style-type: none"> <li>(a) the Tender Submission Letter (<b>Form PW3-1</b>), as stated under ITT Sub Clause 25.1;</li> <li>(b) the Tenderer Information as stated under ITT Clauses 5,29 and 32 (<b>Form PW3-2</b>);</li> <li>(c) the priced BOQ for each lot in accordance with ITT Clauses 25,27 and 28;</li> <li>(d) the Tender Security as stated under ITT Clauses 35, 36 and 37.</li> <li>(e) the alternatives, if permissible, as stated under ITT Clause 26;</li> <li>(f) the written confirmation authorizing the signatory of the Tender to commit the Tenderer, as stated under ITT Sub Clause 40.3;</li> <li>(g) the Valid Trade license ;</li> <li>(h) documentary evidence of Tax Identification Number (TIN) and Value Added Tax (VAT) as a proof of taxation obligations as stated under ITT Sub Clause 5.5;</li> <li>(i) the Technical Proposal describing work plan &amp; method, personnel, equipment and schedules as stated under ITT Clause 31;</li> <li>(j) documentary evidence as stated under ITT Clause 29 and 32 establishing the Tenderer's eligibility and the minimum qualifications of the Tenderers required to be met for due performance of the Works and physical services under the Contract;</li> <li>(k) document establishing legal and financial autonomy and compliance with commercial law, as stated under ITT Sub Clause 5.10 in case of government owned entity; and</li> <li>(l) any other document as specified in the <b>TDS</b>.</li> </ul>
<b>25. Tender Submission Letter and Bill of Quantities</b>	25.1	Tenderers shall submit the Tender Submission Letter ( <b>Form PW3-1</b> ), which shall be completed without any alterations to its format, filling in all blank spaces with the information requested, failing which the Tender may be rejected as being incomplete.
	25.2	Tenderers shall submit the priced BOQ using the form(s) furnished in <b>Section 6: Bill of Quantities</b> .
	25.3	If in preparing its Tender, the Tenderer has made errors in the unit rate or the total price, and wishes to correct such errors prior to submission of its Tender, it may do so, but shall ensure that each correction is initialled by the authorised person of the Tenderer.
<b>26. Alternatives</b>	26.1	Unless otherwise specified in the <b>TDS</b> , alternative technical solutions shall not be considered.
	26.2	When specified in ITT clause 26.1, Tenderers are permitted to submit alternative technical solutions for specified parts of the Works, and such parts will be identified in the <b>TDS</b> .
	26.3	Only the technical alternatives, if any, of the lowest evaluated Tenderer conforming to the basic technical requirements will be considered by the Procuring Entity.
<b>27. Tender Prices, Discounts and Price Adjustment</b>	27.1	The prices and discounts quoted by the Tenderers in the Tender Submission Letter ( <b>Form PW3-1</b> ) and in the BOQ shall conform to the requirements specified below.
	27.2	Tenderers shall fill in unit rates for all items of the Works both in figures and in words as described in the BOQ.

		27.3	The items quantified in the BOQ for which no unit rates have been quoted by the Tenderer will not be paid for, by the Procuring Entity when executed and shall be deemed covered by the amounts of other rates in the BOQ and, it shall not be a reason to change the Tender price.
		27.4	The price to be quoted in the Tender Submission Letter, as stated under ITT Sub Clause 25.1, shall be the total price of the Tender, excluding any discounts offered.
		27.5	Tenderers shall quote any unconditional discounts and the methodology for application of discount in the Tender Submission Letter as stated under ITT Sub Clause 25.1.
		27.6	Tenderers wishing to offer any unconditional discount for the award of more than one lot shall specify the discount applicable to each lot, or alternatively, to any combination of lots within the package in their Tender. Discounts will be submitted as stated under ITT Sub Clause 27.1, provided the Tenders for all lots are submitted and opened together.
		27.7	All applicable taxes, custom duties, VAT and other levies payable by the Contractor under the Contract, or for any other causes, as of the date twenty-eight (28) days prior to the deadline for submission of Tenders, shall be included in the unit rates and the total Tender price submitted by the Tenderers.
		27.8	Unless otherwise specified in the <b>TDS</b> and provided in the the Contract, the price of a Contract shall be fixed in which case the unit rates may not be modified in response to changes in economic or commercial conditions.
		27.9	If so stated under ITT Sub Clause 27.9, Tenders are being invited with a provision for price adjustments. The unit rates quoted by the Tenderers are subject to adjustment during the performance of the Contract in accordance with the provisions of General Condition of Contract (GCC) Clause 69 and, in such case the Procuring Entity shall provide the indexes and weightings or coefficients in <b>Appendix to the Tender (Table 1.1 and Table 1.2)</b> for the price adjustment formulae as specified in the Particular Conditions of Contract ( <b>PCC</b> ).
<b>28. Tender Currency</b>		28.1	Tenderers shall quote all prices in the Tender Submission Letter and in the BOQ in Bangladesh Taka (BDT) currency.
<b>29. Documents Establishing the Eligibility of the Tenderer</b>		29.1	Tenderers, if applying as a sole Tenderer, shall submit documentary evidence to establish its eligibility as stated under ITT Clause 5 and, in particular, it shall: <ul style="list-style-type: none"> <li>(a) complete the eligibility declarations in the Tender Submission Letter (<b>Form PW3-1</b>);</li> <li>(b) complete the Tenderer Information (<b>Form PW3-2</b>);</li> <li>(c) complete Subcontractor Information (<b>Form PW3-4</b>), if it intends to engage any Subcontractor(s).</li> </ul>
		29.2	Tenderers, if applying as a partner of an existing or intended JV shall submit documentary evidence to establish its eligibility as stated under ITT Clause 5 and, in particular, in addition to as stated under ITT Sub Clause 29.1, it shall: <ul style="list-style-type: none"> <li>(a) provide for each JV partner, completed JV Partner Information (<b>Form PW3-3</b>);</li> <li>(b) provide the JV agreement or Letter of Intent along with the proposed agreement of the intended JV as stated under ITT Sub Clause 18.1</li> </ul>
<b>30. Documents Establishing the Eligibility and</b>		30.1	Tenderers shall submit documentary evidence to establish the origin of all Materials, Equipment and services to be supplied under the Contract as stated under ITT Clause 6.

	<b>Conformity of Materials, Equipment and Services</b>	30.2	To establish the conformity of the Materials, Equipment and services to be supplied under the Contract, the Tenderers shall furnish, as part of its Tender, the documentary evidence (which may be in the form of literature, specifications and brochures, drawings or data) that these conform to the technical specifications and standards specified in <b>Section 7, General Specifications</b> and <b>Section 8, Particular Specifications</b> .
31.	<b>Documents Establishing Technical Proposal</b>	31.1	Tenderers shall furnish a Technical Proposal including a statement of work methods, equipment, personnel, schedule and any other information as stipulated in <b>TDS</b> , in sufficient detail to demonstrate the adequacy of the Tenderer's proposal to meet the work requirements and the completion time.
32.	<b>Documents Establishing the Tenderer's Qualification</b>	32.1	<p>Tenderers shall complete and submit the Tenderer Information (<b>Form PW3-2/PW3-3</b>) and shall include documentary evidence, as applicable to satisfy the following:</p> <ul style="list-style-type: none"> <li>(a) general experience, of the entity(s) participating in the Tender, in construction works as stated under ITT Sub Clause 14.1(a), substantiated by the year of registration/constitution/licensing in its country of origin;</li> <li>(b) specific experience, of the entity(s) participating in the Tender, in construction works under public sector of similar nature and size as stated under ITT Sub Clause 14.1(b), substantiated by Completion Certificate (s) issued by the relevant Procuring Entity(s);</li> <li>(c) average annual <b>construction</b> turnover i.e total certified payments received for contracts in progress or completed under public sector for a period as stated under ITT Sub Clause 15.1(a), substantiated by Statement(s) of Receipts, from any scheduled Bank of Bangladesh, issued not earlier than twenty-eight (28) days prior to the day of the original deadline for submission of Tenders;</li> <li>(d) adequacy of minimum liquid assets i.e working capital substantiated by Audit Reports mentioned in (i) below or credit line(s) substantiated by any scheduled Bank of Bangladesh in the format as specified (<b>Form PW3-7</b>), without alteration, issued not earlier than twenty-eight (28) days prior to the day of the original deadline for submission of Tenders for this Contract as stated under ITT Sub Clause 15.1(b);</li> <li>(e) information regarding claims under litigation, current or during the last years as specified in the <b>TDS</b>, in which the Tenderer is involved, the parties concerned, and value of claim as stated under ITT Sub Clause 15.1(c), substantiated by statement(s) of the entity(s) participating in the Tender in its letter-head pad;</li> <li>(f) technical and administrative personnel along with their qualification and experience proposed for the Contract as stated under ITT Clause 16;</li> <li>(g) major items of construction equipment proposed to carry out the Contract as stated under ITT Clause 17, substantiated by statement(s) of the entity(s) participating in the Tender in its letter-head pad declaring source of its availability;</li> <li>(h) authority(s), to seek references from the Tenderer's Bankers or any other sources, of the entity(s) participating in the Tender in its letter-head pad;</li> <li>(i) reports on the financial standing of the Tenderer, such as profit and loss statements and audited balance sheet for the past years as specified in the <b>TDS</b>, of the entity(s) participating in the Tender, substantiated by Audit Reports.</li> </ul>
33.	<b>Validity Period of Tender</b>	33.1	Tenders shall remain valid for the period as specified in the <b>TDS</b> after the date of Tender submission deadline. A Tender valid for a period shorter than that specified will be considered, non-responsive.
34.	<b>Extension of Tender Validity and Tender Security</b>	34.1	In exceptional circumstances, prior to the expiration of the Tender Validity period, the Procuring Entity may solicit all the Tenderers' consent to an extension of the period of validity of their Tenders; provided that those

- Tenderers have passed the preliminary examination as stated under ITT Sub Clause 51.3.
- 34.2 The request for extension of Tender Validity period shall state the new date of the validity of the Tender.
- 34.2 The request and the responses shall be made in writing. Validity of the Tender Security provided under ITT Clause 35 shall also be suitably extended for twenty-eight (28) days beyond the new date for the expiry of the Tender Validity. If a Tenderer does not respond or refuses the request it shall not forfeit its Tender Security, but its Tender shall no longer be considered in the evaluation proceedings. A Tenderer agreeing to the request will not be required or permitted to modify its Tender.
- 35. Tender Security**
- 35.1 Tenderers shall furnish as part of its Tender, in favour of the Procuring Entity or as otherwise directed on account of the Tenderer, a Tender Security in original form (not copy) and in the amount, as specified in the **TDS**.
- 35.2 If the Tender is a Joint Venture, the Tenderer shall furnish as part of its Tender, in favour of the Procuring Entity or as otherwise directed on account of the title of the existing or intended JV or any of the partners of that JV or in the names of all future partners as named in the Letter of Intent of the JV, a Tender Security in original form and in the amount as stated under ITT Sub Clause 35.1.
- 35.3 In case of substitution of the Tender as stated under ITT Clause 46 a new Tender Security shall be required in the substituted Tender.
- 36. Form of Tender Security**
- 36.1 The Tender Security shall:
- (a) at the Tenderer's option, be either;
    - i. in the form of a Bank Draft or Pay Order, or
    - ii. in the form of an irrevocable unconditional Bank Guarantee issued by any scheduled Bank of Bangladesh, in the format (**Form PW3-6**), without any alteration, furnished in **Section 5: Tender and Contract Forms**;
  - (b) be payable promptly upon written demand by the Procuring Entity in the case of the conditions as stated under ITT Sub Clause 39.1 being invoked; and
  - (c) remain valid for at least twenty-eight (28) days beyond the expiry date of the Tender Validity in order to make a claim in due course against a Tenderer in the circumstances as stated under ITT Sub Clause 39.1.
- 37. Authenticity of Tender Security**
- 37.1 The authenticity of the Tender Security submitted by a Tenderer may be examined and verified by the Procuring Entity at its discretion in writing from the Bank issuing the security.
- 37.2 If a Tender Security is found to be not authentic, the Procuring Entity may proceed to take measures against that Tenderer as stated under ITT Sub Clause 4.4.
- 37.3 A Tender not accompanied by a valid Tender Security will be considered non-responsive.
- 38. Return of Tender Security**
- 38.1 No Tender Security shall be returned to the Tenderers before contract signing.
- 38.2 Unsuccessful Tenderer's Tender Security will be discharged or returned as soon as possible but within twenty-eight (28) days after the expiry of the Tender Validity period as stated under ITT Sub Clauses 33.1.
- 38.3 The Tender Security of the successful Tenderer will be discharged upon the Tenderer's furnishing of the performance security and signing of the Contract Agreement.
- 39. Forfeiture of Tender Security**
- 39.1 The Tender Security may be forfeited, if a Tenderer:
- (a) withdraws its Tender after opening of Tenders but within the validity of the Tender as stated under ITT Clause 33 and 34; or
  - (b) refuses to accept a Notification of Award as stated under ITT Sub

- Clause 64.3; or
    - (c) fails to furnish Performance Security as stated under ITT Sub Clause 65.1 and 65.2; or
    - (d) refuses to sign the Contract as stated under ITT Sub Clause 70.2 ; or
    - (e) does not accept the correction of the Tender price following the correction of the arithmetic errors as stated under ITT Clause 55.
- 40. **Format and Signing of Tender**
  - 40.1 Tenderers shall prepare one (1) original of the documents comprising the Tender as described in ITT Clause 24 and clearly mark it “ORIGINAL” In addition, the Tenderers shall prepare the number of copies of the Tender, as specified in the **TDS** and clearly mark each of them “COPY.” In the event of any discrepancy between the original and the copies, the ORIGINAL shall prevail.
  - 40.2 Alternatives, if permitted as stated under ITT Clause 26, shall be clearly marked “Alternative”.
  - 40.3 The original and each copy of the Tender shall be typed or written in indelible ink and shall be signed by the Person duly authorized to sign on behalf of the Tenderer. This Tender specific authorization shall be attached to the Tender Submission Letter (**Form PW3-1**). The name and position held by each Person(s) signing the authorization must be typed or printed below the signature. All pages of the original and of each copy of the Tender, except for un-amended printed literature, shall be numbered sequentially and signed by the person signing the Tender.
  - 40.4 Any interlineations, erasures, or overwriting will be valid only if they are signed or initialled by the Person(s) signing the Tender.

#### **E. Tender Submission**

- 41. **Sealing, Marking and Submission of Tender**
  - 41.1 Tenderers shall enclose the original in one (1) envelope and all the copies of the Tender, including the alternatives, if permitted under ITT Clause 26, in another envelope, duly marking the envelopes as “ORIGINAL (O)” “ALTERNATIVE (A)” (if permitted) and “COPY.” These sealed envelopes will then be enclosed and sealed in one (1) single outer envelope.
  - 41.2 The inner and outer envelopes shall:
    - (a) be addressed to the Procuring Entity at the address as stated under ITT Sub Clause 42.1;
    - (b) bear the name of the Tender and the Tender Number as stated under ITT Sub Clause 1.1;
    - (c) bear the name and address of the Tenderer;
    - (d) bear a statement “DO NOT OPEN BEFORE -----” the time and date for Tender opening as stated under ITT Sub Clause 48.1;
    - (e) bear any additional identification marks as specified in the **TDS**.
  - 41.3 Tenderers are solely and entirely responsible for pre-disclosure of Tender information if the envelope(s) are not properly sealed and marked.
  - 41.4 Tenders shall be delivered by hand or by mail, including courier services at the address(s) as stated under ITT Sub Clause 42.1.
  - 41.5 The Procuring Entity will, on request, provide the Tenderer with acknowledgement of receipt showing the date and time when it’s Tender was received.

