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**THE KOLKATA MUSEUM OF MODERN ART  
Premises No.- 98-1111, Plot no. – IIE/3  
AA – II, NEW TOWN  
KOLKATA – 700161**

**NIT No.:** KMOMA/Const/UGR/2025-26/01

**Date:** 08-06-2025

**NOTICE INVITING TENDERS (NIT)**

Sealed tenders are invited from reputed and resourceful Civil Engineering Construction Company / Firm for works as follows:

Sl. No.	Name of Work	Completion time in months from the date of LOI	Earnest Money Deposit (EMD) (Rs.)	Cost of Tender Document (Rs.)	Eligibility criteria
1	<p>KMOMA invites sealed tender from the reputed &amp; resourceful Civil Engineering Construction Company / Firm for the construction of RCC Under-ground Reservoir (UGR) of capacity 2.50 lac liters (approx.) and two pump houses attached with the tank. Joint venture / consortium shall not be accepted.</p> <p><b>Note:</b> A pre-bid meeting shall be arranged tentatively 15 days prior to the last date of submission of bid. A confirmation on the date &amp; venue shall be communicated in advance to the prospective bidders by mail.</p>	08 (Eight Months)	<p>1.50 (one and half) Lakhs</p> <p>(in the form of Bank Draft / Pay Order / Banker's cheque from nationalized bank drawn in favor of the "THE KOLKATA MUSEUM OF MODERN ART", payable at Kolkata).</p>	3000/- (cash)	<p>i). Minimum 07 years of experience in the Construction work and having completed at least two UGR of value not less than rupees 50 lacs each in the last 05 years</p> <p>ii). Yearly turn-over from construction business not less than rupees one crore each year in the last 03 years. In this regard, Company's Balance Sheet shall be submitted for the last 03 years.</p>

Tender document shall be available on submission of application signed with company's seal by the interested bidders on Company's letter head **from 8th June to 1<sup>st</sup> July** between 11a.m to 4 p.m. (except Saturdays, Sundays and holidays) and last date of submission of Tender document is **on 2<sup>nd</sup> July 2025 till 12.00 noon and the Technical Bid shall be opened on the same day.**

Sd /-  
Managing Trustee  
**KMOMA**



# **PART - 1**

## **DEFINITIONS**

- \* "Approved" means approved in writing including subsequent written confirmation of previous verbal approval and "approval" means approval in writing, including as aforesaid.
- \* "Contractor" means the person, firm or company whose tender has been accepted by the Owner and includes the contractor's personal representatives, agents, successors and permitted assigns.
- \* "Works" means all works in relation to the Contract and shall include both Permanent Works and Temporary Works.
- \* "Contract" means the Document containing Notice Inviting Tender, Instruction to Tenderers, Conditions of Contract, Specifications, Drawings, Bill of Quantities, schedule of rates and prices, correspondence letters concerned to tender (if any), Letters of Intent (LOI)/Award of Work and the Contract Agreement, when completed.
- \* "Constructional Plant" means all appliances / equipment or things of whatsoever nature required in or about the execution or final completion of the Works but does not include materials or other things intended to form or forming part of the Permanent Works.
- \* "Contract Price" means the sum named in the Letters of Intent (LOI), subject to such additions thereto or deductions therefrom as may be made under the provisions hereinafter contained and any applicable legislation.
- \* "Drawings" means the drawings referred to in the Tender and any modification for such drawings approved by KMOMA and or its representatives.
- \* Material default, means default which may lead to termination, penalty.
- \* "Owner" means "The Kolkata Museum of Modern Art", which expression shall, wherever the context so requires or admits, mean and include, the legal successors in title to the Owner, representatives, agents or any assignee of the Owner and the Engineer-in-charge (EIC)".
- \* "Permanent Works" means the permanent works to be executed and maintained in accordance with the Contract. The details of the Permanent Works are set out in Drawings/Bill of Quantities.
- \* "Site" shall have the meaning assigned to it in the Notice Inviting Tenders and include the land and other places on, or under or through which the Permanent Works or Temporary Works as per the work order and the approved working drawings and BOQ, are to be executed and any other lands and place provided by the Owner for working space or any other purpose as may be specifically designated in the Contract as forming part of the site.
- \* "Substantial Completion" means the date when the relevant occupation certificate is issued by the concerned competent authority and as certified by EIC, when construction of all elements of the "Permanent Works" which are essential to perform its purpose, is sufficiently completed, in accordance with the Contract documents, so that the Owner can beneficially occupy or utilize the Work or designated portion thereof, for the use for which it is intended, as expressed in the Contract documents, although there may still be miscellaneous punch (snag) list items left to be done causing some inconveniences to the Owner, provided always that such punch list items of work do not significantly interfere with the intended use of the Permanent Works.

- \* "Temporary Works" means all temporary works of every kind required in or about the execution or maintenance of the works and any specified works as described in Drawings/ Bill of Quantities/ Specifications.
- \* "Technical Specifications" means the specification referred to in the tender and any modification thereof or addition thereto as may, from time to time be furnished or approved in writing by the EIC.
- \* The preceding year-1, means the Financial Year (FY) 2024 – 2025 and previous financial years earlier than preceding year- 1 are referred as preceding year -2, 3 so on.
- \* The meaning of Bidder, Contractor and Tenderer is the same whether it is a Company or Firm who has submitted the Tender.
- \* The words Authority, Client and KMOMA bear the same meaning and it is “THE KOLKATA MUSEUM OF MODERN ART”.



# **PART - 2**

## **INSTRUCTIONS TO BIDDERS**

## SECTION-I

### GENERAL INSTRUCTIONS:

#### 1. Eligibility for participation:

Bona fide civil contractors / bidders having requisite qualifications & experience in execution of civil, works with adequate credibility as defined in the NIT.

#### 2. Participation in tender:

Any contractor/bidder must submit bids for all the segments as mentioned in the Bill of Quantities (BOQ).

#### 3. Submission of Tenders:

a). Tenders are to be submitted in two separate envelopes inside the Main Envelope, one being 'Technical Proposal' and the other 'Financial Proposal'. The tenderer/bidder shall carefully go through all the documents of the tender and submit their Technical Bid.

The envelop marked as "Technical Proposal" shall contain all the documents including EMD, Technical Specifications, Tender Drawings, all other documents but **except "Financial Bid"**.

The envelop marked as "Financial Proposal" shall contain **only the Financial Bid**.

The Tenderer is compulsorily required to fill up the rates & amounts of items in the BOQ for the work in the designated cells in their Financial Bid.

b). The each & every page of the Tender Documents must be signed and stamped by the bidders.

c). The main envelope shall be superscribed as follows:

**CONFIDENTIAL**  
**CONSTRUCTION OF UNDER-GROUND RESERVOIR (UGR)**  
**FOR**  
**THE KOLKATA MUSEUM OF MODERN ART (KMOMA)**  
**PREMISES NO.: 98-1111**  
**PLOT NO: II-E/3, ACTION AREA II,**  
**NEWTOWN, KOLKATA -700 161.**

**DO NOT OPEN BEFORE CLOSING DATE**

- d). All the documents submitted by the bidder will form an integral part of the tender contract/ agreement.
- e). Tenderers/bidders are required to submit the entire set of tender documents along with other related documents as asked for in the tender within the stipulated date and time as given in the NIT.
- f). The Tenderers are expected not to propose any alteration to any of the conditions laid down in the tender. Stipulated conditions embodied in the tender shall be binding on the Tenderers.
- g). Documents submitted by the Tenderers/bidders with all information & rates comprising Technical Bid and Financial Bid cannot be changed, once submitted.

**4. Tender Fee, Earnest Money Deposit (EMD), Security Deposit (SD) and Performance Guarantee:**

- i. *Tender Fees:*** Entire set of Tender documents are made available to the bidder as per the terms mentioned in the NIT. However, the contractors/bidders may wherever necessary be charged suitably for asking for additional/multiple copies of drawings, specifications, Schedule of Rates (SOR) etc. and such fee may be suitably determined by KMOMA as per norms.
- ii. *Earnest Money Deposit (EMD):*** The bidder shall deposit EMD in the form as mentioned in the NIT.
- iii. *Refund/Settlement of EMD:*** The earnest money deposited by the successful tenderer will be converted to a part of Security Deposit (SD). Earnest Money deposited by an unsuccessful tenderer will be refunded ONLY after awarding the Contract to the successful bidder. No interest or any other claim on the EMD deposited shall be considered whatsoever.
- iv. *Security Deposit (SD):***

- a. The amount of SD is 5% of the actual work done including the excess / supplementary works.
- b. The balance amount of SD after deducting the EMD, shall be deducted from the payments made against progressive running account (RA) bills at the rate of 5% from every payment.
- c. Refund of Security Deposit:
  - i. One half of the SD shall be refunded to the Contractor on certification in writing by KMOMA that the works have been completed.
  - ii. On expiry of the Defects Liability Period, KMOMA shall, on demand from the Contractor, refund to the Contractor the remaining portion of the Security Deposit provided that there is no demand outstanding against the Contractor.

**v. Performance Guarantee:**

Performance Guarantee of Rs. 2 lakhs in the form of Bank Guarantee from a Scheduled Bank, valid up to the date of completion of work, shall have to be submitted by the successful bidder within seven working days from the date of issue of Letter of Intent (LOI).

**5. Credential Certificates (CC):**

- i. Completion Certificates (CC) for 100% completed works for the last three financial years only will be accepted as valid credential.
- ii. CC should clearly show the Name, Postal Address, Contact Tel. No. and E-mail ID of the Client along with the name of work and amount put to tender (Tender Value). Illegible certificates and those having incomplete information shall be rejected.

**6. Penalty for suppression / distortion of facts and withdrawal of L1 bidder before acceptance of LOI**

If any tenderer/bidder fails to produce all the original hard copies of the documents on demand by KMOMA within a specified time frame or if any discrepancy is detected in the original hard copies in comparison with the corresponding photocopies or information given along with the tender , the tender will be cancelled. In addition, his/her EMD will stand forfeited by KMOMA.

**7. Taxes & duties to be borne by the Contractor/bidder**

No tax except GST shall be paid by KMOMA. Only GST, as applicable shall be paid separately by KMOMA.

**7a. Statutory Compliance:**

The contractor / bidder shall be responsible for compliance of all statutory provisions.

## **8. Site inspection prior to submission of tender**

**Before submitting the tender, the intending tenderer/bidder should make themselves acquainted thoroughly with the local conditions prevailing at site of implementation of the work by undertaking field inspections and taking into consideration all probable likely factors and difficulties to be involved in execution of the work as per specification in all respects including transportation of materials, communication facilities, climate conditions, nature of soil, availability of local labour and market rates prevailing in the locality etc. and no claim whatsoever will be entertained on any grounds other than the rates quoted and executed as per BOQ.**

## **9. Conditional / incomplete tender:**

Conditional and incomplete tenders are liable to be summarily rejected.