- |   |      |   |
|---|------|---|
| 42. <b>Deadline for Submission of Tender</b>                  | 42.1 | Tenders shall be delivered to the Procuring Entity at the address specified in the <b>TDS</b> and not later than the date and time specified in the <b>TDS</b> .  |
|   | 42.2 | The Procuring Entity may, at its discretion, extend the deadline for submission of Tender as stated under ITT Sub Clause 42.1, in which case all rights and obligations of the Procuring Entity and Tenderers previously subject to the deadline will thereafter be subject to the new deadline as extended.  |
|   | 42.3 | If submission of Tenders is allowed in more than one location, the date and time, for submission of Tenders for both the primary and the secondary place(s), shall be the “ <b>same and not different</b> ” as specified in the <b>TDS</b> .  |
|   | 42.4 | The Procuring Entity shall ensure that the Tenders received at the secondary place(s) are hand-delivered at the primary place as stated under ITT Sub Clause 42.1, within THREE (3) HOURS after the deadline for submission of Tenders at the secondary place (s), in case of MULTIPLE DROPPING as stated under ITT Sub Clause 42.3, as specified in the <b>TDS</b> .                                     |
| 43. <b>Late Tender</b>  | 43.1 | Any Tender received by the Procuring Entity after the deadline for submission of Tenders as stated under ITT Sub Clause 42.1 shall be declared LATE and returned unopened to the Tenderer.  |
| 44. <b>Modification, Substitution or Withdrawal of Tender</b> | 44.1 | Tenderers may modify, substitute or withdraw its Tender after it has been submitted by sending a written notice duly signed by the authorized signatory and properly sealed, and shall include a copy of the authorization ; provided that such written notice including the affidavit is received by the Procuring Entity prior to the deadline for submission of Tenders as stated under ITT Clause 42. |
| 45. <b>Tender Modification</b>                                | 45.1 | Tenderers shall not be allowed to retrieve its original Tender, but shall be allowed to submit corresponding modification to its original Tender marked as “ <b>MODIFICATION (M)</b> ”.   |
| 46. <b>Tender Substitution</b>                                | 46.1 | Tenderers shall not be allowed to retrieve its original Tender, but shall be allowed to submit another Tender marked as “ <b>SUBSTITUTION (S)</b> ”.  |
| 47. <b>Tender Withdrawal</b>                                  | 47.1 | Tenderers shall be allowed to withdraw its Tender by a Letter of Withdrawal marked as “ <b>WITHDRAWAL(W)</b> ”.   |

#### F. **Tendr Opening and Evaluation**

- |                           |      |  |
|---------------------------|------|--|
| 48. <b>Tender Opening</b> | 48.1 | Tenders shall be opened immediately after the deadline for submission of Tenders at the primary place as specified in the <b>TDS</b> but not later than <b>ONE HOUR</b> after expiry of the submission deadline at the same primary place unless otherwise stated under ITT Sub Clause 48.2. |
|                           | 48.2 | If submission of Tenders is allowed in more than one location as stated under ITT Sub Clause 42.3 and 42.4, Tenders shall be opened, immediately after receipt of Tenders from all the secondary place(s), at the primary place at the date and time as stated under ITT Sub Clause 48.1.    |
|                           | 48.3 | Persons not associated with the Tender may not be allowed to attend the public opening of Tenders.   |
|                           | 48.4 | Tenderers’ representatives shall be duly authorised by the Tenderer. Tenderers or their authorised representatives will be allowed to attend and witness the opening of Tenders, and will sign a register evidencing their attendance.   |
|                           | 48.5 | The authenticity of withdrawal or substitution of, or modifications to original Tender, if any made by a Tenderer in specified manner, shall be examined and verified by the Tender Opening Committee (TOC) based on documents submitted as stated under ITT Sub Clause 44.1.                |
|                           | 48.6 | Ensuring that only the correct (M), (S), (A), (O) envelopes are opened, details of each Tender will be dealt with as follows:<br>(a) the Chairperson of the TOC will read aloud each Tender and record in the Tender Opening Sheet (TOS):  |

- (i) the name and address of the Tenderer;
    - (ii) state if it is a withdrawn, modified, substituted or original Tender;
    - (iii) the Tender price;
    - (iv) any discounts;
    - (v) any alternatives;
    - (vi) the presence or absence of any requisite Tender Security; and
    - (vii) such other details as the Procuring Entity, at its discretion, may consider appropriate
  - (b) only discounts and alternatives read aloud at the Tender opening will be considered in evaluation.
  - (c) all pages of the original version of the Tender, except for un-amended printed literature, will be initialled by members of the TOC.
- 48.7 Upon completion of Tender opening, all members of the TOC and the Tenderers or Tenderer's duly authorised representatives attending the Tender opening shall sign by name, address, designation, the TOS, copies of which shall be issued to the Head of the Procuring Entity or an officer authorised by him or her and also to the members of the TOC and any authorised Consultants and, to the Tenderers immediately.
- 48.8 The omission of a Tenderer's signature on the record shall not invalidate the contents and effect of the record under ITT Sub Clause 48.6.
- 48.9 No Tender will be rejected at the Tender opening stage except the LATE Tenders as stated in the ITT Clause 43.
- 49. Evaluation of Tenders**
- 49.1 Tenders shall be examined and evaluated only on the basis of the criteria specified in the Tender Document.
- 49.2 **Tender Evaluation Committee (TEC)** shall examine, evaluate and compare Tenders that are responsive to the requirements of Tender Documents in order to identify the successful Tenderer.
- 50. Evaluation Process**
- 50.1 TEC may consider a Tender as responsive in the Evaluation, only if it is submitted in compliance with the mandatory requirements set out in the Tender Document. The evaluation process should begin immediately after Tender opening following four steps:
- (a) Preliminary examination
  - (b) Technical examination and responsiveness
  - (c) Financial evaluation and price comparison
  - (d) Post-qualification of the Tender.
- 51. Preliminary Examination**
- 51.2 TEC shall examine the Tenders to confirm that all documentation as stated under ITT Clause 24 has been provided, to determine the completeness of each document submitted.
- 51.3 TEC shall confirm that the following documents and information have been provided in the Tender. If any of these documents or information is missing, the Tender shall be considered rejected.
- (a) Tender Submission Letter;
  - (b) Priced Bill of Quantities;
  - (c) Written confirmation authorizing the signatory of the Tender to commit the Tenderer; and
  - (d) Valid Tender Security.
- 52. Technical Responsiveness and Technical Evaluation**
- 52.1 TEC's determination of a Tender's responsiveness is to be based on the contents of the Tender itself without recourse to extrinsic evidence.
- 52.2 A responsive Tender is one that conforms in all respects to the requirements of the Tender Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:
- (a) affects in any substantial way the scope, quality, or performance of the Works and physical services specified in the Contract; or

- (b) limits in any substantial way, or is inconsistent with the Tender Documents, the Procuring Entity's rights or the Tenderer's obligations under the Contract; or
- (c) if rectified would unfairly affect the competitive position of other Tenderers presenting responsive Tenders.

During the evaluation of Tenders, the following definitions shall apply:

**“Deviation”** is a departure from the requirements specified in the Tender Document;

**“Reservation”** is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Tender Document; and

**“Omission”** is the failure to submit part or all of the information or documentation required in the Tender Document.

52.3 If a Tender is not responsive to the mandatory requirements set out in the Tender Document, shall not subsequently be made responsive by the Tenderer by correction of the material deviation, reservation, or omission.

52.4 There shall be no requirement as to the minimum number of responsive Tenders.

52.5 There shall be no automatic exclusion of Tenders which are above or below the official estimate.

52.6 TEC shall evaluate the aspects of the Tender submitted as stated under ITT Clauses 29, 30, 31 and 32 and, to confirm that all requirements specified in Section 7: General Specifications and Section 8: Particular Specifications of the Tender Document have been met without any material deviation, reservation or omission.

52.7 Provided that a Tender is responsive, TEC may request that the Tenderer submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the Tender related to documentation requirements. Such omission shall not be related to any aspect of the rates of the Tender reflected in the Priced BOQ or any mandatory criteria. Failure of the Tenderer to comply with the request may result in the consideration of its Tender as non-responsive.

52.8 TEC may regard a Tender as responsive even if it contains;

- (a) minor or insignificant deviations which do not meaningfully alter or depart from the technical specifications, characteristics and commercial terms and, conditions or other mandatory requirements set out in the Tender Document; or
- (b) errors or oversights, that if corrected, would not alter the key aspects of the Tender.

### 53. Clarification on Tender

53.1 TEC may ask Tenderers for clarification of their Tenders, including breakdowns of unit rates, in order to facilitate the examination and evaluation of Tenders. The request for clarification by the TEC and the response from the Tenderer shall be in writing, and Tender clarifications which may lead to a change in the substance of the Tender or in any of the key elements of the Tender as stated under ITT Sub Clause 52.2, will neither be sought nor be permitted.

53.2 Changes in the Tender price shall also not be sought or permitted, except to confirm the correction of arithmetical errors discovered by the TEC in the evaluation of the Tenders, as stated under ITT Sub Clause 55.1.

53.3 Any request for clarifications by the TEC shall not be directed towards making an apparently non-responsive Tender responsive and reciprocally the response from the concerned Tenderer shall not be articulated towards any addition, alteration or modification to its Tender.

53.4 If a Tenderer does not provide clarifications of its Tender by the date and time, its Tender shall not be considered in the evaluation

- 54. Restrictions on Disclosure of Information**
- 54.1 Following the opening of Tenders until issuance of Notification of Award no Tenderer shall, unless requested to provide clarification to its Tender or unless necessary for submission of a complaint, communicate with the concerned Procuring Entity
- 54.2 Tenderers shall not seek to influence in anyway, the examination and evaluation of the Tenders
- 54.3 Any effort by a Tenderer to influence the Procuring Entity in its decision concerning the evaluation of Tenders, Contract awards may result in the non-responsiveness of its Tender as well as further action in accordance with Section 64 (5) of the Public Procurement Act, 2006.
- 54.4 All clarification requests shall remind Tenderers of the need for confidentiality and that any breach of confidentiality on the part of the Tenderer may result in their Tender being non-responsive.
- 55. Correction of Arithmetical Errors**
- 55.1 Provided that the Tender is responsive, the TEC shall correct arithmetical errors on the following basis:
- (a) if there is a discrepancy between the unit price and the line item total price that is obtained by multiplying the unit price and quantity, the unit price will prevail and the line item total price shall be corrected, unless in the opinion of the TEC there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted will govern and the unit price will be corrected; and
- (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
- (c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.
- 55.2 TEC shall correct the arithmetic errors and shall promptly notify the concerned Tenderer(s). If the Tenderer does not accept the correction of arithmetic errors, its Tender shall be rejected.
- 56. Financial Evaluation**
- 56.1 TEC will evaluate each Tender that has been determined, up to this stage of the evaluation, to be responsive to the requirements set out in the Tender Document.
- 56.2 To evaluate a Tender, the TEC will consider the following:
- (a) the Tender price, excluding Provisional Sums and the provision, if any, for contingencies in the priced BOQ, but including Daywork items ;
- (b) adjustments for correction of arithmetical errors, as stated under ITT Sub Clause 55.1;
- (c) adjustments in order to take into consideration the unconditional discounts and methodology for application of the discount offered for being awarded more than one lot, as stated under ITT Sub Clause 27.5 and 27.6, if any..
- 56.3 Variations, deviations, alternatives and other factors which are in excess of the requirements of the Tender Document or otherwise result in unsolicited benefits for the Procuring Entity will not be taken into account in Tender evaluation.
- 56.4 The estimated effect of any price adjustment provisions under GCC Clause 71, applied over the period of execution of the Contract, will not be taken into account in Tender evaluation.
- 56.5 If so indicated in the ITT Sub Clause 1.1 the Procuring Entity may award one or multiple lots to one Tenderer following the methodology specified in ITT Sub Clause 56.6.

- 56.6 To determine the lowest-evaluated lot or combination of lots, the TEC will take into account:
- (a) the lowest-evaluated Tender for each lot;
  - (b) the resources sufficient to meet the qualifying criteria for the individual lot or aggregate of the qualifying criteria for the multiple lots;
  - (c) the price reduction on account of discount per lot or combination of lots and the methodology for application of the discount as offered by the Tenderer in its Tender; and
  - (d) (d) the Contract-award sequence that provides the optimum economic combination on the basis of least overall cost of the total Contract package taking into account any limitations due to constraints in Works or execution capacity determined in accordance with the post-qualification criteria as stated under ITT Clause 59.
- 56.7 TEC may recommend to increase the amount of the Performance Security above the amounts as stated under ITT Sub Clause 65.1 but not exceeding twenty-five (25) percent of the Contract Price, if in the opinion of TEC, it is found that the Tender is significantly below the updated official estimated cost or unbalanced as a result of front loading.
- 57. Price Comparison**
- 57.1 TEC shall compare all responsive Tenders to determine the lowest-evaluated Tender, as stated under ITT Clause 56.
- 57.2 In the extremely unlikely event that there is a tie for the lowest evaluated price, the Tenderer with the superior past performance of works with the Procuring Entity shall be selected, whereby factors such as quality of Works executed, complaints history and performance indicators could be taken into consideration.
- 57.3 In the event that there is a tie for the lowest price and none of the Tenderers has the record of past performance with the Procuring Entity as stated under ITT Sub Clause 57.2, then the Tenderer shall be selected, subject to firm confirmation through the Post-qualification process, after consideration as to whether the Tenderer has demonstrated in its Tender superior past performance with the other Procuring Entities or a more efficient work programme and work methodology.
- 57.4 The successful Tenderer as stated under ITT Sub Clause 57.1, 57.2 and 57.3 shall not be selected through lottery under any circumstances.
- 58. Negotiations**
- 58.1 No negotiations shall be held during the Tender evaluation or award, with the lowest or any other Tenderer.
- 58.2 The Procuring Entity through the TEC may, however, negotiate with the lowest evaluated Tenderer with the objective to reduce the Contract Price by reducing the scope of works or a reallocation of risks and responsibilities, only when it is found that the lowest evaluated Tender is significantly higher than the official estimated cost; the reasons for such higher price being duly investigated.
- 58.3 If the Procuring Entity decides to negotiate for reducing the scope of the requirements under ITT Sub Clause 58.2, it will be required to guarantee that the lowest Tenderer remains the lowest Tenderer even after the scope of work has been revised and shall further be ensured that the objective of the Procurement will not be seriously affected through this reduction.
- 58.4 In the event that the Procuring Entity decides because of a high Tender price to reduce the scope of the requirements to meet the available budget, the Tenderer is not obliged to accept the award and shall not be penalised in any way for un-accepting the proposed award.
- 59. Post-qualification**
- 59.1 The determination on Post-qualification shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT Clause 32, clarifications as stated under ITT Clause

53 and the qualification criteria indicated in ITT Clauses 12 to 17. Factors not included therein shall not be used in the evaluation of the Tenderer's qualification.

59.2 An affirmative determination shall be a prerequisite for award of the Contract to the Tenderer. A negative determination shall result in non-responsiveness of the Tenderer's Tender, in which event the Procuring Entity shall proceed to the next lowest evaluated Tender to make a similar determination of that Tenderer's capabilities to perform the Contract satisfactorily, if awarded.

59.3 TEC may verify information contained in the Tender by visiting the premises of the Tenderer as a part of the post qualification process, if practical and appropriate.

**60. Procuring Entity's Right to Accept any or to Reject Any or All Tenders**

60.1 The Procuring Entity reserves the right to accept any Tender or to reject any or all the Tenders any time prior to contract award and , to annul the Procurement proceedings with prior approval of the Head of the Procuring Entity, any time prior to the deadline for submission of Tenders following specified procedures, without thereby incurring any liability to Tenderers, or any obligations to inform the Tenderers of the grounds for the Procuring Entity's action.

**61. Rejection of All Tenders**

61.1 The Procuring Entity may, in the circumstances as stated under ITT Sub Clause 61.2 reject all Tenders following recommendations from the TEC only after the approval of such recommendations by the Head of the Procuring Entity.

61.2 All Tenders can be rejected, if -

- (a) the price of the lowest evaluated Tender exceeds the official estimated cost, provided the estimate is realistic, subject to ITT Sub Clause 58.2 ; or
- (b) there is evidence of lack of effective competition; such as non-participation by a number of potential Tenderers; or
- (c) the Tenderers are unable to propose completion of the contract within the stipulated time in its Tender, though the stipulated time is reasonable and realistic; or
- (d) all Tenders are non-responsive; or
- (e) evidence of professional misconduct, affecting seriously the Procurement process, is established pursuant to Rule 127 of the Public Procurement Rules, 2008

61.3 Notwithstanding anything contained in ITT Sub-Clause 61.2 Tenders may not be rejected if the lowest evaluated price is in conformity with the market price.

**62. Informing Reasons for Rejection**

62.1 Notice of the rejection will be given promptly within seven (7) working days of decision taken by the Procuring Entity to all Tenderers and, the Procuring Entity will, upon receipt of a written request, communicate to any Tenderer the reason(s) for its rejection but is not required to justify those reason(s).

**G. Contract Award**

**63. Award Criteria**

63.1 The Procuring Entity shall award the Contract to the Tenderer whose Tender is responsive to all the requirements of the Tender Document and that has been determined to be the lowest evaluated Tender, provided further that the Tenderer is determined to be Post-qualified in accordance with ITT Clouse 59.

63.2 Tenderer will not be required, as a condition for award, to undertake responsibilities not stipulated in the Tender Documents, to change its price, or otherwise to modify its Tender.

- 64. Notification of Award**
- 64.1 Prior to the expiry of the Tender Validity period and within one (1) week of receipt of the approval of the award by the Approving Authority, the Procuring Entity shall issue the Notification of Award (NOA) to the successful Tenderer.
- 64.2 The NOA, attaching the contract as per the sample (**Form PW3-8**) to be signed, shall state :
- (a) the acceptance of the Tender by the Procuring Entity;
  - (b) the price at which the contract is awarded;
  - (c) the amount of the Performance Security and its format;
  - (d) the date and time within which the Performance Security shall be furnished; and
  - (e) the date and time within which the Contract shall be signed.
- 64.3 The NOA shall be accepted by the successful Tenderer within seven (7) working days from the date of its issuance.
- 64.4 Until a formal contract is signed, the NOA will constitute a Contract, which shall become binding upon the furnishing of a Performance Security and the signing of the Contract by both parties.
- 65. Performance Security**
- 65.1 Performance Security shall be provided by the successful Tenderer in BDT currency, of the amount as specified in the **TDS**.
- 65.2 The Procuring Entity shall increase the amount of the Performance Security on the recommendation of TEC above the amounts as stated under ITT Sub Clause 56.7.
- 65.3 The proceeds of the Performance Security shall be payable to the Procuring Entity unconditionally upon first written demand as compensation for Contractor's failure to complete its obligations under the Contract.
- 65.4 In the event a Government owned enterprise as stated under ITT Sub Clause 5.10 is the successful Tenderer, Performance Security, as stated under ITT Sub Clause 65.1, shall not be required and, in lieu, there shall be Retention Money as specified in the **TDS**.
- 66. Form and Time Limit for Furnishing of Performance Security**
- 66.1 Performance Security, as stated under ITT Clause 65, may be in the form of a Bank Draft, Pay Order or an irrevocable unconditional Bank Guarantee in the format (**Form PW3-10**), without any alteration, issued by any scheduled Bank of Bangladesh acceptable to the Procuring Entity.
- 66.2 Within fourteen (14) days from the date of acceptance of the NOA but not later than the date specified therein, the successful Tenderer shall furnish the Performance Security for the due performance of the Contract in the amount as stated under ITT Sub Clauses 65.1 or 65.2.
- 67. Validity of Performance Security**
- 67.1 Performance Security shall be required to be valid until a date twenty-eight (28) days beyond the Intended Completion Date as specified in Tender Document.
- 68. Authenticity of Performance Security**
- 68.1 The Procuring Entity shall verify the authenticity of the Performance Security submitted by the successful Tenderer by sending a written request to the branch of the Bank issuing the Pay Order, Bank Draft or irrevocable unconditional Bank Guarantee in specified format.