## **10. Execution of formal tender contract/ agreement after acceptance of tender**

The contractor/bidder, whose tender is accepted, shall within 15 days of the issue of Letter of Intent (LOI), execute a 'Formal Agreement' with KMOMA in quadruplicate as per the format provide by KMOMA and the Draft of the "CONTRACT AGREEMENT FORM" is given at the end.

## **11. Payment against bills raised by the contractor**

The payment of Running Account as well as Final Bill for any work based on progress and performance will be made within 30 days from the date of submission of Running Bill and 90 days for the Final Bill.

## **12. Bid validity**

The Bid will be normally valid for **120 days** from the date of opening of the financial proposal. However, extension of bid validity may be suitably considered by KMOMA, if required, subject to written confirmation of the contractor/bidder (s) to that effect.

## **13. Definition of Physical Milestones:**

The time allowed for carrying out the work as entered in the tender shall be reckoned from the date of LOI. The work shall throughout the stipulated period of the contract be carried out with all due diligence. Time being deemed to be the essence of contract on the part of the contractor; the contractor shall be bound in all cases, to achieve the 'Milestones' as specified by the KMOMA.

## **14. Withdrawal of Tender**

Once the bid has been submitted "Withdrawal of Tender" is not allowed. EMD will be forfeited by KMOMA for the "Withdrawal of Tender" after submission.

## **15. Discrepancy of rate in figure and words:**

The bidder should take utmost care while quoting the rates. If, there is any discrepancy of rate in figure and in words, the rate in words shall be considered for working out the amount.

**16. Any relevant “IS Code” shall be referred during construction as and when required.**

**17. NAME OF THE AGENCIES FOR RMC:**

- A. Ultratech
- B. Nuvoco Vistas Corporation Ltd.
- C. Prism Johnson
- D. ACC

## **SECTION - II**

### **INSTRUCTIONS REGARDING SUBMISSION AND EVALUATION OF TECHNICAL PROPOSAL:**

#### **1. Technical Proposal:**

The Technical proposal should contain documents and/or declarations in the following standardized formats in two covers. **The Financial bids shall be opened for those only who qualify in the technical proposal.**

- Technical Cover contains (**documents shall be put in the envelop of “Technical Proposal”**):
  - i. Receipt copy of Application for purchase of Tender.
  - ii. Conditions of contract (all *pages duly signed and stamped*)
  - iii. Notice Inviting Tender (NIT) (*duly signed and stamped*)
  - iv. Audited Accounts: Audited accounts in the prescribed form duly certified by the Auditor.
  - v. Annual Turn-over from Business of last three financial years, duly certified by the Auditor  
(*Vide Form-1*).
  - vi. Credential Certificate (*vide Form-2*)
  - vii. Declaration of not having common interest in the same serial (*vide Form-3*)

- viii. Drawings (*all tender drawings duly signed and stamped*).
- ix. Addenda/Corrigenda: If published after the last date of issue of tender.
- x. EMD in the form as mentioned in the NIT.
- xi. Technical Specifications with sign & Company's stamp on each page.

*NOTE: a) Tenderers/bidders will be intimated for all the addenda and corrigenda against the said tender. Tenders submitted without addendum/corrigendum are liable to be treated as inadequate and thereby rejected.*

**xii. Other Important Documents (documents shall be put in the envelop of Technical Proposal):**

Sl No	Attachment Type	Name of document	Details	Remarks
A	Certificates	Professional Tax	Professional Tax challan for current year	
		Permanent Account Number	PAN card	
		GST	GST Registration No.	
		Income Tax	IT return receipt for the last three years.	
B	Bidder Details	Trade Licence	In case of Proprietorship Firms	
		Partnership deed, Form-VIII or Memorandum of Registration, Trade Licence	In case of Partnership Firms	
		Incorporation Certificate, Memorandum of Association, Trade Licence	In case of Limited Companies	
C	Credentials	Work Credentials for the completed works	BOQ & Work Order bearing signature and stamp of issuing authority.	
			Completion certificate for 100% completed works.	
			Gross bill value of 100% completed work.	
D	Financial Information	Payment Certificate for previously completed Projects.	Payment certificate issued by competent authority of 100% completed work and/or any other relevant financial information	

C. Details of the terms mentioned in the tables:

**i) Certificate/s:**

- a) Professional Tax Payment Certificate (PTPC) - valid for the current financial year/latest as per rules
- b) PAN Card
- c) GST Registration Certificate
- d) Income Tax Return receipt for last three Assessment Years, viz. 2024-2025, 2023-2024, 2022-2023
- e) Valid Trade License
- f) Company must have registered under the Companies Act 1956. Certificate must be submitted.

**ii) Company Details (A sheet to be attached if required).**

**iii. Financial Information:**

- a. The audited annual accounts of the preceding three years along with Auditor's certificate regarding Annual Turn-over from business.

**SECTION - III**

**FORMS (TO BE FILLED & SIGNED BY THE BIDDER)**

**FORM 1**

**Certificate regarding Summary Statement of Annual Turn-Over**

This is to certify that the following statement is the summary of the annual turnover in favour of ..... for the three preceding financial years.

Sl. No.	Financial		Remarks
	Year	Annual Turn Over rounded upto in Rupees lakh (two digits after decimal). <b>Audited balance sheets shall be submitted.</b>	
1.	2024 – 25		
2.	2023 – 24		
3.	2022 - 23		

Signature of the bidder/contractor with date & seal if any

Date & Place:

***Verification by Licensed Auditor Firm/ CA Firm with full correspondence address, Phone No. with Membership No. of Indian Institute of Chartered Accountants and official seal:***

**FORM-2**

**Completion Certificate (100% Physical Completion):**

Sl no	Name of the work	Name of the client	Tendered Amount	Actual value of work done	Date of commencement & completion as per work order	Actual date of completion	Date of work order (Attach copy)	Date of final bill (Attach copy)	Date of Completion Certificate (Attach copy)
1.									
2.									
3.									