- |   |  |
|---|--|
| 69. <b>Contract    Signing</b>                                      | <p>69.1    At the same time as the Procuring Entity issues the NOA, the Procuring Entity will send the draft Contract Agreement and all documents forming the Contract to the successful Tenderer.</p> <p>69.2    Within twenty-eight (28) days of the issuance of the NOA, the successful Tenderer and the Procuring Entity shall sign the contract. In the event the successful Tenderer is a JV, all partners of that JV must sign.</p> <p>69.3    Failure of the successful Tenderer to submit the Performance    Security, as stated under ITT Sub Clause 65.1, or to sign the Contract, as stated under ITT Sub Clause 69.2, shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security.    In that event the Procuring Entity may award the Contract to the next lowest evaluated responsive Tenderer, who is determined by the TEC to be qualified to perform the Contract satisfactorily.</p> |
| 70. <b>Publication of<br/>Notification of<br/>Award of Contract</b> | <p>70.1    The NOA for Contract shall be notified by the Procuring Entity to the Central Procurement Technical Unit within seven (7) days of its issuance for publication in their website, and that notice shall be kept posted for not less than a month.</p>  |
| 71. <b>Debriefing of<br/>Tenderers</b>                              | <p>71.1    Debriefing of Tenderers by the Procuring Entity shall outline the relative status and weakness only of his or her Tender requesting to be informed of the grounds for not accepting the Tender submitted by him or her, without disclosing information about any other Tenderer.</p> <p>71.2    In the case of debriefing, confidentiality of the evaluation process shall be maintained.</p>   |
| 72. <b>Adjudicator</b>  | <p>72.1    The Procuring Entity proposes the person named in the <b>TDS</b> to be appointed as Adjudicator under the Contract, at an hourly fee and for those reimbursable expenses as specified in the <b>TDS</b>.</p>  |
| 73. <b>Right to Complain</b>  | <p>73.1    Tenderer has the right to complain in accordance with the Public Procurement Act 2006 and the Public Procurement Rules, 2008.</p>   |

## Section 2. Tender Data Sheet

*Instructions for completing Tender Data Sheet are provided in italics in parenthesis for the relevant ITT clauses*

ITT Clause	Amendments of, and Supplements to, Clauses in the Instructions to Tenderers
<b>A. General</b>	
<b>ITT 1.1</b>	The Procuring Entity is Bangladesh Agricultural University (BAU). The Name of the Tender is: Procurement of Flat. Tender Ref: No.BAU/P&D/Committee/215/2013-14/586 Dated: 21/04/2016
<b>ITT 3.1</b>	The source of public funds is: BAU own fund.
<b>ITT 5.1</b>	Tenderers from the following countries are not eligible: Israel.
<b>ITT 5.13</b>	Tenderers shall have to furnish the following documents with their tender: (a) Up to date valid Trade License (b) Up to date valid Tax Clearance Certificate from the appropriate authority. (c) VAT registration certificate from the appropriate authority. (d) Bank solvency certificate with up to date bank statement in support to their tender. (e) Up to date valid Membership Certificate from the Real Estate and Housing Association of Bangladesh (REHAB). (e) Document of land regarding land owner. (f) Certified copies of CS, SA, BRS, DCR, receipt of up to date land tax payment and land mutation. (g) Ownership history document of land for previous 25 years. (h) Map and land survey report. (i) Transfer document of land from owner to developer. (j) Drawing and Design of Flat as approved by Rajdhani Unnayan Kartipakha (RAJUK). (k) Documents related to water, gas and electricity connection. (l) Procuring Entity can ask for any other document if required related to the tender.
<b>ITT 6.1</b>	Materials, Equipments and associated services from the following countries are not eligible: Israel.
<b>B. Tender Document</b>	
<b>ITT 8.2</b>	The following are authorised agents/offices of the Procuring Entity for the purpose of issuing the Tender Document: Agent's/office Name: Planning and Development Section Address: Bangladesh Agricultural University, Mymensingh Telephone and Fax No.: 091-67421 e-mail address: dpdbau@yahoo.com
<b>ITT 9.1</b>	For <b>clarification of Tender Document purposes</b> only, the Procuring Entity's address is: Attention: Professor Dr. Shankar Kumar Raha Address: Director, Planning and Development Section, Bangladesh Agricultural University, Mymensingh Telephone and Fax No.: 091-67421 e-mail address: dpdbau@yahoo.com
<b>ITT 10.1</b>	A Pre-Tender meeting shall not be held.
<b>C. Qualification Criteria</b>	
<b>ITT 14.1(a)</b>	The minimum number of years of general experience of the Tenderer as a developer shall be at least five (5) years.
<b>ITT 14.1(b)</b>	The minimum specific experience as a developer for construction of at least two (2) building of 10-storeyed foundation successfully completed within the last 10 years.
<b>ITT 15.1(a)</b>	The required average annual <b>construction</b> turnover shall be greater than Tk. 200.00 lakhs over the last three (3) years.
<b>ITT 15.1(b)</b>	The minimum amount of liquid assets i.e working capital or credit line(s) of the Tenderer shall be Tk 300.00 lakhs.

<b>ITT 16.1</b>	A Construction Project Manager, Engineer, and other key staff shall have the following qualifications and experience: Not applicable
<b>ITT 17.1</b>	Tenderers shall own or have proven access to hire or lease of the major construction equipments, in full working order as follows : Not applicable
<b>ITT 18.1</b>	The value of non-judicial stamp for execution of the Joint Venture Agreement shall be Tk 300 only: Not applicable
<b>ITT 18.2</b>	Maximum number of partners in the JV shall be four (4): Not applicable
	The <b>minimum qualification</b> requirements of Leading Partner, other Partner(s) and requirements by summation of a JV shall be as follows : Not applicable
<b>ITT 19.4</b>	The Nominated Subcontractor(s) named [insert name(s)] shall execute the following specific components of the proposed Works: Not applicable
<b>D. Tender Preparation</b>	
<b>ITT 24.1 (l)</b>	Tenderers shall submit with its Tender the following additional documents: Not applicable
<b>ITT 26.1</b>	Alternatives will not be permitted: Not applicable
<b>ITT 26.2</b>	Alternative technical solutions for any parts of works will not be permitted. Not applicable Or Alternative technical solutions for following parts of works will be permitted.
<b>ITT 27.9</b>	The prices quoted by the Tenderers shall be fixed for the duration of the Contract.
<b>ITT 31.1</b>	The required Technical Proposal shall include the following additional information: Not applicable
<b>ITT 32.1(e)</b>	The required information regarding claims under litigation shall be current or during the last 10 years. Not applicable
<b>ITT 32.1 (i)</b>	The required reports on the financial standing, such as profit and loss statements and audited balance sheet shall be for the past three (3) years. Not applicable
<b>ITT 33.1</b>	The Tender Validity period shall be 60 days.
<b>ITT 35.1</b>	The amount of the Tender Security shall be Tk. 3.15 lakh in favour of the Treasurer, Bangladesh Agricultural University, Mymensingh.
<b>ITT 40.1</b>	In addition to the original of the Tender, one (1) copy shall be submitted.
<b>E. Tender Submission</b>	
<b>ITT 41.2(e)</b>	The inner and outer envelopes shall bear the following additional identification marks: Tender for Procurement of Flat.
<b>ITT 42.1</b>	For <b>Tender submission purposes</b> only, the Procuring Entity's address is: Attention: Professor Dr. Shankar Kumar Raha Address: Director, Planning and Development Section, Bangladesh Agricultural University, Mymensingh The deadline for submission of Tenders is Time & Date: At 12:00 noon on 16/05/2016
<b>F. Tender Opening and Evaluation</b>	
<b>ITT 48.1</b>	The Tender opening shall take place at office of the Director, Planning and Development Address: Bangladesh Agricultural University, Mymensingh Time & Date: 16/05/2016 at 12:15 pm.
<b>G. Contract Award</b>	
<b>ITT 65.1</b>	The amount of Performance Security shall be 10 percent of the Contract Price.
<b>ITT 72.1</b>	The Adjudicator proposed by the Procuring Entity is Superintendent Engineer, Public Works Division, Mymensingh.

### Section 3. General Conditions of Contract

#### A. General

##### 1. Definitions

1.1 In the Conditions of Contract, which include Particular Conditions and these General Conditions, the following words and expressions shall have the meaning hereby assigned to them. Boldface type is used to identify the defined terms:

- (a) **Act means** The Public Procurement Act, 2006 (Act 24 of 2006).
- (b) **Adjudicator** is the expert appointed jointly by the Procuring Entity and the Contractor to resolve disputes in the first instance, as provided for in GCC Sub Clause 92.2.
- (c) **Approving Authority** means the authority which, in accordance with the Delegation of Financial Powers, approves the award of contract.
- (d) **Bill of Quantities (BOQ)** means the priced and completed Bill of Quantities forming part of the Contract defined in GCC Clause 59.
- (e) **Compensation Events** are those defined in GCC Clause 67.
- (f) **Competent Authority** means the authority that gives decision on specific issues as per delegation of administrative and/or financial powers.
- (g) **Completion Certificate** means the Certificate issued by the Project Manager as evidence that the Contractor has executed the Works and physical services in all respects as per design, drawing, specifications and Conditions of Contract.
- (h) **Completion Date** is the actual date of completion of the Works and physical services certified by the Project Manager, in accordance with GCC Clause 78.
- (i) **Contract Agreement** means the Agreement entered into between the Procuring Entity and the Contractor, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein to execute, complete, and maintain the Works.
- (j) **Contract Documents** means the documents listed in GCC Clause 6, including any amendments thereto.
- (k) **Contractor** means the Person under contract with the Procuring Entity for the execution of Works under the Rules and the Act as stated in the **PCC**.
- (l) **Contract Price** means the price payable to the Contractor as specified in the Contract Agreement, subject to such additions and adjustments thereto or deductions therefrom, for the execution, completion and maintenance of the Works in accordance with the provisions of the Contract.
- (m) **Contractor's Tender** is the completed Tender Document including the priced BOQ and the Schedules submitted by the Contractor to the Procuring Entity.
- (n) **Cost** means all expenditures reasonably incurred or to be incurred by the Contractor, whether on or off the Site, including overhead, taxes, duties, fees and such other similar levies including corresponding incidental charges and premiums for banking and insurances, as applicable.
- (o) **Day** means calendar day unless otherwise specified as working days.
- (p) **Dayworks** means work carried out following the instructions of the Procuring Entity or the authorised Project Manager and is paid for on the basis of time spent by the Contractor's workers and equipment at the rates specified in the Schedules, in addition to payments for

- associated Materials and Plant.
- (q) **Defect** is any part of the Works not completed in accordance with the Contract.
  - (r) **Defects Correction Certificate** is the certificate issued by the Project Manager upon correction of defects by the Contractor.
  - (s) **Drawings** include calculations and other information provided in Section 9 or as approved by the Project Manager for the execution and completion of the Contract.
  - (t) **Equipment** is the Contractor's apparatus, machinery, vehicles and other things required for the execution and completion of the Works and remedying any defects excluding Temporary Works and the Procuring Entity's Equipment (if any ), Plant, Materials and any other things to form or forming part of the Permanent Works.
  - (u) **Force Majeure** means an event or situation beyond the control of the Contractor that is not foreseeable, is unavoidable, and its origins not due to negligence or lack of care on the part of the Contractor; such events may include, but not be limited to, acts of the Government in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes or more as included in GCC Clause 83;
  - (v) **GCC** means the General Conditions of Contract.
  - (w) **Government** means the Government of the People's Republic of Bangladesh.
  - (x) **Goods** mean the Contractor's Equipment, Materials, Plant and Temporary Works, or any of them as appropriate.
  - (y) **"Head of the Procuring Entity"** means the Secretary of a Ministry or a Division, the Head of a Government Department or Directorate; or the Chief Executive, or as applicable, Divisional Commissioner, Deputy Commissioner, Zilla Judge; or by whatever designation called, of a local Government agency, an autonomous or semi-autonomous body or a corporation, or a corporate body established under the Companies Act;
  - (z) **Intended Completion Date** is the date calculated from the Commencement Date as specified in the **PCC**, on which it is intended that the Contractor shall complete the Works and physical services as specified in the Contract and may be revised only by the Project Manager by issuing an extension of time or an acceleration order.
  - (aa) **Materials** means things of all kinds other than Plant intended to form or forming part of the Permanent Works, including the supply-only materials, if any, to be supplied by the Contractor under the Contract.
  - (bb) **Month** means calendar month.
  - (cc) **Original Contract Price** is the Contract Price stated in the Procuring Entity's Notification of Award (**Form PW3-7**) and further clearly determined in the **PCC**.
  - (dd) **Permanent works** means the permanent works to be executed by the Contractor under the Contract.
  - (ee) **PCC** means the Particular Conditions of Contract.
  - (ff) **Plant** means the apparatus, machinery and other equipment intended to form or forming part of the Permanent Works, including vehicles purchased for the Procuring Entity and relating to the construction of the Works and physical services.
  - (gg) **Procuring Entity** means a Procuring Entity having administrative and financial powers to undertake procurement of Works and physical services using public funds and is as named in the **PCC** who employs the Contractor to carry out the Works.

- (hh) **Project Manager** is the person named in the **PCC** or any other competent person appointed by the Procuring Entity and notified to the Contractor who is responsible for supervising the execution and completion of the Works and physical services and administering the Contract.
- (ii) **Provisional Sums means** amounts of money specified by the Procuring Entity in the BOQ which shall be used, at its discretion for meeting other essential expenditures under the Contract pursuant to GCC Sub Clause 75.
- (jj) **Retention Money** means the accumulated retention moneys which the Procuring Entity retains under GCC Clause 70.
- (kk) **Schedules** means the document(s) entitled schedules, completed by the Contractor and submitted with the Tender Submission Letter, as included in the Contract. Such document may include the data, lists and schedules of rates and/or prices.
- (ll) **Site** means the places where the Permanent Works are to be executed including storage and working areas and to which Plant and Materials are to be delivered, and any other places as may be specified in the **PCC** as forming part of the Site.
- (mm) **Site Investigation Reports** are those that were included in the Tender Document and are factual and interpretative reports about the surface and subsurface conditions at the Site.
- (nn) **Specification** means the Specification of the Works included in the Contract and any modifications or additions to the specifications made or approved by the Project Manager in accordance with the Contract.
- (oo) **Start Date** is the date defined in the **PCC** and it is the last date when the Contractor shall commence execution of the Works under the Contract.
- (pp) **Subcontractor** means a person or corporate body, who has a contract with the Contractor to carry out a part of the work in the Contract, which includes work on the Site.
- (qq) **Temporary Works** means all temporary works of every kind other than Contractor's Equipment required on the Site for the execution and completion of the Permanent Works and remedying of any defects.
- (rr) **Variation** means any change to the Works directly procured from the original Contractor to cover increases or decreases in quantities, including the introduction of new work items (non- Tendered items) that are either due to change of plans, design or alignment to suit actual field conditions, within the general scope and physical boundaries of the contract.
- (ss) **Works** means all works associated with the construction, reconstruction, site preparation, demolition, repair, maintenance or renovation of railways, roads, highways, or a building, an infrastructure or structure or an installation or any construction work relating to excavation, installation of equipment and materials, decoration, as well as physical services ancillary to works as detailed in the **PCC**, if the value of those services does not exceed that of the Works themselves.  
**Writing** means communication written by hand or machine duly signed and includes properly authenticated messages by facsimile or electronic mail.

- 2. Interpretation**      2.1 In interpreting the GCC, singular also means plural, male also means female or neuter, and the other way around. Headings in the GCC shall not be deemed part thereof or be taken into consideration in the interpretation or construance of the Contract. Words have their normal meaning under the language of the Contract unless specifically defined.

- 2.2 Entire Agreement  
The Contract constitutes the entire agreement between the Procuring Entity and the Contractor and supersedes all communications, negotiations and agreements (whether written or verbal) of parties with respect thereto made prior to the date of Contract Agreement; except those stated under GCC Sub Clause 6.1(j).
- 2.3 Non waiver  
(a) Subject to GCC Sub Clause 2.3(b), no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.  
(b) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.
- 2.4 Severability  
If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.
- 2.5 Sectional completion  
If sectional completion is specified in the **PCC**, references in the GCC to the Works, the Completion Date, and the Intended Completion Date apply to any section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).
3. **Communications & Notices** 3.1 Communications between Parties (notice, request or consent required or permitted to be given or made by one party to the other) pursuant to the Contract shall be in writing to the addresses specified in the **PCC**.  
3.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later.  
3.3 A Party may change its address for notice hereunder by giving the other Party notice of such change to the address.
4. **Governing Law** 4.1 The Contract shall be governed by and interpreted in accordance with the laws of the People's Republic of Bangladesh.
5. **Governing Language** 5.1 The Contract shall be written in English. All correspondences and documents relating to the Contract may be written in English or *Bangla*. Supporting documents and printed literature that are part of the Contract may be in another language, provided they are accompanied by an accurate translation of the relevant passages in English, in which case, for purposes of interpretation of the Contract, such translation shall govern.  
5.2 The Contractor shall bear all costs of translation to the governing language and all risks of the accuracy of such translation.
6. **Documents Forming the Contract and Priority of Documents** 6.1 The following documents forming the Contract shall be interpreted in the following order of priority:  
(a) the signed Contract Agreement (**Form PW3-9**);  
(b) the Notification of Award (**PW3-8**);  
(c) the completed Tender and the Appendix to the Tender;  
(d) the Particular Conditions of Contract;  
(e) the General Conditions of Contract;  
(f) the Technical Specifications;  
(g) the General Specifications;  
(h) the Drawings;  
(i) the priced BOQ and the Schedules; and

- (j) any other document listed in the **PCC** forming part of the Contract.
- 7. Scope of Works**
- 7.1 The Works to be executed, completed and maintained shall be as specified in the BOQ, the General and Particular Specifications and Drawings.
- 7.2 Unless otherwise stipulated in the Contract, the Works shall include all such items not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for completion of the Works as if such items were expressly mentioned in the Contract.
- 8. Assignment**
- 8.1 Neither the Contractor nor the Procuring Entity shall assign, in whole or in part, its obligations under the Contract.
- 9. Eligibility**
- 9.1 The Contractor and its Subcontractor(s) shall have the nationality of a country other than that specified in the **PCC**.
- 9.2 All materials, equipment, plant, and supplies used by the Contractor in both permanent and temporary works and services supplied under the Contract shall have their origin in the countries except any specified in the **PCC**.
- 10. Gratuities / Agency fees**
- 10.1 No fees, gratuities, rebates, gifts, commissions or other payments, other than those shown in the Tender or in the Contract, have been given or received in connection with the procurement process or in the Contract execution.
- 11. Confidential Details**
- 11.1 The Contractor's and the Procuring Entity's personnel shall disclose all such confidential and other information as may be reasonably required in order to verify the Contractor's compliance with the Contract and allow its proper implementation.
- 11.2 Each of them shall treat the details of the Contract as private and confidential, except to the extent necessary to carry out their respective obligations under the Contract or to comply with applicable Laws. Each of them shall not publish or disclose any particulars of the Works prepared by the other Party without the previous agreement of the other Party. However, the Contractor shall be permitted to disclose any publicly available information, or information otherwise required to establish his qualifications to compete for other projects.
- 12. Joint Venture (JV)**
- 12.1 If the Contractor is a JV ,
- (a) each partner of the JV shall be jointly and severally liable for all liabilities and ethical or legal obligations to the Procuring Entity for performance of the Contract;
- (b) the JV partners shall nominate the **Leading Partner** as **REPRESENTATIVE** being entrusted with the Contract administration and management at Site who shall have the authority to conduct all business including the receipt of payments for and on behalf of all partners of the JV;
- (c) If there is a dispute that results in legal action being taken in court then action will be taken against all partners of the JV, if they are available and, if only one partner is available, then that partner alone shall answer on behalf of all partners and, if the complaint lodged is proven, the penalty shall be applicable on that partner alone as whatever penalty all the partners would have received; provided that if the other partners of the JV subsequently become available before the legal action has been completed, the Procuring Entity shall have the right to take action against those other partners of that JV as well.
- (d) the composition or constitution and legal status of the JV shall not be altered without the prior approval of the Procuring Entity;
- (e) alteration of partners, **except the Leading partner**, shall only be allowed if any of them is found to be incompetent or has any serious difficulties which may impact the overall implementation of the Works, whereby the incoming partner shall require to possess qualifications higher than that of the outgoing partner;
- (f) "if any of the partners of JV has been debarred from participating in any procurement activity due to corrupt, fraudulent, collusive or

		coercive practices and while in case, the Leading partner is found incompetent or has been debarred due to the same reasons stated herein the Contract shall be terminated pursuant to GCC Sub Clause 87.1(b)."
<b>13. Possession of the Site</b>	13.1	The Procuring Entity shall give possession of the Site or part(s) of the Site, to the Contractor on the date(s) stated in the <b>PCC</b> . If possession of a part of the Site is not given by the date stated in the <b>PCC</b> , the Procuring Entity will be deemed to have delayed the start of the relevant activities, and this will be a Compensation Event as stated under GCC Sub Clause 67.1(a).
<b>14. Access to the Site</b>	14.1	The Contractor shall allow the Project Manager and any person authorised by the Project Manager access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.
<b>15. Procuring Entity's Responsibilities</b>	15.1	The Procuring Entity shall pay the Contractor, in consideration of the satisfactory progress of execution and completion of the Works and physical services, 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 Agreement.
	15.2	The Procuring Entity shall make its best effort to guide and assist the Contractor in obtaining, if required, any permit, licence, and approvals from local public authorities for the purpose of execution of the Works and physical services under the Contract.
<b>16. Approval of the Contractor's Temporary Works</b>	16.1	The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Manager, who is to approve them, if they comply with the Specifications and Drawings.
	16.2	The Contractor shall be responsible for design of Temporary Works.
	16.3	The Project Manager's approval shall not alter the Contractor's responsibility for design of the Temporary Works.
	16.4	The Contractor shall obtain approval of third parties to the design of the Temporary Works, where required.
<b>17. Contractor's Responsibilities</b>	17.1	The Contractor shall execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract Agreement.
<b>18. Taxes and Duties</b>	18.1	The Contractor shall be entirely responsible for all applicable taxes, custom duties, VAT, and other levies imposed or incurred inside and outside Bangladesh.
<b>19. Contractor's Personnel</b>	19.1	The Contractor shall employ the key personnel named in the Schedule of Key Personnel, as referred to in the <b>PCC</b> , to carry out the functions stated in the Schedule or other personnel approved by the Project Manager.
	19.2	The Project Manager will approve any proposed replacement of key personnel only if their relevant qualifications and abilities are equal to or higher than those of the personnel named in the Schedule.
	19.3	If the Project Manager asks the Contractor to remove a particular person who is a member of the Contractor's staff or work force from the Site, he or she shall state the reasons, and the Contractor shall ensure that the person leaves the Site within three (3) days and has no further connection with the work in the Contract.
<b>20. Subcontracting</b>	20.1	Subcontracting the whole of the Works by the Contractor shall not be permissible. The Contractor shall be responsible for the acts or defaults of any Subcontractor, his or her agents or employees, as if they were the acts or defaults of the Contractor.
	20.2	The prior consent, in writing, of the Project Manager shall however be obtained for other proposed Subcontractor(s).
	20.3	Nominated Subcontractor named in the Contract shall be entitled to execute the specific components of the Works stated in the <b>PCC</b> .

	20.4	Subcontractors shall comply with the provisions of GCC Clause 38.
<b>21. Other Contractors</b>	21.1	The Contractor shall cooperate and share the Site with other Contractors, public authorities, utilities, the Project Manager and the Procuring Entity between the dates given in the Schedule of other Contractors. The Contractor shall also provide facilities and services for them as described in the Schedule. The Procuring Entity may modify the Schedule of other Contractors, and shall notify the Contractor of any such modification.
<b>22. Project Manager's Decisions</b>	22.1	Except where otherwise specifically stated in the <b>PCC</b> , the Project Manager will decide Contractual matters between the Procuring Entity and the Contractor in its role as representative of the Procuring Entity.
<b>23. Delegation</b>	23.1	The Project Manager may delegate any of his duties and responsibilities to his representative except to the Adjudicator, after notifying the Contractor, and may cancel any delegation, without retroactivity, after notifying the Contractor.
	23.2	Any communications to the Contractor in accordance with such delegation shall have the same effect as if it was given by the Project Manager.
<b>24. Instructions</b>	24.1	The Contractor shall carry out all instructions of the Project Manager that comply with the applicable law.
<b>25. Queries About the Contract Conditions</b>	25.1	The Project Manager, on behalf of the Procuring Entity, will clarify queries on the Conditions of Contract.
<b>26. Safety, Security and Protection of the Environment</b>	26.1	The Contractor shall throughout the execution and completion of the Works and the remedying of any defects therein: <ul style="list-style-type: none"> <li>(a) take all reasonable steps to safeguard the health and safety of all workers working on the Site and other persons entitled to be on it, and to keep the Site in an orderly state;</li> <li>(b) provide and maintain at the Contractor's own cost all lights, guards, fencing, warning signs and watching for the protection of the Works or for the safety on-site; and</li> <li>(c) take all reasonable steps to protect the environment on and off the Site and to avoid damage or nuisance to persons or to property of the public or others resulting from pollution, noise or other causes arising as a consequence of the Contractors methods of operation.</li> </ul>
<b>27. Working Hours</b>	27.1	The Contractor shall not perform any work on the Site on the weekly holidays, or during the night or outside the normal working hours, or on any religious or public holiday, without the prior written approval of the Project Manager.
<b>28. Welfare of Labourers</b>	28.1	The Contractor shall comply with all the relevant labour Laws applicable to the Contractor's personnel relating to their employment, health, safety, welfare, immigration and shall allow them all their legal rights.
	28.2	The Contractor, in particular, shall provide proper accommodation to his or her labourers and arrange proper water supply, conservancy and sanitation arrangements at the site for all necessary hygienic requirements and for the prevention of epidemics in accordance with relevant regulations, rules and orders of the government.
	28.3	The Contractor, further in particular, shall pay reasonable wages to his or her labourers, and pay them in time. In the event of delay in payment the Procuring Entity may effect payments to the labourers and recover the cost from the Contractor.
<b>29. Child Labour</b>	29.1	The Contractor shall not employ any child to perform any work that is economically exploitative, or is likely to be hazardous to, or to interfere with, the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development in compliance with the applicable labor laws and other relevant treaties ratified by the government.

<b>30. Discoveries</b>	<b>30.1</b>	Anything of historical or other interest or of significant value unexpectedly discovered on the Site shall be the property of the Procuring Entity. The Contractor shall notify the Project Manager of such discoveries and carry out the Project Manager's instructions for dealing with them.
<b>31. Procuring Entity's and Contractor's Risks</b>	<b>31.1</b>	The Procuring Entity carries the risks that the Contract states are Procuring Entity's risks and the Contractor carries the risks that the Contract states are Contractor's risks.
<b>32. Procuring Entity's Risks</b>	<b>32.1</b>	From the Start Date until the Defects Correction Certificate has been issued, the following are Procuring Entity's risks: <ul style="list-style-type: none"> <li>(a) the risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to <ul style="list-style-type: none"> <li>i. use or occupation of the Site by the Works or for the purpose of the Works, which is the unavoidable result of the Works or</li> <li>ii. negligence, breach of statutory duty, or interference with any legal right by the Procuring Entity or by any person employed by or Contracted to him except the Contractor.</li> </ul> </li> <li>(b) the risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Procuring Entity or in the Procuring Entity's design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.</li> </ul>
	<b>32.2</b>	From the Completion Date until the Defects Correction Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is Procuring Entity's risk, except loss or damage due to: <ul style="list-style-type: none"> <li>(a) a Defect which existed on the Completion Date;</li> <li>(b) an event occurring before the Completion Date, which was not itself Procuring Entity's risk; or</li> <li>(c) the activities of the Contractor on the Site after the Completion Date.</li> </ul>
<b>33. Contractor's Risks</b>	<b>33.1</b>	From the Start Date until the Defects Correction Certificate has been issued the risks of personal injury, death, and loss of or damage to property including without limitation, the Works, Plant, Materials, and Equipment, which are not Procuring Entity's risks are Contractor's risks.
<b>34. Copyright</b>	<b>34.1</b>	The copyright in all drawings, documents, and other materials containing data and information furnished to the Procuring Entity by the Contractor herein shall remain vested in the Contractor, or, if they are furnished to the Procuring Entity directly or through the Contractor by any third party, including Suppliers of materials, the copyright in such materials shall remain vested in such third party.
	<b>34.2</b>	The Contractor shall not, except for the purposes of performing the obligations under the Contract, without the written permission of the Procuring Entity disclose or make use of any specification, plan, design and drawing, pattern, sample or information furnished by or on behalf of the Procuring Entity.
<b>35. Limitation of Liability</b>	<b>35.1</b>	Except in cases of criminal negligence or wilful misconduct: <ul style="list-style-type: none"> <li>(a) the Contractor shall not be liable to the Procuring Entity, whether in Contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Contractor to pay liquidated damages to the Procuring Entity; and</li> <li>(b) the aggregate liability of the Contractor to the Procuring Entity,</li> </ul>

- whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective Works, or to any obligation of the Contractor to indemnify the Procuring Entity with respect to patent infringement.
- 36. Insurance**
- 36.1 The Contractor shall provide, in the joint names of the Procuring Entity and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts specified in the PCC for the following events which are due to the Contractor's risks:
- (a) loss of or damage to the Works, Plant, and Materials;
  - (b) loss of or damage to Equipment;
  - (c) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and
  - (d) personal injury or death.
- 36.2 The Contractor shall deliver policies and certificates of insurance to the Project Manager, for the Project Manager's approval, before the Start Date. All such insurances shall provide for compensation to be payable in the types and proportions required to rectify the loss or damage incurred.
- 36.3 If the Contractor does not provide any of the policies and certificates required, the Procuring Entity may effect the insurance which the Contractor should have provided and recover the premiums the Procuring Entity has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.
- 36.4 Alterations to the terms of insurance shall not be made without the approval of the Project Manager.
- 36.5 Both parties shall comply with conditions of the insurance policies.
- 37. Management and Progress Meetings**
- 37.1 Either the Project Manager or the Contractor may require the other to attend a management and progress meeting. The business of such meeting shall be to review the progress and plans for remaining work and to deal with matters raised in accordance with the early warning procedure.
- 37.2 The Project Manager shall record the business of the meetings and provide copies of the record to those attending the meeting and to the Procuring Entity. The responsibility of the parties for actions to be taken shall be decided by the Project Manager either at the management and progress meeting or after the meeting, and stated in writing to all concerned.
- 38. Corrupt, Fraudulent, Collusive or Coercive Practices**
- 38.1 The Government requires that Procuring Entity, as well as the Contractor shall observe the highest standard of ethics during the implementation of procurement proceedings and the execution of the Contract under public fund.
- 38.2 The Government requires that Procuring Entity, as well as the Contractor shall, during the execution of Contracts under public funds, ensure-
- (a) strict compliance with the provisions of Section 64 of the Public Procurement Act 2006 (Act 24 of 2006);
  - (b) abiding by the code of ethics as mentioned in the Rule 127 of the Public Procurement Rules, 2008;
  - (c) that neither it nor any other member of its staff or any other agents or intermediaries working on its behalf engages in any practice as detailed in GCC Sub Clause 38.3

- 38.3 For the purposes of GCC Sub Clause 38.4, the terms set forth below as follows:
- (a) “corrupt practice” means offering, giving or promising to give, receiving, or soliciting either directly or indirectly, to any officer or employee of a Procuring Entity or other public or private authority or individual, a gratuity in any form; employment or any other thing or service of value as an inducement with respect to an act or decision or method followed by a Procuring Entity in connection with a Procurement proceeding or Contract execution;
  - (b) “fraudulent practice” means the misrepresentation or omission of facts in order to influence a decision to be taken in a Procurement proceeding or Contract execution;
  - (c) “collusive practice” means a scheme or arrangement between two (2) or more Persons, with or without the knowledge of the Procuring Entity, that is designed to arbitrarily reduce the number of Tenders submitted or fix Tender prices at artificial, non-competitive levels, thereby denying a Procuring Entity the benefits of competitive price arising from genuine and open competition; or
  - (d) “coercive practice” means harming or threatening to harm, directly or indirectly, Persons or their property to influence a decision to be taken in the Procurement proceeding or the execution of the Contract, and this will include creating obstructions in the normal submission process used for Tenders.
- 38.4 Should any corrupt, fraudulent, collusive or coercive practice of any kind come to the knowledge of the Procuring Entity, it will, in the first place, allow the Contractor to provide an explanation and shall, take actions only when a satisfactory explanation is not received. Such exclusion and the reasons thereof, shall be recorded in the record of the procurement proceedings and promptly communicated to the Contractor. Any communications between the Contractor and the Procuring Entity related to matters of alleged corrupt, fraudulent, collusive or coercive practices shall be in writing.
- 38.5 If corrupt, fraudulent, collusive or coercive practices of any kind determined by the Procuring Entity against the Contractor alleged to have carried out such practices, the Procuring Entity will :
- (a) exclude the Contractor from further participation in the particular Procurement proceeding; or
  - (b) declare, at its discretion, the Contractor to be ineligible to participate in further Procurement proceedings, either indefinitely or for a specific period of time.
- 38.6 The Contractor shall be aware of the provisions on corruption, fraudulence, collusion and coercion in Section 64 of the Public Procurement Act, 2006 and Rule 127 of the Public Procurement Rules, 2008.