Signature of the contractor/bidder with date and seal



### **Evaluation Procedure:**

Evaluation of Technical Bid shall be done strictly on the basis of minimum eligibility criteria as set in the NIT and under “Instructions to Bidder”. The bidders who have fulfilled the minimum criteria shall be considered as technically qualified bidders and his / her financial bid shall be opened.

## **SECTION - VI**

### **INSTRUCTIONS REGARDING SUBMISSION AND EVALUATION OF FINANCIAL PROPOSAL:**

#### **1. Financial proposal / bid under financial cover (documents shall be put in the envelop of “Financial Proposal”):**

**a). Bill of Quantities (BOQ):** The Tenderers/Bidders are required to quote the rates against each item as specified in the BOQ.

#### **NOTE:**

- a. BOQ without a valid rate at the designated spaces provided in the BOQ will be rejected outright.*
- b. Revision in the BOQ / SOR items will not be accepted.*

#### **2. Opening and evaluation of Financial Proposal:**

- i. Financial proposals of only the bidders/tenderers found technically eligible will be opened.
- ii. After opening the financial proposal, a comparative statement will be made.
- iii. If, KMOMA is of the view that there is any reasonable scope for lowering down the rate, KMOMA will go for negotiations with the lowest Bidder.
- iv. After being satisfied with the rates as well all other conditions, KMOMA will select (as per its discretion) the “lowest bidder” to execute the job, and the successful bidder will be intimated subsequently.
- v. If the selected bidder/contractor backs out, the owner may call the next suitable bidder to execute the job or may opt for re-tendering in a transparent and fair manner.

# **PART - 3**

## **TERMS & CONDITIONS**

**SECTION – I**  
**SUMMARY OF CONTRACT CONDITIONS**

Sl. No.	Particulars	Description
1	Construction Period	08 (Eight) Months from the date of issuance of Letter of Intent (LOI). Handing over of site shall be carried out on the same day.
2	Earnest Money Deposit	In the form of Bank Draft/ Pay Order / Banker's Cheque along with the Bid Document, which will be converted to Security Deposit (in case of successful bidder) and refunded to all other unsuccessful bidders.
3	Security Deposit (SD)	<p>The amount of SD is 5% of the actual work done including the excess / supplementary works.</p> <p>The balance amount of SD after deducting the amount of EMD shall be adjusted from the progressive running account bills.</p> <p>One half of the SD shall be refunded to the Contractor on certification in writing by KMOMA that the works have been virtually completed.</p> <p>One half of the SD shall be retained by KMOMA till the end of the defect liability period.</p>
4	Performance Bank Guarantee	Bank Guarantee Rs. 5 (five) lakhs with validity till the completion date of construction as specified in the Tender shall be deposited by the successful bidder within 7 working days from the date of issue of LOI.
5	Mobilization Advance & Secured Advance	Mobilization advance & Secured Advance shall not be paid.
6	Taxes	Quoted price is inclusive of all taxes, duties, octroi, levies, entry tax, special entry tax, royalty and any other taxes, cess that may be applicable. <b>Only GST shall be paid by KMOMA as applicable.</b>

7	Duration of Processing Payment	Within 30 days from the date of submission of running account bill and 90 days for final bill.
8	Liquidated Damages	2% per month, limited to 10% of total Contract sum
9	Non-Tendered Items	Cost of Material, Labour, Taxes, Tools & Tackles plus 15% for profit and overheads. The co-efficient of labour and materials shall be as per CPWD analysis published by NABHI.
10	Defects Liability Period (DLP)	12 months from date of issue of Completion Certificate (CC).
11	Insurance	Third party insurance to cover any damages to third party and shall include for any damage to the properties and/ or injury [including death] to the persons of the general/ public/ Engineers and anyone else deemed to be third party.
		Workmen's Compensation Policy to cover contractor's liability under Workmen's Compensation Act, 1923. This shall be for the period upto final completion of work.
12	Construction Power	Only single point supply shall be provided by the owner through a sub-meter. The bills etc. shall be paid by the contractor.
13	Construction Water	Single point water supply from HIDCO is available at site. A 100 ft. deep bore-well also exists at site.
14	Office Space / Storage Facilities / Labour Hutment	All arrangements shall be made by the Contractor at his own cost. Space may be provided at site by KMOMA.
15	Ship to Address	The Kolkata Museum of Modern Art (KMOMA) Premises No.: 98-1111, Plot No.: IIE/3, New Town, Kolkata – 700161

16	Bill to Address	The Kolkata Museum of Modern Art (KMOMA) Premises No.: 98-1111, Plot No.: IIE/3, New Town, Kolkata – 700161
17	Cost escalation	This is the fixed rate contract. No escalation shall be paid if the contract period extends except the condition where the reason for the delay is beyond the control of the contractor. In this regard, the decision of KMOMA is final & binding.

## SECTION -II

### GENERAL CONDITIONS OF CONTRACT

**Clause 1:** The Bidder, whose tender has been accepted (hereinafter shall be called the Contractor) shall deposit Performance Security within seven (7) days from the date of receipt of Letter of Intent (LOI) from KMOMA.