## B. Time Control

- 39. Commencement of Works**
- 39.1 Except otherwise specified in the **PCC** , the Commencement Date shall be the date at which the following precedent conditions have all been fulfilled and the Project Manager’s instruction recording the agreement of both Parties on such fulfilment and instructing to commence the Works is received by the Contractor:
- (a) signing of the Contract Agreement by both parties upon approval of the by relevant authorities;
  - (b) possession of the Site given to the Contractor as required for the

		commencement of the Works; and
		(c) receipt by the Contractor of the Advance Payment under GCC Clause 73 provided that the corresponding Bank Guarantee has been delivered by the Contractor, if any.
	39.2	The Contractor shall commence the execution of the Works as soon as is reasonably practicable by the <b>Start Date</b> as specified in the GCC Sub Clause <b>1.1(oo)</b> after the Commencement Date, and shall then proceed with the Works with due expedition and without delay.
<b>40. Completion of Works</b>	40.1	The Contractor shall carry out the Works in accordance with the Programme of Works submitted by the Contractor and as updated with the approval of the Project Manager as stated under GCC Clause 41 to complete them in all respects by the Intended Completion Date, as specified in the <b>PCC</b> .
<b>41. Programme of Works</b>	41.1	Within the time stated in the <b>PCC</b> , the Contractor shall submit to the Project Manager for approval a Programme of Works showing the general methods, arrangements, order, and timing for all the activities in the Works. The programme may be in the form of an Implementation Schedule prepared in any software or other form acceptable to the Project Manager.
	41.2	The Contractor shall submit to the Project Manager for approval of an updated Programme at intervals no longer than the period stated in the <b>PCC</b> . An update of the Programme shall be a Programme showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work, including any changes to the sequence of the activities.
	41.3	If the Contractor does not submit an updated Programme of Works at the intervals as stated under GCC Sub Clause 41.2, the Project Manager may withhold an amount as stated in the <b>PCC</b> from the next payment certificate and continue to withhold this amount until the next due payment after the date on which the overdue Programme of Works has been submitted.
	41.4	The Project Manager's approval of the Programme of Works shall not alter the Contractor's obligations. The Contractor may revise the Programme and submit it to the Project Manager again at any time for approval. A revised Programme shall show the effect of Variations and Compensation Events.
<b>42. Pro Rata Progress</b>	42.1	The Contractor shall maintain Pro Rata progress of the Works. Progress to be achieved shall be pursuant to GCC Clause 41 and shall be determined in terms of the value of the works done.
<b>43. Early Warning</b>	43.1	If at any time during performance of the Contract, the Contractor or its Subcontractors should encounter events, circumstances, conditions that may adversely affect the quality of the work, increase the original Contract Price or delay the execution of the Works, the Contractor shall promptly notify the Project Manager in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Contractor's notice, the Project Manager shall evaluate the situation, and the Contractor shall cooperate with the Project Manager in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced.
	43.2	The Project Manager may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the original Contract Price and Completion Date. The Contractor shall provide the estimate and the Project Manager shall further proceed as soon as reasonably possible.
<b>44. Extension of</b>	44.1	The Contractor shall be entitled to an extension of the Intended

<b>Intended Completion Date</b>		Completion Date, if and to the extent that completion of the Works or any part thereof is or will be delayed by Compensation Events or a Variation or Extra Work Order.
	44.2	If the Contractor considers itself to be entitled to an extension of the execution period as stated under GCC Sub Clause 44.1, the Contractor shall give notice, not later than twenty-eight (28) days after the Contractor became aware or should have become aware of the event or circumstance, to the Project Manager.
	44.3	The Project Manager shall decide whether and by how much to extend the Intended Completion Date within twenty-one (21) days of the Contractor asking the Project Manager for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the extension of Intended Completion Date.
	44.4	The Project Manager may extend the Intended Completion Date by twenty (20) percent of the original Contract time as stated under GCC Sub Clause 44.1, if a Compensation Event occurs or Variation Order or extra work Order issued, which does not make it possible to complete the execution of works without incurring additional cost.
	44.5	In the case an extension of the Intended Completion Date required under GCC Sub Clause 44.3 is or will be more than twenty (20) percent of the original Contract time, approval of the Head of the Procuring Entity or an officer authorized by him or her for the same shall be required to be obtained.
	44.6	Except in case of Force Majeure, as provided under GCC Clause 83, a delay by the Contractor in the execution Works shall render the Contractor liable to the imposition of Liquidated Damages pursuant to GCC Clause 71, unless an extension of the Intended Completion Date is agreed upon, pursuant to GCC Clause 44.3.
<b>45. Delays Caused by Authorities</b>	45.1	If the following conditions apply, namely: <ul style="list-style-type: none"> <li>(a) the Contractor has diligently followed the procedures laid down by the relevant legally constituted public authorities,</li> <li>(b) these public authorities delay or disrupt the Contractor's work, and</li> <li>(c) the delay or disruption was unforeseeable;</li> </ul> then this delay or disruption will be considered as a cause of delay under GCC Sub Clause 44.1.
	45.2	The Project Manager shall notify the Contractor accordingly keeping the Procuring Entity posted.
<b>46. Acceleration</b>	46.1	When the Procuring Entity wants the Contractor to finish the Works before the Intended Completion Date, the Project Manager will obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Procuring Entity accepts these proposals, the Intended Completion Date will be advanced accordingly and confirmed by both the Procuring Entity and the Contractor.
	46.2	If the Procuring Entity accepts the Contractor's priced proposals for acceleration, they will be incorporated in the Contract Price and treated as a <b>Variation</b> under GCC Clause 61.
<b>47. Delays Ordered by the Project Manager</b>	47.1	The Project Manager may instruct the Contractor to delay the start or progress of any activity within the Works.

- |                                       |      |  |
|---------------------------------------|------|--|
| <b>48. Suspension of Work</b>         | 48.1 | The Project Manager may at any time instruct the Contractor to suspend progress of part or all of the Works. During such suspension, the Contractor shall protect, store and secure such part or the Works against any deterioration, loss or damage.  |
| <b>49. Consequences of Suspension</b> | 49.1 | If the Contractor suffers delay and/or incurs Cost from complying with the Project Manager's instructions under GCC Clause 48 and/or from resuming the work, the Contractor shall give notice to the Project Manager and shall be entitled subject to GCC Clause 91 to:                              |
|                                       | (a)  | an extension of time for any such delay, if Completion is or will be delayed and   |
|                                       | (b)  | payment of any such cost, which shall be included in the Contract Price.   |
|                                       | 49.2 | After receiving this notice, the Project Manager shall proceed to agree or determine these matters.  |
|                                       | 49.3 | The Contractor shall not be entitled to any extension of time for, or to any payment of the cost incurred in, making good the consequences of the Contractor's faulty design, workmanship or materials, or of the Contractor's failure to protect, store or secure in accordance with GCC Clause 48. |

### **C. Quality Control**

- |  |      |  |
|--|------|--|
| <b>50. Execution of Works</b>                      | 50.1 | The Contractor shall construct, install and carry out the Works and physical services in accordance with the Specifications and Drawings as scheduled in GCC Clause 6.   |
| <b>51. Examination of Works before covering up</b> | 51.1 | All works under the Contract shall at all times be open to examination, inspection, measurements, testing and supervision of the Project Manager, and the Contractor shall ensure presence of its representatives at such actions provided proper advance notice is given by the Project Manager.  |
|  | 51.2 | No part of the Works shall be covered up or put out of sight without the approval of the Project Manager. The Contractor shall give notice in writing to the Project Manager whenever any such part of the Works is ready for examination and, the Project Manager shall attend to such examination without unreasonable delay.  |
| <b>52. Identifying Defects</b>                     | 52.1 | The Project Manager shall check the works executed by the Contractor and notify the Contractor of any Defects found. Such checking shall not relieve the Contractor from his or her obligations. The Project Manager may also instruct the Contractor to search for a Defect and to uncover and test any work that the Project Manager considers may have a Defect.                          |
| <b>53. Testing</b>                                 | 53.1 | If the Project Manager instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect, the test shall be a Compensation Event pursuant to GCC Sub Clause 67.   |
| <b>54. Rejection of Works</b>                      | 54.1 | If, as a result of an examination, inspection, measurement or testing, of Works it is found to be defective or otherwise not in accordance with the Contract, the Project Manager may reject the Works by giving notice to the Contractor, with reasons. The Contractor shall then promptly make good the defect and ensure that the rejected Works subsequently complies with the Contract. |
| <b>55. Remedial Work</b>                           | 55.1 | Notwithstanding any test or certification, the Project Manager may instruct the Contractor to:   |
|  | (a)  | remove from the Site and replace any Plant or Materials which is not in accordance with the Contract,  |
|  | (b)  | remove and re-execute any other work which is not in accordance  |

		with the Contract, and
	(c)	execute any work which is urgently required for the safety of the Works, whether because of an accident, unforeseeable event or otherwise.
	55.2	The Contractor shall comply with the instruction issued under GCC Sub Clause 55.1 within a reasonable time, which shall be specified in the instruction, or immediately if urgency is specified under GCC Sub Clause 55.1(c).
	55.3	If the Contractor fails to comply with the instruction issued under GCC Sub Clause 55.2, the Procuring Entity shall be entitled to employ and pay other persons to carry out the work. Except to the extent that the Contractor would have been entitled to payment for the work, the Contractor shall be liable to pay all such costs arising from this failure.
<b>56. Correction of Defects</b>	56.1	The Project Manager shall give notice to the Contractor, with a copy to the Procuring Entity and others concerned, of any Defects before the end of the Defects Liability Period, which begins at Completion Date, and is defined in the <b>PCC</b> . The Defects Liability Period shall be extended for as long as Defects remain to be corrected.
	56.2	Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Project Manager's notice.
<b>57. Uncorrected Defects</b>	57.1	If the Contractor has not corrected a Defect within the time specified in the Project Manager's notice, the Project Manager shall assess the cost of having the Defect corrected by it, and the Contractor shall remain liable to pay the expenditures incurred on account of correction of such Defect.
<b>D. Cost Control</b>		
<b>58. Contract Price</b>	58.1	The Contract Price shall be as specified in the Contract Agreement subject to any additions and adjustments thereto, or deductions therefrom, as may be made pursuant to Contract.
<b>59. Bill of Quantities</b>	59.1	The Bill of Quantities (BOQ) shall contain priced items for the construction, installation, testing, and commissioning work to be done by the Contractor.
	59.2	The BOQ is used to calculate the Contract Price. The Contractor is paid for the quantity of the work done at the rate in the BOQ for each item.
	59.3	Items of works quantified in the BOQ for which no rates have been quoted shall be deemed covered by the amounts at rates of other items in the Contract and, shall under no circumstances be paid for, by the Procuring Entity.
<b>60. Changes in the Quantities and Unit Rate</b>	60.1	If the final quantity of the work done for any particular item in the BOQ increases by more than twenty-five (25) percent and, such increase in quantity of that particular item alone concurrently causes the original Contract Price to exceed by more than one (1) percent, the Project Manager shall adjust the unit rate of the item to allow for the change.
	60.2	If requested by the Project Manager, the Contractor shall provide the Project Manager with a detailed cost breakdown of any rate in the BOQ.
<b>61. Issue Variation or Extra Work Order</b>	61.1	The Project Manager may issue a <b>Variation Order</b> to the Contractor to cover increase or decrease in quantities, including the introduction of new work items (non-Tendered items) that are either due to change of plans, design or alignment to suit actual field conditions, within the general scope and physical boundaries of the contract.
	61.2	The Project Manager may issue an <b>Extra Work Order</b> to cover the introduction of such new works necessary for the completion, improvement or protection of the original works which were not included

in the original contract, on the grounds where there are subsurface or latent physical conditions at the site differing materially from those indicated in the contract, or where there are duly unknown physical conditions at the site of an unusual nature differing materially from those usually encountered and generally recognized as inherent in the work or character provided for in the Contract.

- 61.3 The Project Manager deems it necessary that a Variation or Extra Work Order should be issued, he or she shall prepare the proposed order, the necessary plans, his or her computations as to the quantities of the additional Works involved per item indicating the specific locations where such Works are needed, the date of his or her inspections and investigations thereon, and the log book thereof, and a detailed estimate of the unit cost of such items of work as stated under GCC Clause 62, together with his or her justifications for the need of such Variation or Extra Work Order, and shall submit the same to the Approving Authority. Any Amend to the contract that happens within the approved BOQ items and doesn't change the contract price shall be approved by the HOPE or delegated officer.
- 61.4 The Head of the Procuring Entity may, in exceptions to the GCC Sub Clause 61.3 and subject to the availability of funds, in the event of extreme emergency and when time is of the essence, authorize the immediate start of work under any Variation or Extra Work Order; provided that the cumulative increase in the value of Works not yet duly approved exceeded ten (10) percent of the adjusted original Contract Price.
- 61.5 Increase or decrease in the quantities of any item of work included in the BOQ for the reasons other than those stated under GCC Sub Clause 61.1 and 61.2, in particular for field level actual measurements under this contract (admeasurements), not necessarily however, shall constitute a **Variation**.
- 61.6 All Variations and Extra work orders under the Contract shall be included in the updated Programme of Works produced by the Contractor.
- 62. Costing of Variations or Extra Orders**
- 62.1 The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Project Manager shall assess the quotation, which shall be given within seven (7) working days of the request or within any longer period stated by the Project Manager and before the Variation is ordered.
- 62.2 If the item of work in the Variation corresponds to an item of work in the BOQ and if, in the opinion of the Project Manager, the increased quantity and cost of the works of that particular item does not concurrently cause to exceed the limit stated in GCC Sub Clause 60.1, the same unit rate in the BOQ shall be used to calculate the cost of the Variation. If the item of work in the Variation does not correspond to an item in the BOQ, the unit rates for the new items of works shall be determined based on (i) the direct unit costs used in the original Contract for other items (e.g. unit cost of cement, steel bar, labour rate, equipment rental, etc) as indicated in the Contractor's price breakdown of the cost estimate, if available or (ii) fixed prices acceptable to both, the Procuring Entity and the Contractor, based on market prices. The direct cost of the new work items based on (i) or (ii) stated herein shall then be combined with the mark-up factor (i.e. profit, overhead and VAT) used by the Contractor in its Tender to determine the unit rate of the new items of work.
- 62.3 If the Contractor's quotation is found to be unreasonable, the Project Manager may order the Variation and make a change to the Contract Price, which shall be based on the Project Manager's own forecast of the effects of the Variation on the Contractor's costs.

	62.4	The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning under GCC Sub Clause 43.1.
	62.5	The time for processing of a Variation and an Extra Work Order from its preparation to approval shall not exceed thirty (30) working days.
<b>63. Cash Flow Forecasts</b>	63.1	When the Programme of Works is updated under GCC Sub Clause 41.2, the Contractor shall provide the Project Manager with an updated cash flow forecast.
<b>64. Payment Certificates</b>	64.1	The basis for payment certificates shall be BOQ used to determine the Contract Price.
	64.2	The Contractor shall submit to the Project Manager monthly statements of the estimated value of the works executed less the cumulative amount certified previously.
	64.3	The Project Manager shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor.
	64.4	The value of work executed shall be determined by the Project Manager.
	64.5	The value of work executed may also include the valuation of Variations or Extra Work Orders, Certified Dayworks and Compensation Events.
	64.6	The Project Manager may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.
<b>65. Payments to the Contractor</b>	65.1	Payments shall be adjusted for deductions for advance payments and retention. The Procuring Entity shall pay the Contractor the amounts certified by the Project Manager within twenty-eight (28) days of the date of each certificate after due adjustments for deductions for advance payments, retention and any other additions or deductions which may have become due under the Contract or otherwise, including those under GCC Clause 91.
	65.2	Payments for Works under Variation Orders or Extra Work Orders satisfactorily accomplished pursuant to GCC Sub Clause 61 may be made only after approval of the same by the Approving Authority or next higher, as appropriate.
	65.3	Payments due to the Contractor in each certificate shall be made into the Bank Account, in any scheduled Bank of Bangladesh, of the legal title of the Contract specified in the <b>PCC</b> , nominated by the Contractor in the currency specified in the Contract.
<b>66. Delayed Payment</b>	66.1	If the Procuring Entity makes a late payment, the Contractor shall be paid interest on the late payment in the next payment at the rate as specified in the <b>PCC</b> . Interest shall be calculated from the date by which the payment should have been made up to the date when the late payment is made.
	66.2	If an amount certified is increased in a subsequent certificate as a result of an award by the Adjudicator or an Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in this clause. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.
<b>67. Compensation Events</b>	67.1	The following shall be Compensation Events: <ul style="list-style-type: none"> <li>(a) The Procuring Entity does not give access to or possession of the Site or part of the Site by the Site Possession Date stated in the GCC Sub Clause 13.1;</li> <li>(b) The Procuring Entity modifies the Schedule of other Contractors in a way that affects the works of the Contractor under the Contract;</li> </ul>