**Clause 2:** The time allowed for carrying out the work as entered in the tender shall be strictly observed by the contractor, and which shall be reckoned from the date on which the order to commence work is given to the contractor. The work shall throughout the stipulated period of the contract be proceeded with all due diligence. Time being deemed to be the essence of contract on the part of the contractor, the contractor shall be bound in all cases, to achieve the ‘Milestones’ as defined under Clause 5 and specified into various ‘Identifiable and quantifiable construction related stages’ pertaining to the work. In the event of the contractor failing to comply with any of the conditions related to achieving the ‘Milestones’ within the specified time period prescribed for such ‘Milestone’ plus one month, he/she shall be liable to pay compensation.

If the contractor fails to commence and/or maintain required progress viz. Milestones defined in the Tender over the total time allotted for its full completion and in terms of clause 5 or fails to complete the work and clear the site on or before the end of contract period or extended date of completion, he/she shall, without prejudice to any other rights or remedy available under the law on account of such breach, pay as agreed compensation as agreed to the Owner (KMOMA).

This will also apply to items or group of items for which a separate period of completion has been specified.

i) Compensation for delay of work: @ 2% (Two percent) of the tendered value of work arrived for each month of delay to be computed on per day basis subject to the ceiling limit of security deposit already withheld or due to be withheld during imposition of the said clause and minimum payable compensation equivalent to the Earnest Money deposited (EMD). Provided always, that the total amount of compensation for delay, to be paid under this clause shall not exceed 10 % of the tendered value of work or the tendered value of the item or group of items of the work, for which a separate period of completion is originally given.

ii) Action when whole of security deposit is forfeited: The amount of compensation may be adjusted or set-off against any sum payable to the Contractor under this contract, if the contractor catches up with the progress of work subsequently, part or full of the desired progress as per the contract in accordance with the decision of the Engineer-in-Charge, the withheld amount shall be released. However, no interest, whatsoever, shall be payable on such withheld amount. However, Contractor remains liable to pay compensation, if action is not taken under Clause 3.

**Clause 3:** The time allowed for execution of a work as specified in the ‘Schedule of Work’ or in the extended time in accordance with the terms & conditions, shall be the essence of the contract. Execution of work shall commence from such time period as mentioned in the said schedule. If the Contractor commits default in commencing execution of the work as aforesaid within thirty days, without justifiable reasons, the Owner may without prejudice to any other rights to remedy available in law, be at liberty to apply clause 2 and subsequently clause 5 under Section-V of the tender contract.

**Clause 4:** As soon as possible after the contract is executed, signed and agreed, the Contractor shall submit a ‘Time and Progress Chart’ for each broad activity (Milestone) and get it approved by the Engineer-in-charge. The chart shall be prepared in direct relation to the time stated in the Notice Inviting Tender (NIT) document, for completion of items or groups of items of the work. It shall indicate the forecast of the dates of commencement and completion of various stages or sections of the work. This may be amended, as necessary, by an agreement between the Engineer-in-charge and the Contractor within the limitations of time imposed in the NIT document. The Time and Progress Chart shall be the document to monitor and ensure timely completion and good progress of work.

4.1 If the work(s) be delayed by: Force majeure, due to war, internal emergency and other conditions such as abnormally bad weather, flood, cyclone, natural calamity or serious loss or damage by fire or civil commotion, strike or lockout affecting procurement of construction materials or any of the trades employed in the work, or any other cause which in the sole judgment of the EIC is beyond the Contractor’s control, then upon happening of any such event causing delay, the Contractor shall immediately give notice thereof in writing to the EIC but shall nevertheless use constantly his/her best endeavors to prevent or make good the delay and shall do all that may be reasonably required to the satisfaction of the Engineer-in-charge to proceed with the works.

4.2 Request for rescheduling of Time and Progress Chart pertaining to the specified Milestones of various activities and extension of time, to be eligible for consideration, shall be made by the contractor in writing within fourteen days of the happening of the event causing delay in the prescribed form. The contractor may also, if practicable, indicate in such a request the period for which extension is desired.

4.3 In any such case the Engineer-in-Charge, may give a fair and reasonable extension of time, and reschedule the activity wise ‘Milestones’ for completion of the work. Such extension shall be communicated to the

contractor by the Engineer-in-charge in writing within maximum 1 (one) month of the date of receipt of such request.

**Clause 5: (Final Certificate):** On completion of work, the Contractor shall be furnished with a certificate by the Engineer-in-Charge of such completion, but no such certificate shall be given, nor shall the work be considered to be completed until and unless the contractor shall have removed from the work premises on which the work is executed, all scaffolding, surplus materials and rubbish, and cleaned off the dirt from wood works, doors, windows, floors, or other parts of any building, upon or about which the work is executed, or of which he may have had possession for the purpose of the execution thereof, nor until the work shall have been measured by the Engineer-in-charge whose measurements shall be binding and conclusive against the contractor. If the contractor shall fail to comply with the requirements of this clause as to removal of scaffolding, surplus materials and rubbish and cleaning off dirt on or before the date fixed for completion of the work, the Engineer-in-charge may at the expense of the contractor remove such scaffolding, surplus materials and rubbish, and dispose of the same as he/she thinks fit, and clean off such dirt as aforesaid; and the contractor shall forthwith be bound to pay the amount of all expense so incurred, and shall have no claim in respect of any such scaffolding or surplus materials as aforesaid, except for any sum actually realized by the sale thereof.

**Clause 6:(Payment on intermediate certificates to be regarded as advances):** For Running Account Bill payment the contractor shall on submitting a bill of at least Rs. 25.00 lakh there for, be entitled to receive a payment proportionate to the part thereof, approved and passed by the Engineer-in-charge, whose certificate of such approval and passing of the sum so payable shall be final and conclusive against the contractor.