- (c) The Project Manager orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time;
  - (d) The Project Manager instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects;
  - (e) The Project Manager unreasonably does not approve a subcontract to be let, if applicable;
  - (f) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Notification of Award from the information issued to Tenderers (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site; Other Contractors, public authorities, utilities, or the Procuring Entity do not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor;
  - (g) The advance payment is delayed;
  - (h) The effects on the Contractor of any of the Procuring Entity's Risks;
  - (i) The Project Manager unreasonably delays issuing a Completion Certificate;
  - (j) A situation of Force Majeure has occurred, as defined in GCC Clause 83; and
  - (k) Other Compensation Events described in the Contract or determined by the Project Manager in the **PCC** shall apply.
- 67.2 If a Compensation Event would cause additional cost or would prevent the work being completed before the Intended Completion Date, the Contract Price shall be increased and/or the Intended Completion Date shall be extended. The Project Manager shall decide whether and by how much the Contract Price shall be increased and whether and by how much the Intended Completion Date shall be extended, only on justifiably acceptable grounds duly recorded.
- 67.3 As soon as the Contractor has provided information demonstrating the effect of each Compensation Event upon the Contractor's forecast cost, the Project Manager shall assess it, and the Contract Price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Project Manager shall adjust the Contract Price based on the Project Manager's own forecast. The Project Manager will assume that the Contractor will react competently and promptly to the event.
- 67.4 The Contractor shall not be entitled to compensation to the extent that the Procuring Entity's interests are adversely affected by the Contractor not having given early warning or not having cooperated with the Project Manager.
- 68. Adjustments for Changes in Legislation**
- 68.1 Unless otherwise specified in the Contract, if between the date twenty-eight (28) days before the submission of Tenders for the Contract and the date of the last Completion Certificate, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in Bangladesh (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Completion Date and/or the Contract Price, then such Completion Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Contractor has thereby been affected in the performance of any of its obligations under the Contract.
- 68.2 The Project Manager shall adjust the Contract Price on the basis of the change in the amount of taxes, duties, and other levies payable by the

		Contractor, provided such changes have not already been accounted for in the price adjustment as defined in GCC Clause 69 and/or reflected in the Contract Price.
<b>69. Price Adjustment</b>	69.1	<p>Prices shall be adjusted for fluctuations in the cost of inputs only if provided for in the <b>PCC</b>. If so provided, the amounts as certified in each payment certificate, before deducting for Advance Payment, shall be adjusted by applying the respective price adjustment factor to the payment amount. The formulae indicated below applies:</p> $P = A + B (I_m/I_o)$ <p>where:  <b>P</b> is the adjustment factor  <b>A</b> and <b>B</b> are Coefficients specified in the <b>PCC</b>, representing the nonadjustable and adjustable portions, respectively, of the Contract; and  <b>I<sub>m</sub></b> is the Index during the month the work has been executed and  <b>I<sub>o</sub></b> is the Index prevailing twenty-eight (28) days prior to the deadline for submission of Tender.</p> <p>The Indexes to be used is as published by the Bangladesh Bureau of Statistics (BBS) on a monthly basis. In case not available, then other countries or authorities of the sources mentioned in <b>Appendix to the Tender</b> may be used.</p>
<b>70. Retention Money</b>	70.1	The Procuring Entity may retain from each progressive payment due to the Contractor at the percentage specified in the <b>PCC</b> until completion of the whole of the Works under the Contract.
	70.2	On completion of the whole of the Works, the first half of the total amount retained under GCC Sub Clause 70.1 shall be returned to the Contractor and the remaining second half after the Defects Liability Period has passed and the Project Manager has certified in the form of <b>Defects Corrections Certificate</b> .
	70.3	On completion of the whole of the Works, the Contractor may substitute an irrevocable unconditional Bank Guarantee from any scheduled Bank of Bangladesh, in the format as specified ( <b>Form PW3-12</b> ), without any alteration, acceptable to the Procuring Entity for the second half of the retention money as stated under GCC Sub Clause 70.2.
<b>71. Liquidated Damages</b>	71.1	Except as provided under GCC Sub Clause 83, if the Contractor fails to complete the Works and physical services within the Intended Completion Date or extended Intended Completion Date, the Procuring Entity shall, as Liquidated Damages, deduct from the Contract Price, a sum at the percent-rate per day of delay as specified in the <b>PCC</b> , of the contract value of the uncompleted works or part thereof completed after the Intended Completion Date or extended Intended Completion Date, as applicable. The total amount of Liquidated Damages or Delay Damages shall not exceed the amount specified in the <b>PCC</b> . The Procuring Entity may deduct Liquidated Damages from payments due to the Contractor. Payment of Liquidated damages shall not affect the Contractor's liabilities.
	71.2	If the Intended Completion Date is extended after Liquidated Damages have been paid, the Project Manager shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate.
<b>72. Bonus</b>	72.1	The Contractor shall be paid a Bonus calculated at the percent-rate per day <b>if stated in the PCC</b> for each day (less any days for which the Contractor is paid for acceleration) that the Completion of the whole of the Works is earlier than the Intended Completion Date. The Project Manager shall require certifying that the Works are complete, although they may not

- have fallen due to being complete as per approved updated Programme of Works.
- 73. Advance Payment**
- 73.1 The Procuring Entity shall make advance payment, if so specified in the PCC, to the Contractor in the amounts and by the dates specified in the PCC against an irrevocable unconditional Bank Guarantee issued by any scheduled Bank of Bangladesh in the format as specified (**Form PW3-11**), without alteration, and acceptable to the Procuring Entity of an amount equal to the advance payment. The Guarantee shall remain effective until the advance payment has been amortized, but the amount of the Guarantee shall be progressively reduced by the amounts amortized by the Contractor. Interest will not be charged on the advance payment.
- 73.2 The Contractor shall use the advance payment only to pay for Equipment, Plant, Materials, and mobilization expenses required specifically for execution of the Contract. The Contractor shall demonstrate that advance payment has been used for such specific purposes by supplying copies of invoices or other documents to the Project Manager.
- 73.3 The advance payment shall be amortized by deducting at proportionate rate from payments otherwise due to the Contractor, following the schedule of completed percentages of the Works as specified in the PCC. No account shall be taken of the advance payment or its amortization in assessing valuations of work done, Variations, price adjustments, Compensation Events, Bonuses, or Liquidated Damages.
- 73.4 If the amortization of advance payment has not been completed by twenty-eight (28) days prior to the expiry date of the Guarantee stated under GCC Sub Clause 73.1, the Contractor shall correspondingly extend the validity of the Guarantee for a period so long the advance payment is fully amortized. The Bank Guarantee for advance payment shall be released when the same has been fully amortized.
- 74. Performance Security**
- 74.1 The Procuring Entity shall notify the Contractor of any claim made against the Bank issuing the Performance Security.
- 74.2 The Procuring Entity may claim against the security if any of the following events occurs for fourteen (14) days or more.
- (a) The Contractor is in breach of the Contract and the Procuring Entity has duly notified him or her ; and
- (b) The Contractor has not paid an amount due to the Procuring Entity and the Procuring Entity has duly notified him or her.
- 74.3 In the event as stated under GCC Sub Clause 74.2, the Contractor is liable to pay compensation under the Contract amounting to the full value of the security or more, the Procuring Entity may call the full amount of the security.
- 74.4 The Performance Security furnished at the time of signing of the Contract Agreement shall be substituted, after the issuance of certificate of Completion of works by the Project Manager, by a new Security covering fifty (50) percent amount of the Performance Security to cover the Defects Liability Period.
- 74.5 If there is no reason to call the security, the security shall be discharged by the Procuring Entity and returned to the Contractor after the Defects Liability period has passed and the Project Manager has certified in the form of Defects Corrections Certificates and the Procuring Entity shall not make any claim under the security, except for amounts to which the Procuring Entity is entitled under this Contract. In the event this Contract is significantly below the updated official estimated cost or unbalanced as a result of front loading, the Procuring Entity shall call the full amount of the security in the circumstances stated under GCC Sub Clause 74.3.
- 75. Provisional**
- 75.1 Provisional Sums shall only be used, in whole or in part, in accordance

<b>Sums</b>		with the Project Manager's instructions.
	75.2	Plants, Materials or Services to be purchased by the Contractor under the provisions of GCC Sub Clause 75.1 from Nominated Subcontractor(s) or for meeting the other expenditures under the Contract, and for which there shall be included in the Contract price, the actual amounts paid or due to be paid by the Contractor, and a sum for profit, overhead and VAT, as applicable, calculated as a percentage of these actual amounts by applying the relevant percentage rate as specified in the <b>PCC</b> .
<b>76. Dayworks</b>	76.1	If applicable, the Dayworks rates in the Contractor's Tender shall be used for small additional amounts of work only when the Project Manager has given written instructions in advance for additional work to be paid for in that way.
	76.2	All works to be paid for as Dayworks shall be recorded by the Contractor on forms approved by the Project Manager. Each completed form shall be certified and signed by the Project Manager within seven (7) days of the works being done.
	76.3	The Contractor shall be paid for Dayworks subject to obtaining signed Dayworks forms.
<b>77. Cost of Repairs to Loss or Damages</b>	77.1	Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Liability Period shall be remedied by the Contractor at the Contractor's own cost, if the loss or damage arises from the Contractor's acts or omissions.
<b>E. Completion of the Contract</b>		
<b>78. Completion</b>	78.1	The Contractor shall apply by notice to the Project Manager for issuing a Completion Certificate of the Works, and the Project Manager shall do so upon deciding that the work is completed.
<b>79. Taking Over</b>	79.1	The Procuring Entity shall take over the Site and the Works within seven (7) days of the Project Manager's issuing a certificate of Completion.
<b>80. Amendment to Contract</b>	80.1	The amendment to Contract shall generally include extension of time to the Intended Completion Date, increase or decrease in original Contract Price and any other changes acceptable under the conditions of the Contract.
	80.2	The Procuring Entity shall amend the Contract, incorporating the changes approved, in accordance with the Delegation of Financial Power or Sub-delegation thereof and, introduced to the original terms and conditions of the Contract
<b>81. Final Account</b>	81.1	The Contractor shall submit with a detailed account of the total amount that the Contractor considers payable under the Contract to the Project Manager before the end of the <b>Defects Liability Period</b> .
	81.2	The Project Manager shall certify the <b>Final Payment</b> within fifty six (56) days of receiving the Contractor's account if the payable amount claimed by the Contractor is correct and the corresponding works are completed.
	81.3	If it is not, the Project Manager shall issue within fifty six (56) days a <b>Defects Liability Schedule</b> that states the scope of the corrections or additions that are necessary.
	81.4	If the <b>Final Account of Works</b> submitted under GCC Sub Clause 81.1 is unsatisfactory even after it has been resubmitted, the Project Manager shall decide on the amount payable to the Contractor and issue a payment certificate.
<b>82. As-built Drawings and Manuals</b>	82.1	If "As Built" Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates stated in the <b>PCC</b> .

- 82.2 If the Contractor does not supply the Drawings and/or Manuals by the dates specified in GCC Sub Clause 82.1, or they do not receive the Project Manager's approval, the Project Manager shall withhold a nominal amount specified in the **PCC** from payments due to the Contractor.
- 83. Force Majeure**
- 83.1 Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind stated below;
- (a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies;
  - (b) rebellion, terrorism, sabotage by persons other than the Contractor's personnel, revolution, insurrection, military or usurped power, or civil war ;
  - (c) riot, commotion, disorder, strike or lockout by persons other than the Contractor's personnel ;
  - (d) munitions of war, explosive materials, ionising radiation or contamination by radio-activity, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity ; and
  - (e) natural catastrophes such as fires, floods, epidemics, quarantine restrictions, freight embargoes, cyclone, hurricane, typhoon, tsunami, storm surge, earthquake, hill slides, landslides, and volcanic activities.
- 83.2 The Head of Procuring Entity decides the existence of a Force Majeure that will be the basis of the issuance of order for suspension of Works as stated under GCC Sub Clause 48.1.
- 84. Notice of Force Majeure**
- 84.1 If a Party is or will be prevented from performing its substantial obligations under the Contract by Force Majeure, then it shall give notice, within fourteen (14) days after the party became aware, to the other Party of the event or circumstances constituting the Force Majeure and shall specify the obligations, the performance of which is or will be prevented.
- 84.2 Notwithstanding any other provision of this Clause, Force Majeure shall not apply to obligations of either Party to make payments to the other Party under the Contract.
- 85. Consequences of Force Majeure**
- 85.1 The Contractor shall not be liable for forfeiture of its security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.
- 85.2 If the Contractor is prevented from performing its substantial obligations under the Contract by Force Majeure of which notice has been given under GCC Sub Clause 84, and suffers delay and/or incurs cost by reason of such Force Majeure, the Contractor shall be entitled subject to GCC Sub Clause 91 to:
- (a) an extension of time for any such delay, if completion is or will be delayed, under GCC Clause 44, and
  - (b) if the event or circumstance is of the kind described subparagraphs (a) to (e) of GCC Sub Clause 83.1 occurs in the country, payment of any such cost, including the costs of rectifying or replacing the Works and physical services damaged or destroyed by Force Majeure, to the extent they are not indemnified through the insurance policy referred to in GCC Clause 36.
- 85.3 After receiving notice under GCC Sub Clause 84.1, the Project Manager shall proceed to determine these matters under the provisions of the Contract.

**86. Release from Performance**

- 86.1 Notwithstanding any other provision of this Clause, if any event or circumstance outside the control of the parties (including, but not limited to, Force Majeure) arises which makes it impossible or unlawful for either or both Parties to fulfil its or their contractual obligations or which, under the law governing the Contract, entitles the Parties to be released from further performance of the Contract, then upon notice by either Party to the other party of such event or circumstance:
- (a) the Parties shall be discharged from further performance, without prejudice to the rights of either Party in respect of any previous breach of the Contract, and
  - (b) the sum payable by the Procuring Entity to the Contractor shall be the same as would have been payable under GCC Sub Clause 88.3 if the Contract had been terminated under GCC Sub Clause 87.3.

**F. Termination and Settlement of Disputes**

**87. Termination**

**87.1 Termination for Default**

- (a) The Procuring Entity or the Contractor, without prejudice to any other remedy for breach of Contract, by giving twenty-eight (28) days written notice of default to the other party, may terminate the Contract in whole or in part if the other party causes a fundamental breach of Contract. Fundamental breaches of the Contract shall include, but shall not be limited to, the following:
  - (i) the Contractor stops work for twenty-eight (28) days when no stoppage of work is shown on the current Programme and the stoppage has not been authorized by the Project Manager;
  - (ii) the Project Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within eighty four ( 84) days;
  - (iii) the Project Manager gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Project Manager;
  - (iv) the Contractor does not maintain a Security, which is required;
  - (v) the Contractor has delayed the completion of the Works by the number of days for which the maximum amount of Liquidated Damages can be paid, as specified in GCC Sub Clause 71;
  - (vi) the Contractor has subcontracted the whole of the Works or has assigned the Contract without the required agreement and without the approval of the Project Manager;
  - (vii) the Contractor, in the judgment of the Procuring Entity has engaged in corrupt or fraudulent practices, as defined in GCC Sub Clause 38, in competing for or in executing the Contract.
  - (viii) A payment certified by the Project Manager is not paid by the Procuring Entity to the Contractor within eighty-four (84) days of the date of the Project Manager's certificate.

**87.2 Termination for Insolvency**

The Procuring Entity and the Contractor may at any time terminate the Contract by giving twenty-eight (28) days written notice to the other party if either of the party becomes bankrupt or otherwise insolvent. In

such event, termination will be without compensation to any party, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the other party.

**87.3 Termination for Convenience**

- (a) The Procuring Entity, by giving twenty-eight (28) days written notice sent to the Contractor, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Procuring Entity's convenience, the extent to which performance of the Contractor under the Contract is terminated, and the date upon which such termination becomes effective.
- (b) The Procuring Entity shall not terminate the contract under GCC Sub Clause 87.3 (a) in order to execute the Works itself or to arrange for the Works to be executed by another contractor or to avoid a termination of the Contract by the Contractor as stated under GCC Sub Clause 87.1(a).

**87.4** In the event the Procuring Entity terminates the Contract in whole or in part, the Procuring Entity shall accept the portion of the Works that are complete and ready for handing over after the Contractor's receipt of notice of termination of the Contract. For the remaining portion of the Works, the Procuring Entity may elect:

- (a) to have any portion completed by the Contractor at the Contract terms and prices; and /or
- (b) to cancel the remainder and pay to the Contractor an agreed amount for partially completed Works and for materials and parts previously procured by the Contractor, or
- (c) except in the case of termination for convenience as stated under GCC Sub Clause 87.3, engage another Contractor to complete the Works, and in that case the Contractor shall be liable to the Procuring Entity for any cost that may be incurred in excess of the sum that would have been paid to the Contractor, if the work would have been executed and completed by him or her.

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

**87.6** The expiration of the Intended Completion Date under GCC Clause 44 and, the initiation of settlement of disputes like amicable or adjudication and arbitration under GCC Clause 92 shall not be deemed a termination of the Contract under GCC Clause 87.

**88. Payment upon Termination**

**88.1** If the Contract is terminated because of a fundamental breach of Contract under GCC Sub Clause 87.1 by the Contractor, the Project Manager shall issue a certificate for the value of the Works done and Plant and Materials ordered less advance payments received up to the date of the issue of the certificate and, further less the amount from percentage to apply to the contract value of the works not completed, as indicated in the **PCC**. If the total amount due to the Procuring Entity exceeds any payment due to the Contractor, the difference shall be a debt payable to the Procuring Entity.

**88.2** If the Contract is terminated for the Procuring Entity's convenience or because of a fundamental breach of Contract by the Procuring Entity, the Project Manager shall issue a payment certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor's foreign personnel employed solely on the Works and recruited specifically for the

- Works, and the Contractor's costs of protecting and securing the Works, and less advance payments received up to the date of the certificate.
- 88.3 If the Contract is terminated for reasons of Force Majeure, the Project Manager shall determine the value of the work done and issue a Payment Certificate which shall include:
- (a) the amounts payable for any work carried out for which unit rates or prices are stated in the Contract;
  - (b) the cost of Plant and Materials ordered for the Works which have been delivered to the Contractor, or of which the Contractor is liable to accept delivery: this Plant and Materials shall become the property of (and be at the risk of) the Procuring Entity when paid for by the Procuring Entity, and the Contractor shall place the same at the Procuring Entity's disposal;
  - (c) other costs or liabilities which in the circumstances were reasonably and necessarily incurred by the Contractor in the expectation of completing the Works;
  - (d) the cost of removal of Temporary Works and Contractor's Equipment from the Site; and
  - (e) the cost of repatriation of the Contractor's staff and labour employed wholly in connection with the Works at the date of termination.
- 89. Property** 89.1 All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the Procuring Entity if the Contract is terminated because of the Contractor's default stated under GCC Sub Clause 87.1.
- 90. Frustration** 90.1 If the Contract is frustrated by the occurrence of a situation of Force Majeure as defined in GCC Sub Clause 83, the Project Manager shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all works carried out before receiving it and for any work carried out afterwards to which a commitment was made.

## **G. Claims, Disputes and Arbitration**

- 91. Contractor's Claims**
- 91.1 If the Contractor considers himself to be entitled to any extension of the Completion Time and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give notice to the Procuring Entity, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than twenty-eight (28) days after the Contractor became aware, or should have become aware, of the event or circumstance.
- 91.2 If the Contractor fails to give notice of a claim within such period of twenty-eight (28) days, the Intended Completion Date shall not be extended, the Contractor shall not be entitled to additional payment, and the Procuring Entity shall be discharged from all liability in connection with the claim.
- 91.3 Within forty two (42) days after the Contractor became aware or should have become aware of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Project Manager, the Contractor shall send to the Project Manager a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or

additional payment claimed, for settlement.

**92. Settlement of Disputes**

92.1

**Amicable settlement**

The procuring Entity and the Contractor shall use their best efforts to settle amicably all possible disputes arising out of or in connection with this Contract or its interpretation.

92.2

**Adjudication**

- (a) If the Contractor believes that a decision taken by the Project Manager was either outside the authority given to the Project Manager by the Contract or that the decision was wrongly taken, the decision shall be referred to the Adjudicator within fourteen (14) days of notification of the Project Manager's decision in writing.
- (b) The Adjudicator named in the **PCC** is jointly appointed by the parties. In case of disagreement between the parties, the Appointing Authority designated in the **PCC** shall appoint the Adjudicator within fourteen (14) days of receipt of a request from either party.
- (c) The Adjudicator shall give its decision in writing to both parties within twenty-eight (28) days of a dispute being referred to it.
- (d) The Contractor shall make all payments (fees and reimbursable expenses) to the Adjudicator, and the Procuring Entity shall reimburse half of these fees through the regular progress payments.
- (e) Should the Adjudicator resign or die, or should the Procuring Entity and the Contractor agree that the Adjudicator is not functioning in accordance with the provisions of the Contract; a new Adjudicator will be jointly appointed by the Procuring Entity and the Contractor. In case of disagreement between the Procuring Entity and the Contractor the Adjudicator shall be designated by the Appointing Authority within fourteen (14) days of receipt of a request from either party as stated under GCC Sub Clause 92.2 (b)

92.3

**Arbitration**

- (a) If the parties are unable to reach a settlement as per GCC Clauses 92.1 and 92.2 within twenty-eight (28) days of the first written correspondence on the matter of disagreement, then either party may give notice to the other party of its intention to commence arbitration in accordance with GCC Sub Clause 94.3(b).
- (b) The arbitration shall be conducted in accordance with the Arbitration Act (**Act No 1 of 2001**) of Bangladesh as at present in force and in the place shown in the **PCC**.

#### Section 4. Particular Conditions of Contract

<i>Instructions for completing the Particular Conditions of Contract are provided in italics in parenthesis for the relevant GCC Clauses.</i>	
<b>GCC Clause</b>	<b>Amendments of, and Supplements to, Clauses in the General Conditions of Contract</b>
<b>GCC 1.1(j)</b>	The Contractor is <i>[Name, address, and name of authorized representative]</i>
<b>GCC 1.1(ff)</b>	The Procuring Entity is Director, Planning and Development, Bangladesh Agricultural University, Mymensingh
<b>GCC 1.1(gg)</b>	The Project Manager is : Not applicable
<b>GCC 1.1 (bb)</b>	The original Contract Price is <i>[insert the amount in the NOA]</i>
<b>GCC 1.1(y)</b>	The Intended Completion Date for the whole of the Works shall be 15 June, 2016.
<b>GCC 1.1(kk)</b>	The Site is located at <i>[location]</i> and is defined in drawings No: Not applicable
<b>GCC 1.1(nn)</b>	The Start Date shall be <i>[insert date ]</i> : Not applicable
<b>GCC 1.1(rr)</b>	The Works consist of procurement of flat.
<b>GCC 2.5</b>	The Sectional Completion Dates are: Not applicable
<b>GCC 3.1</b>	The Procuring Entity's address for the purpose of communications under this contract is : Contact person: Professor Dr. Shankar Kumar Raha Address: Director, Planning and Development, Bangladesh Agricultural University, Mymensingh Tel. and Fax no.: 091-67421 e-mail address: dpdbau@yahoo.com The Contractor's address for the purpose of communications under this contract is : Contact person: Address: Tel and Fax: e-mail address:
<b>GCC 6.1 (j)</b>	Other documents forming part of the Contract are: Relevant correspondences prior to signing of the Contract agreement.
<b>GCC 9.1</b>	The Contractor or the Subcontractor that is a national of, or registered in, the following countries are not eligible: Israel.
<b>GCC 9.2</b>	Materials, Equipments Plants and supplies shall not have their origin in the following countries: Israel.
<b>GCC 13.1</b>	Possession of the Site or part(s) of the Site, to the Contractor shall be given on the following date(s): Not applicable
<b>GCC 19.1</b>	Following Key Personnel to carry out the functions stated in the Schedule shall be employed by the Contractor: Not applicable
<b>GCC 20.3</b>	Nominated Subcontractor(s) named below: Not applicable
<b>GCC 22.1</b>	The Contractual matters between the Procuring Entity and the Contractor shall be decided by Vice Chancellor, Bangladesh Agricultural University, Mymensingh.
<b>GCC 36.1</b>	The insurance cover shall be: Not applicable
<b>GCC 39.1</b>	Commencement Date shall be: Not applicable
<b>GCC 40.1</b>	The Intended Completion Date of the Works shall be: Not applicable
<b>GCC 41.1</b>	The Contractor shall submit a Programme for the Works within <i>[insert days]</i> days of signing the Contract: Not applicable
<b>GCC 41.2</b>	The period between Programme updates is: Not applicable
<b>GCC 41.3</b>	The amount to be withheld for late submission of an updated Programme is: Not applicable
<b>GCC 56.1</b>	The Defects Liability Period is twelve (12) months.
<b>GCC 65.3</b>	The particulars of the Bank Account nominated are as follows : Title of the Account : <i>[insert title to whom the Contract awarded]</i> Name of the Bank : <i>[insert name with code, if any]</i>

	Name of the Branch : <i>[insert branch name with code ,if any]</i> Account Number : <i>[insert number]</i> Address : <i>[insert location with district]</i> Tel : Fax : e-mail address : <i>[information furnished by the Contractor shall be substantiated by the concerned Bank and authenticated by the Procuring Entity]</i>
<b>GCC 67.1(m)</b>	The following additional events shall also be the Compensation Events: Not applicable
<b>GCC 69.1</b>	The Contract is not subject to price adjustment.
<b>GCC 71.1</b>	The amount of Liquidated Damages is between 0.05 of ONE (1) percent of the contract value of the uncompleted works or any part thereof completed after expiry of the Intended Completion Date or extended Intended Completion Date, as applicable, per day of delay.
<b>GCC 71.1</b>	The maximum amount of Liquidated Damages for the uncompleted Works or any part thereof is 10 (ten) percent of the final Contract Price of the whole of the Works.
<b>GCC 73.1</b>	The Advance Payment shall be Tk <i>[insert amount]</i> and shall be paid to the Contractor not later than <i>[insert date]</i> . Not applicable
<b>GCC 73.4</b>	Advance Payment shall be amortized at the rate of <i>[insert percentage]</i> from the progressive payments of invoices. Not applicable
<b>GCC 82.1</b>	The date by which “ <b>as-built</b> ” drawings are required is <i>[insert date]</i> Not applicable The date by which operating and maintenance manuals are required is <i>[insert date]</i>
<b>GCC 82.2</b>	The amount to be withheld for failing to produce “ <b>as-built</b> ” drawings and/or operating and maintenance manuals by the date required is Tk <i>[insert amount]</i> : Not applicable
<b>GCC 88.1</b>	The percentage to apply to the contract value of the works not completed, representing the Procuring Entity’s additional cost for completing the uncompleted Works, is <i>[insert between 10 and 20]</i> percent. Not applicable
<b>GCC 92.2 (b)</b>	The Adjudicator jointly appointed by the parties is: Name: Address: Tel No: Fax No: e-mail address:
<b>GCC 92.2(b)</b>	In case of disagreement between the parties, the Appointing Authority for the Adjudicator is the President of the Institution of Engineers, Bangladesh (IEB).
<b>GCC 92.3 (b)</b>	The arbitration shall be conducted at Mymensingh.

## Section 5. Tender and Contract Forms

Form	Title
	<b>Tender Forms</b>
PW3 – 1	Tender Submission Letter
PW3 – 2	Tenderer Information
PW3 – 3	JV Partner Information ( <i>if applicable</i> )
PW3 – 4	Subcontractor Information ( <i>if applicable</i> )
PW3 – 5	Personnel Information
PW3 – 6	Bank Guarantee for Tender Security ( <i>when this option is chosen</i> )
PW3 - 7	Bank's Letter of Commitment for Line of Credit ( <i>when this option is chosen</i> )
	<b>Contract Forms</b>
PW3 – 8	Notification of Award
PW3 – 9	Contract Agreement
PW3 – 10	Bank Guarantee for Performance Security ( <i>when this option is chosen</i> )
PW3 –11	Bank Guarantee for Advance Payment ( <i>if applicable</i> )
PW3 –12	Bank Guarantee for Retention Money Security ( <i>when this option is chosen</i> )

Forms **PW3 -1** to **PW3 -7** comprises part of the Tender Format and should be completed as stated in ITT Clauses 24.

Forms **PW3 -8** to **PW3 -12** comprises part of the Contract as stated in GCC Clause 6.

### Tender Submission Letter (Form PW3-1)

*[This letter should be completed and signed by the Authorised Signatory  
on the Letter-Head Pad of the Tenderer]*

To: [Contact Person] [Name of the Procuring Entity] [Address of the Procuring Entity]	Date:
Invitation for Tender No:	IFT No. _____
Tender Package No:	Package No. _____
Lot No: (when applicable)	Lot No. _____

We, the undersigned, tender to execute in conformity with the Tender Document, the following Works and physical services, viz:

--

In accordance with ITT Clause 27 and 28, the following price applies to our Tender:

The Tender price is:  
(ITT Sub Clause 27.4 and 28.1)

Tk. \_\_\_\_\_  
[in figures]

Taka \_\_\_\_\_  
[in words]

The advance payment (when applicable) is:  
[insert the amount based on percentage of the Tender Price]  
(GCC Sub Clause 73.1)

Taka \_\_\_\_\_  
[in words]

Taka \_\_\_\_\_  
[in words]

and we shall accordingly submit an Advance Payment Guarantee in the format shown in Form **PW3-10**.

In accordance with ITT Clauses 27, the following discounts apply to our Tender:

The unconditional discount for being awarded more than one lot in this package is:  
(ITT Sub Clause 27.5 and 28.1)

Tk. \_\_\_\_\_  
[in figures]

Taka \_\_\_\_\_  
[in words]

The methodology for application of the discount is :  
[state the methodology].  
(ITT Sub Clause 27.6 and 28.1)

*Delete **BOX**, if this Tender is being invited for **Single Package or Single Lot***

In signing this letter, and in submitting our Tender, we also confirm that:

- (a) our Tender shall be valid for the period stated in the Tender Data Sheet (ITT Sub Clause 33.1) and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (b) a Tender Security is attached in the form of a [state Pay Order, Bank Draft, Bank Guarantee] in the amount stated in the Tender Data Sheet (ITT Sub Clause 36.1) and valid for a period of twenty-eight (28) days beyond the Tender Validity date;
- (c) if our Tender is accepted, we commit to furnishing a Performance Security within the time stated under ITT Sub Clause 66.2 in the amount stated in the Tender Data Sheet (ITT Sub Clauses 65.1)

and in the form specified in the Tender Data Sheet (ITT Sub Clause 66.1) valid for a period of twenty-eight (28) days beyond the date of issue of the Completion Certificate of the Works;

- (d) we have examined and have no reservations to the Tender Document, issued by you on *[insert date]*; including Addendum to Tender Document No(s) *[state numbers]* , issued in accordance with the Instructions to Tenderers (ITT Clause 11). *[insert the number and issuing date of each addendum; or delete this sentence if no Addendum has been issued]*;
- (e) we, including as applicable, any JV partner or Subcontractor for any part of the contract resulting from this Tender process, have nationalities from eligible countries, in accordance with ITT Sub Clause 5.1;
- (f) we are submitting this Tender as a sole Tenderer in accordance with ITT Sub Clause 40.3  
*or*  
 we are submitting this Tender as the partners of a JV, comprising the following other partners in accordance with ITT Sub Clause 40.3;

	Name of Partner	Location & District of Partner
1		
2		
3		
4		

- (g) *we are not a Government owned entity as defined in ITT Sub Clause 5.3*  
*or*  
*we are a Government owned entity, and we meet the requirements of ITT Sub Clause 5.3;*
- (h) we, including as applicable any JV partner, declare that we are not associated, nor have been associated in the past, directly or indirectly, with a consultant or any other entity that has prepared the design, specifications and other documents in accordance with ITT Sub Clause 5.5;
- (i) we, including as applicable any JV partner or Subcontractor for any part of the contract resulting from this Tender process, have not been declared ineligible by the Government of Bangladesh on charges of engaging in corrupt, fraudulent, collusive or coercive practices in accordance with ITT Sub Clause 5.6;
- (j) furthermore, we are aware of ITT Clause 4 concerning such practices and pledge not to indulge in such practices in competing for or in executing the Contract;
- (k) we intend to subcontract an activity or part of the Works, in accordance with ITT Sub Clause 19.1, to the following Subcontractor(s);

Activity or part of the Works	Name of Subcontractor with Location and District

- (l) we, including as applicable any JV partner, confirm that we do not have a record of poor performance, such as abandoning the works, not properly completing contracts, inordinate delays, or financial failure as stated in ITT Clause 5.7, and that we do not have, or have had, any litigation against us, other than that stated in the Tenderer Information (**Form PW3-2**);

- (m) we are not participating as Tenderer in more than one Tender in this Tendering process. We understand that your written Notification of Award shall constitute the acceptance of our Tender and shall become a binding Contract between us, until a formal Contract is prepared and executed;
- (n) we, including as applicable any JV partner, confirm that we do not have a record of insolvency, receivership, bankrupt or being wound up, our business activities were not been suspended, and it was not been the subject of legal proceedings in accordance with ITT Sub Clause 5.8;
- (o) we, including as applicable any JV partner, confirm that we have fulfilled our obligations to pay taxes and social security contributions applicable under the relevant national laws and regulations of Bangladesh in accordance with ITT Sub Clause 5.9;
- (p) we understand that you reserve the right to reject all the Tenders or annul the Tender proceedings, without incurring any liability to Tenderer, in accordance with ITT Clause 60.