**Clause 7: (Issuance of CC) :** Within 10(Ten) days of completion of work, the contractor shall give notice of such completion to the Engineer-in-charge and within 14(Fourteen) days of receipt of such notice, the Engineer-in-charge shall inspect the work, and if there is no defect in the work, he/she shall furnish to the contractor a final certificate of completion. Otherwise, a provisional certificate of physical completion indicating defects (a) to be rectified by the Contractor and/or (b) for which payment will be made at reduced rates, shall be issued.

**Clause 8:** The contractor shall submit as-built drawing as required for any works where deviations are made as per site decisions as approved by EIC within 30 days of completion of the work. Further contractor will have to obtain Completion Certificate (CC) from the concerned competent authorities.

**Clause 9:** The contractor shall submit all bills in printed forms. The format of the bill should be approved by EIC.

**Clause 10:** Contractor will have to depute for full time one qualified engineer for day to day supervision of work to be executed at site

**Clause 11: (Works to be executed in accordance with specifications, drawings, orders etc):** The contractor shall execute the whole and every part of work in the most substantial and workman like manner,

and both, as regards to materials and otherwise, in every respect, in strict accordance with the specifications. The contractor shall also confirm exactly, fully and faithfully to the design and drawings, and instructions in writing relating to the work signed by the Engineer-in-Charge and lodged in his/her office, to which the contractor shall be entitled to have access at such office, or on the site of the work for the purpose of inspection during office hours, and the contractor shall, if he/she so require, be entitled at his/her own expense to make or cause to be made copies of the specifications, and of all such design, drawings and instructions as aforesaid.

**Clause 12:(Alteration in specification and designs do not invalidate contract) :** The Engineer-in-Charge shall have powers to make any alteration in, omission from, addition to, or substitution for, the original specifications, drawings, designs and instructions, that may appear to him/her to be necessary or recommended by Consultants during the progress of work, and the contractor shall be at all times be bound to carry out these works, in accordance to any instructions which may be given to him/her in writing, signed by the Engineer-in-charge, and such alterations omissions, additions or substitutions, shall not invalidate the contract but shall be deemed to have formed a part of the work included in the original tender and any altered, additional or substituted work which the contractor may be directed to do in the manner specified above as a part of the work shall be carried out by the contractor on the same conditions in all respects on which he/she agreed to do the main work, and at the same rates, if any, may be specified in the tender for the main work.

Extension of time in consequence of alterations --Time for the completion of the work shall be extended in the proportion that the altered, additional or substituted work bears to the original work contract, and the certificate of the Engineer-in-charge shall be conclusive as to such proportion.

**Clause 13: (Rates for works not in tender BOQ/SOR):** If the altered, additional or substituted work includes any class of work, for which no rate is specified in the contract, then such class of work shall be carried out at the rates entered in the schedule of rates of concerned works mentioned in PWD Schedule, which was in force at the time of acceptance of the contract, and if the altered, additional or substituted work is not entered in the said Schedule of Rates, payment thereof shall be made by the Engineer-in-charge by determining the rates on analysis worked out from (a) the basic rates of materials and worker provided in the aforesaid schedule of rates, or (b) the current market rates of materials and labour when even basic rates for the work are not available in the schedule.

In the event of any dispute regarding rates determined on analysis for any altered, additional or substituted work under this clause, the decision of the EIC shall be final and binding.

**Clause 14: (Action and compensation payable in case of bad work) :** If it shall appear to the Engineer-in-charge that any work has been executed with unsound, imperfect, or unskillful workmanship, or with materials of any inferior description, or that any materials or articles provided the Contractor, for the execution of the work are unsound, or of a quality inferior to that contracted for, or otherwise not in

accordance with the contract, the contractor shall on demand in writing from the Engineer-in-charge specifying the work, materials or articles complained of notwithstanding that the same may have been inadvertently passed, certified and paid for, forthwith rectify or remove and reconstruct the work so specified in whole or in part, as the case may require, or as the case may be removed the materials or articles so specified and provide other proper and suitable materials or articles at his own proper charge and cost; and in the event of his failing to do so within a period to be specified by the Engineer-in-charge in his demand aforesaid, then the contractor shall be liable to pay compensation at the rate of one percent on the amount of the estimate put to tender/on up to date executed work value for every day not exceeding ten days, while his/her failure to do so shall continue and in the case of any such failure, the Engineer-in-charge may rectify or remove, and re-execute the work or remove and replace with others, the materials or articles complained of as the case may be at the risk and expense in all respects of the contractor.

**Clause 15: (Work to be open to inspection & Contractor or his/her responsible agent to be present during such inspection) :** All works under or in course of execution or executed in pursuance of the contract shall at all times be open to inspection and supervision of the Engineer-in-charge and all his/her subordinates and the contractor shall at all times during the normal working hours, and at all other times at which reasonable notice of the intention of the Engineer-in-charge or his/her subordinates to visit the work site shall have been given to the contractor, either himself/herself be present to receive orders and instructions, or have a responsible agent duly accredited in writing present for that purpose. Orders given to the contractor's agent shall be considered to have the same force as if it had been given to the contractor himself/herself.

**Clause 16: (Notice to be given before work is covered up) :** The contractor shall give, not less than five days' notice in writing to the Engineer-in-charge or his/her subordinate in-charge of the work, before covering up or otherwise placing beyond the reach of inspection and / or measurement of any work, and shall not cover up or place beyond the reach of measurement any work without the consent in writing of the Engineer-in-charge, and if any work shall be covered up or placed beyond the reach of measurement without such notice having been given or consent obtained the same shall be uncovered at the contractor's expense, or, in default thereof no payment or allowance shall be made for such work or the materials with which the same was executed.

**Clause 17: (Contractor is liable for damage done and for imperfections for 180 days after certificate) :** If the contractor or his/her workers or authorized representatives shall break, deface, injure or destroy any part of the structure in which they may be working or any building, road, road curbs, fence, canals, water pipes, cables, drains, electric or telephone posts or wires, trees, grass or grassland or cultivated ground contiguous to the premises on which the work or any part of it is being executed, or if any damage shall happen to the work from any cause whatever or any imperfections become apparent in it at any time, whether during its execution or within a period of six months after issuance of a certificate of its completion by the Engineer-in-Charge, the contractor shall make the same good at his/her own expense, or in default, the Engineer-in-Charge may cause the same to be made good by other workers, and deduct the expenses (of which the certificate of the Engineer-in-Charge shall be final and binding) from any sums, whether under the

contract or otherwise, that may be then, or at any time thereafter become due to the contractor by the Owner or from his/her security deposit, or the proceeds of sale thereof, or of a sufficient portion thereof, and if the cost in the opinion of the Engineer-in-Charge whose opinion shall be final and conclusive against the contractor, making such damage or imperfections good shall exceed the amount of such security deposit and/or such sums, it shall be lawful for the Owner to recover the excess costs from the contractor in accordance with the procedure prescribed by any law for the time being in force.

**Clause 18:** In respect of all labours directly or indirectly employed in the work for the performance of the contractor's part of this contract, the contractor shall at his/her own expenses, arrange for the safety provisions as mentioned elsewhere in the contract, and shall at his/her own expense provide all facilities in connection therewith. In case the contractor fails to make arrangement, and fail to provide necessary facilities as aforesaid; he/she shall be liable to pay a penalty of Rs.500/- for each default, and in addition the Engineer-in-Charge shall be at liberty to make arrangement and provide facilities as aforesaid and recover the costs incurred in their behalf, from the contractor.

**Clause 19:** In respect of all labours directly or indirectly employed in the work for the performance of the contractor's part of this contract, the contractor shall comply with or cause to be complied with all the rules framed by the appropriate Government from time to time for the protection of health and sanitary arrangements of workers employed by the contractor.

**Clause 20:** In the event of the contractor(s) committing a default or breach of any of the provisions of the Contractor's Labour Regulations and Rules for the protection of health and sanitary arrangement for the workers as amended from time to time or furnishing any information or submitting or filing any statement under the provisions of the above Regulations and Rules which is materially incorrect, he/she shall, without prejudice to any other liability, pay to the Owner a sum not exceeding Rs. 200/- for every default, breach or furnishing, making, submitting, filing such materially incorrect statements and in the event of the contractors defaulting continuously in this respect, the penalty may be enhanced to Rs. 500/-per day for each day of default subject to a maximum of five per cent of the tendered value. The decision of the Engineer-in-charge shall be final and binding on the contractor.

**Clause 21:** The Engineer-in-charge may require the contractor to remove from the site of work; any person or persons engaged/assigned or employed by the contractor, upon the work who may be determined as insane or incompetent or misconducts himself/herself, and the contractor shall forthwith comply with such requirements.

**Clause 22:** It shall be the responsibility of the contractor to ensure that the building/structure under construction is not occupied by anybody unauthorized during construction, and is handed over to the Engineer-in-charge with vacant possession free from encumbrances in entirety, If such buildings/ structures though completed is occupied illegally, then the Engineer-in-Charge shall have the option to refuse to accept the said building /structure in that position. Any delay in acceptance on this account will be treated as the delay in completion and for such delay a levy up to 5% of tendered value of work may be imposed by the

Engineer-in-charge whose decision shall be final both with regard to the justification and quantum and shall be binding on the contractor.

**Clause 23:** No work shall be done on Sundays without the prior sanction of the Engineer-in-charge.

**Clause 24: (Works to be under direction of Engineer-in-Charge):** All works are to be executed under the direction of Engineer-in-Charge. Further instructions/advices (apart from the conditions mentioned in the contract), if felt necessary by the Engineer-in-Charge shall be communicated during the execution period, shall also be binding to the contractor.

**Clause 25: (Settlement of Disputes) :** Except where otherwise provided in the contract, all questions and disputes relating to the meaning of the specifications, designs, drawings and instructions herein before mentioned and as to the quality of workmanship or materials used on the work or as to any other question, claim, right, matter or thing whatsoever, in any way arising out of relating to the contracts, designs, drawings, specifications, estimates, instructions, orders or these conditions or otherwise concerning the works, or the executions or failure to execute the same, whether arising during the progress of the work, or after the completion or abandonment thereof shall be dealt with as mentioned hereinafter:

If the contractor considers any work demanded of him/her to be outside the requirements of the contract, or disputes any drawings, record or decision given in writing by the Engineer-in-Charge or any matter in connection with or arising out of the contract or carrying out of the work to be unacceptable, he/she shall promptly within 15 days request the Owner, in writing for written instruction or decision. Thereupon, the Owner shall give its written instructions or decision within a period of three months from the date of receipt of the contractor's letter.

Above provisions will be applicable irrespective of the value of the works to which the dispute may relate.

**Clause 26:** In the case of any class of work for which there is no such specifications as referred to under Clause 11, such work shall be carried out in accordance with the latest Bureau of Indian Standards (BIS) & specifications. In case there are no such specifications in Bureau of Indian Standards, the work shall be carried out as per reputed manufacturer's specifications if accepted by the Engineer-in-Charge. If not available, then as per State- Government/Union Government accepted and approved specifications. In case there are no such specifications as required above, the work shall be carried out in all respects in accordance with the instructions and requirements of the Engineer-in-Charge.