Signature:	<i>[insert signature of authorised representative of the Tenderer]</i>
Name:	<i>[insert full name of signatory with National ID Number]</i>
In the capacity of:	<i>[insert capacity of signatory]</i>
Duly authorised to sign the Tender for and on behalf of the Tenderer	

*[If there is more than one (1) signatory, or in the case of a JV, add other boxes and sign accordingly].*

**Attachment 1:**

[ITT Sub Clause 40.3]

Written confirmation authorising the above signatory(ies) to commit the Tenderer

*[and, if applicable]*

**Attachment 2:**

[ITT Sub Clause 29.2(b)]

Copy of the JV Agreement / Letter of Intent to form JV with draft proposed Agreement

### Tenderer Information (Form PW3-2)

*[This Form should be completed only by the Tenderer, preferably on its Letter-Head Pad]*

Invitation for Tender No:  
Tender Package No:  
Lot No (when applicable)

IFT No]  
[ Package No]  
[Lot No)]

1. Eligibility Information of the Tenderer [ITT –Clauses 5 & 29]				
1.1	Nationality of individual or country of registration			
1.2	Tenderer's legal title			
1.3	Tenderer's registered address			
1.4	Tenderer's legal status <i>[complete the relevant box]</i>			
	Proprietorship			
	Partnership			
	Limited Liability Concern			
	Government-owned Enterprise			
	Others [please describe, if applicable]			
1.5	Tenderer's year of registration			
1.6	Tenderer's authorised representative details			
	Name			
	National ID number			
	Address			
	Telephone / Fax numbers			
	e-mail address			
1.7	Litigation [ITT Cause 13]			
	A. No pending litigation <input type="checkbox"/> [if no pending litigation put Tick Mark in Box]			
	B. Pending litigation			
	Year	Matter in dispute	Value of Pending Claim in Taka	Value of Pending Claim as Percentage of Net Worth
1.8	Tenderer to attach photocopies of the original documents mentioned aside	[All documents required under ITT Clauses 5 and 29]		
The following two information are applicable for National Tenderers				
1.9	Tenderer's Value Added Tax Registration (VAT) Number			
1.10	Tenderer's Tax Identification Number(TIN)			
[The foreign Tenderers, in accordance with ITT Sub Clause 5.1, shall provide evidence by a written declaration to that effect to demonstrate that it meets the criterion]				
2. Qualification Information of the Tenderer [ITT Clause 32]				

2.1	General Experience in Construction Works of Tenderer [State years of experience]			
2.2	Specific Experience in Construction Works of Tenderer Completed Contracts of similar nature, complexity and methods/construction technology			
	Contract No	[ insert reference no] of [ insert year]		
	Name of Contract	[insert name]		
	Role in Contract <i>[tick relevant box].</i>	Prime Contractor	Subcontractor	Management Contractor
	Award date	[insert date]		
	Completion date	[insert date]		
	Total Contract Value	[insert amount]		
	Procuring Entity's Name Address Tel / Fax <u>e-mail</u>  Brief description with justifications of the similarity compared to the Procuring Entity's requirements	[state justification in support of its similarity compared to the proposed works]		
2.3	Average annual construction turnover [ITT Sub Clause 15.1(a)] <i>[total certified payments received for contracts in progress or completed under public sector for a period as stated under ITT Sub Clause 15.1(a), using rate of exchange at the end of the period reported]</i>			
	Year	Currency	Amount Taka or Equivalent Taka	
2.4	Liquid assets available to meet the construction cash flow [ITT Sub Clause 15.1(b)]			
	No	Source of Financing	Amount Available	
In order to confirm the above statements the Tenderer shall submit , as applicable, the documents mentioned in ITT Sub Clause 32.1(d)				
2.5	Contact Details [ITT Sub Clause 32.1 (h) ]			
	Name, address, and other contact details of Tenderer Bankers and other Procuring Entity(s) that may provide references, if contacted by this Procuring Entity			
2.6	Qualifications and experience of key technical and administrative personnel proposed for Contract administration and management [ITT Sub Clause 32.1(f)]			
	Name	Position	Years of General Experience	Years of Specific Experience
<i>[Tenderer to complete details of as many personnel as are applicable. Each personnel listed above should complete the Personnel Information (Form PW3-5)]</i>				
2.7	Major Construction Equipments proposed to carry out the Contract [ITT Sub Clause 32.1(g)]			
	Item of Equipment	Condition (new, good, average, poor)	Owned, leased or to be purchased (state owner, lessor or seller)	
<i>[Tenderer to list details of each item of major construction equipment, as applicable]</i>				

**JV Partner Information (Form PW3-3)**  
*[This Form should be completed by each JV partner].*

Invitation for Tender No:  
Tender Package No:  
Lot No. (when applicable)

[ IFT No]  
Package No]  
[ Lot No)]

1. Eligibility Information of the JV Partner [ITT –Clauses 5 & 29]				
1.1	Nationality of individual or country of registration			
1.2	JV Partner's legal title			
1.3	JV Partner's registered address			
1.4	JV Partner's legal status <i>[complete the relevant box]</i>			
	Proprietorship			
	Partnership			
	Limited Liability Concern			
	Government-owned Enterprise			
	Others [please describe, if applicable]			
1.5	JV Partner's year of registration			
1.6	JV Partner's authorised representative details			
	Name			
	National ID number			
	Address			
	Telephone / Fax numbers			
	e-mail address			
1.7	Litigation [ITT Cause 13]			
	A. No pending litigation <input type="checkbox"/> [if no pending litigation put Tick Mark in Box]			
	B. Pending litigation			
	Year	Matter in dispute	Value of Pending Claim in Taka	Value of Pending Claim as Percentage of Net Worth
1.8	JV Partner to attach photocopies of the original documents mentioned aside		[All documents required under ITT Clauses 5 and 29]	
The following two information are applicable for national JV Partners only				
1.9	JV Partner's Value Added Tax Registration (VAT) Number			
1.10	JV Partner's Tax Identification Number(TIN)			
[The foreign JV Partners, in accordance with ITT Sub Clause 5.1, shall provide evidence by a written declaration to that effect to demonstrate that it meets the criterion]				
2.	Key Activity(ies) for which it is intended to be joint ventured, if it can be specified [ITT Sub Clause 18.2]			

	Elements of Activity	Brief description of Activity		
3.	Qualification Information of the JV Partners [ITT Clause 32]			
3.1	General Experience in Construction Works of JV Partners [State years of experience]			
3.2	Specific Experience in Construction Works of JV Partners Completed Contracts of similar nature, complexity and methods/construction technology			
	Contract No	[ insert reference no] of [ insert year]		
	Name of Contract	[insert name]		
	Role in Contract [tick relevant box].	Prime Contractor	Subcontractor	Management Contractor
	Award date	[insert date]		
	Completion date	[insert date]		
	Total Contract Value	[insert amount]		
	Procuring Entity's Name Address Tel / Fax e-mail	[state justification in support of its similarity compared to the proposed works]		
	Brief description with justifications of the similarity compared to the Procuring Entity's requirements			
3.3	Average annual construction turnover [ITT Sub Clause 15.1(a)] [[total certified payments received for contracts in progress or completed under public sector for a period as stated under ITT Sub Clause 15.1(a), using rate of exchange at the end of the period reported]]			
	Year	Currency	Amount Taka or Equivalent Taka	
3.4	Liquid assets available to meet the construction cash flow [ITT Sub Clause 15.1(b)]			
	No	Source of Financing	Amount Available	
In order to confirm the above statements the JV Partners shall submit , as applicable, the documents mentioned in ITT Sub Clause 32.1(d)				
3.5	Contact Details [ITT Sub Clause 32.1 (h) ]			
	Name, address, and other contact details of JV Partner's Bankers and other Procuring Entity(s) that may provide references, if contacted by this Procuring Entity			
3.6	Qualifications and experience of key technical and administrative personnel proposed for Contract administration and management [ITT Sub Clause 32.1(f)]			
	Name	Position	Years of General Experience	Years of Specific Experience
[JV Partners to complete details of as many personnel as are applicable. Each personnel listed above should complete the Personnel Information (Form PW3-5)]				
3.7	Major Construction Equipments proposed to carry out the Contract [ITT Sub Clause 32.1(g)]			
	Item of Equipment	Condition (new, good, average, poor)	Owned, leased or to be purchased (state owner, lessor or seller)	
[Tenderer to list details of each item of major construction equipment, as applicable]				

### Subcontractor Information (Form PW3-4)

*[This Form should be completed by each Subcontractor, preferably on its Letter-Head Pad]*

Invitation for Tender No:  
Tender Package No  
Lot No. (when applicable)

[IFT No]  
[Package No]  
[Lot No]

1. Eligibility Information of the Subcontractor [ITT –Clauses 5 & 29]	
1.1	Nationality of Individual or country of Registration
1.2	Subcontractor's legal title
1.3	Subcontractor's registered address
1.4	Subcontractor's legal status <i>[complete the relevant box]</i>
	Proprietorship
	Partnership
	Limited Liability Concern
	Government-owned Enterprise
	Other (please describe)
1.5	Subcontractor's year of registration
1.6	Subcontractor's authorised representative details
	Name
	Address
	Telephone / Fax numbers
	e-mail address
1.7	Subcontractor to attach copies of the following original documents
All documents to the extent relevant to ITT Clause 5 and 29 in support of its qualifications	
The following two information are applicable for national Subcontractors	
1.8	Subcontractor's Value Added Tax Registration (VAT) Number
1.9	Subcontractor's Tax Identification Number(TIN)
[The foreign Subcontractors , in accordance with ITT sub Clause 5.1, shall provide evidence by a written declaration to that effect to demonstrate that it meets the criterion]	
2. Key Activity(ies) for which it is intended to be Subcontracted [ITT Sub Clause 19.1]	
2.1	Elements of Activity
	Brief description of Activity
2.2	List of Similar Contracts in which the proposed Subcontractor had been engaged
	Name of Contract and Year of Execution
	Value of Contract
	Name of Procuring Entity
	Contact Person and contact details
	Type of Work performed

**Personnel Information (Form PW3-5)**

*[This Form should be completed for each person proposed by the Tenderer in Form PW3-2 & PW3-3, where applicable]*

Invitation for Tender No:	[IFT No]
Tender Package No	[Package No]
Lot No. (when applicable)	[Lot No]

<b>A. Proposed Position</b> (tick the relevant box)			
<input type="checkbox"/> Construction Project Manager	<input type="checkbox"/> Prime Candidate	<input type="checkbox"/> Alternative Candidate	
<input type="checkbox"/> Key Personnel	<input type="checkbox"/> Prime Candidate	<input type="checkbox"/> Alternative Candidate	
<b>B. Personal Data</b>			
Name			
Date of Birth			
Years overall experience			
National ID Number			
Years of employment with the Tenderer			
Professional Qualifications: 1.			
<b>C. Present Employment</b> <i>[to be completed only if not employed by the Tenderer]</i>			
Name of Procuring Entity (working under):			
Address of Procuring Entity (working under):			
Present Job Title:			
Years with present Procuring Entity:			
Tel No:	Fax No:	e-mail address:	
Contact <i>[manager/personnel officer]</i> :			
<b>D. Professional Experience</b>			
Summarise professional experience over the past twenty years, in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.			
	From	To	Company / Project / Position / Relevant technical and management experience.
1			
2			

**Bank Guarantee for Tender Security (Form PW3-6)**

*[This is the format for the Tender Security to be issued by any scheduled Bank of Bangladesh in accordance with ITT Clause 35 & 36]*

Invitation for Tender No:

Date:

Tender Package No:

Lot No (*when applicable*)

To:

[Name and address of the Procuring Entity]

**TENDER GUARANTEE No:** [insert number]

We have been informed that [*name of Tenderer*] (hereinafter called “the Tenderer”) intends to submit to you its Tender dated [*date of Tender*] (hereinafter called “the Tender”) for the execution of the Works of [*description of works*] under the above Invitation for Tenders (hereinafter called “the IFT”).

Furthermore, we understand that, according to your conditions, the Tender must be supported by a Bank Guarantee for Tender Security.

At the request of the Tenderer, we [*name of Bank*] hereby irrevocably unconditionally undertake to pay you, without cavil or argument, any sum or sums not exceeding in total an amount of Tk [*insert amount in figures and words*] upon receipt by us of your first written demand accompanied by a written statement that the Tenderer is in breach of its obligation(s) under the Tender conditions, because the Tenderer:

- a. has withdrawn its Tender after opening of Tenders but within the validity of the Tender Security; or
- b. refused to accept the Notification of Award (NOA) within the period as stated under ITT; or
- c. failed to furnish Performance Security within the period stipulated in the NOA; or
- d. refused to sign the Contract Agreement by the time specified in the NOA; or
- e. did not accept the correction of the Tender price following the correction of the arithmetic errors as stated under ITT.

This guarantee will expire

- (a) if the Tenderer is the successful Tenderer, upon our receipt of a copy of the Contract Agreement signed by the Tenderer or a copy of the Performance Security issued to you in accordance with the ITT; or
- (b) if the Tenderer is not the successful Tenderer, twenty-eight (28) days after the expiration of the Tenderer’s Tender Validity period, being [*date of expiration of the Tender Validity plus twenty-eight (28) days*].

Consequently, we must receive at the above-mentioned office any demand for payment under this guarantee on or before that date.

Signature

Signature

**Letter of Commitment for Bank's Undertaking for Line of Credit (Form PW3-7)**

*[This is the format for the Credit Line to be issued by any scheduled Bank of Bangladesh in accordance with ITT Clause 32.1(d)]*

Invitation for Tender No:

Date:

Tender Package No:

Lot No (when applicable)

To:

*[Name and address of the Procuring Entity]*

**CREDIT COMMITMENT No: [insert number]**

We have been informed that *[name of Tenderer]* (hereinafter called "the Tenderer") intends to submit to you its Tender (hereinafter called "the Tender") for the execution of the Works of *[description of works]* under the above Invitation for Tenders (hereinafter called "the IFT").

Furthermore, we understand that, according to your conditions, the Tenderer's Financial Capacity i.e. Liquid Asset must be substantiated by a Letter of Commitment of Bank's Undertaking for Line of Credit.

At the request of, and arrangement with, the Tenderer, we *[name and address of the Bank]* do hereby agree and undertake that *[name and address of the Tenderer]* will be provided by us with a revolving line of credit, in case awarded the Contract, for execution of the Works viz. *[insert name of works]*, for an amount not less than BDT *[in figure]* ( *in words*) for the sole purpose of the execution of the above Contract. This Revolving Line of Credit will be maintained by us until issuance of "**Taking-Over Certificate**" by the Procuring Entity.

In witness whereof, authorised representative of the Bank has hereunto signed and sealed this Letter of Commitment.

Signature

Signature

**Bank Guarantee for Performance Security (Form PW3-10)**

*[This is the format for the Performance Security to be issued by any scheduled Bank of Bangladesh in accordance with ITT Clause 65, 66, 67 & 68]*

Contract No: [insert reference number]

Date: [insert date]

To:

[ insert Name and address of Procuring Entity]

**PERFORMANCE GUARANTEE No: [insert number]**

We have been informed that *[name of Contractor]* (hereinafter called “the Contractor”) has undertaken, pursuant to Contract No *[insert reference number of Contract]* dated *[insert date of Contract]* (hereinafter called “the Contract”), the execution of works *[description of works]* under the Contract.

Furthermore, we understand that, according to your conditions, the Contract must be supported by a Bank Guarantee for Performance Security.

At the request of the Contractor, we *[name of Bank]* hereby irrevocably unconditionally undertake to pay you, without cavil or argument, any sum or sums not exceeding in total an amount of Tk *[insert amount in figures and in words]* upon receipt by us of your first written demand accompanied by a written statement that the Contractor is in breach of its obligation(s) under the Contract conditions, without you needing to prove or show grounds or reasons for your demand of the sum specified therein.

This guarantee is valid until *[date of validity of guarantee]*, consequently, we must receive at the above-mentioned office any demand for payment under this guarantee on or before that date.

Signature

Signature

**Bank Guarantee for Advance Payment (Form PW3-11)**

*[This is the format for the Advance Payment Guarantee to be issued by any scheduled Bank of Bangladesh in accordance with GCC Clause 73]*

Contract No: [insert reference number]

Date: [insert date]

To:

[insert Name and address of the Procuring Entity]

**ADVANCE PAYMENT GUARANTEE No: [insert number]**

We have been informed that *[name of Contractor]* (hereinafter called “the Contractor”) has undertaken, pursuant to Contract No *[insert reference number of Contract]* dated *[insert date of Contract]* (hereinafter called “the Contract”), the execution of works *[description of works]* under the Contract.

Furthermore, we understand that, according to your Conditions of Contract under GCC Clause 75, the Advance Payment on Contract must be supported by a Bank Guarantee.

At the request of the Contractor, we *[insert name of Bank]* hereby irrevocably unconditionally undertake to pay you, without cavil or argument, any sum or sums not exceeding in total an amount of Tk *[insert amount in figures and in words]* upon receipt by us of your first written demand accompanied by a written statement that the Contractor is in breach of its obligation(s) under the Contract conditions, without you needing to prove or show grounds or reasons for your demand of the sum specified therein.

We further agree that no change, addition or other modification of the terms of the Contract to be performed, or of any of the Contract documents which may be made between the Procuring Entity 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 is valid until *[insert date of validity of guarantee]*, consequently, we must receive at the above-mentioned office any demand for payment under this guarantee on or before that date.

Signature

Signature

## Section 6. Bill of Quantities

**Name of Works: Procurement of flat**  
**IFT No. BAU/P&D/Committee/215/2013-14/586 Date: 21/04/2016**

Item no.	Description of Item	Unit	Quantity	Unit Rate		Amount	
				In figures	In words	In figures	In words
1	2	3	4	5	6	7	8
1	Procurement of Flat including three (3) parking, common facilities and all expenses of registration.	sft	3600				
<b>GRAND TOTAL</b>							

## Section 7. General Specifications

1. Size of flat: 3600 sft,
2. Location of flat: Mohakhali region of Dhaka,
3. Interior modification, materials, fitting and fixing of flat should be done by the developer with their own cost according to the direction of the purchaser.
4. The developer should use the best quality of construction materials and should confirm the best quality of construction works,
5. Electrical, plumbing, sanitary and other necessary materials should be supplied consulting with the authority of the Bangladesh Agricultural University,
6. A clear and complete brochure of flat shall be enclosed with the tender,
7. Lift, generator and other available facilities in the flat should be mentioned clearly.