**Clause 27:** The expression "works" or "work" where used in these conditions shall, unless there be something either in the subject or context repugnant to such construction be constructed and taken to mean the works by or by virtue of the contract constructed to be executed, whether temporary or permanent and whether original, altered, substituted or additional.

**Clause 28:** The contractor shall at his/her own cost provide his/her labour with hutting on an approved site, and shall make arrangements for conservancy and sanitation in the labour camp to the satisfaction of the Owner as well as local public Health and Medical Authorities. He/She shall also at his/her own cost make arrangements for the laying of pipe lines for water supply to his / her labour camp from the existing mains wherever available, and shall pay all fees, charges and expenses in connection with there and incidental thereto.

**Clause 29:** The contractor shall make his /her own arrangements for water required for the work and nothing extra will be paid for the same. However, single point supply of water and electricity shall be provided by KMOMA at site.

**Clause 30: (Contractors Superintendence, Supervision, Technical Staff & Employees):** The contractor shall provide all necessary superintendence during execution of the work and as along thereafter as may be necessary for proper fulfilling of the obligations under the contract.

**Clause 31: The Contractor is solely responsible for safety and security of working personnel and the Site from the date of LOI to the date of taking over the Construction by KMOMA.**

**Clause 32: Defect Liability Period (DLP):** DLP is twelve (12) months from the date of Completion Certificate. During DLP if, any defects arise, the Contractor is liable to rectify the same. Failing which, KMOMA will rectify the same at the cost and risk of Contractor.

**Clause 33:** Stacking and storage of the materials including the watch and ward of the same are included in the scope of the contractor.

**Clause 34:** The contractor will extend all necessary help, when required, to other agencies working in this project engaged by the Owner.

**Clause 35: Quantity / Amount Variation:** The quantities given in the BOQ are estimated quantities. The payment shall be made on the basis of actual quantities executed by the Contractor and certified by KMOMA.

**Clause 36:** In case of any ambiguity between clauses / interpretation of clauses and / or sub clauses mentioned in two different sections in the contract, the decision of KMOMA will be final and binding on the contractor.

**Clause 37:** No interest shall be payable against any kind of amount such as Earnest Money Deposit (EMD), Security Deposit (SD), Performance Bank Guarantee, Retention Money etc., retained by KMOMA in line with the condition/s and or Instruction to Bidders of this Tender.

### SECTION - III

**COMPLIANCE WITH APPLICABLE LAWS:**

**Clause 1:** In every case in which by virtue of the provisions under sub-section (1) of Section 12, of the Workmen's Compensation Act, 1923, the Owner is obliged to pay compensation to a workman employed by the contractor, in execution of the works, the Owner will recover from the contractor the amount of compensation so paid; and without prejudice to the rights of the Owner under sub section (2) of section 12, of the said Act, Owner shall be at liberty to recover such amount or any part thereof by deducting it from the security deposit or from any sum due by Owner to the contractor whether under this contract. The Owner shall not be bound to contest any claim made against it under sub-section (1) Section 12, of the said Act, except on the written request of the contractor and upon his/her giving to the Owner full security for all costs for which the Owner might become liable in consequence of contesting such claims.

**Clause 2 :** In every case in which by virtue of the provisions under 'The Contract Labour (Regulation & Abolition) Act, 1970, and its amendments and rules, the Owner is obliged to pay amount of wages to a workman employed by the contractor in execution of the works, or to incur any expenditure in providing welfare and health amenities required to be provided under the above said Act and the rules framed by Government from time to time for the protection of health and sanitary arrangements for workers employed by contractors, Owner will recover from the contractor, the amount of wages so paid or the amount of expenditure so uncured; and without prejudice to the rights of the Owner under subsection (2) of Section 20, and sub-section (4) of Section 21, of the Contract Labour (Regulation and Abolition) Act, 1970, Owner shall be at liberty to recover such amount or any part thereof by deducting it form the security deposit or from any sum due by Owner to the contractor whether under this contract or otherwise and the Owner shall not be bound to contest any claim made against it under sub-section (1) of Section 20, sub-section (4) of section 21, of the said Act, except on the written request of the contactor and upon his/her giving to the Owner full security for all costs for which the Owner might become liable in contesting such claim.

**Clause 3:** The contractor shall obtain a valid license under the Contract Labour (Regulation and Abolition) Act, 1970, before the commencement of the work, and continue to have valid licenses until the completion of the work. The contractor shall also abide by the provisions of the Child Labour (Prohibition and Regulation) Act, 1986, Fatal Accident Act, 1855, personal injuries (Compensation Insurance) Act, 1970.

The contractor shall also comply with the provisions of the 'Building and Other Construction Workers (Regulation of Employment & Conditions of Service) Act, 1996' and 'The Building and Other Construction Workers Welfare Cess Act, 1996'. Failure to fulfill these requirements shall attract penal provisions of the contract, arising out of the resultant non-implementation of such provisions.

**Clause 4 (Labour) :** No labour/s below the age of eighteen years shall be employed in the work and the contractor shall abide by the provisions of the Child Labour (Prohibition & Regulation) Act, 1986.

**Clause 5 (Payment of minimum Wages to Labour) :** The contractor shall pay to labours employed by him/her either directly or through sub-contractors, wages not less than fair wages as defined by the Labour

Commissioner of the State Government under 'Minimum Wages Act, 1948', Contractor's Labour Regulations or as per the provisions of the Contract Labour (Regulation and Abolition) Act, 1970, wherever applicable.

The contractor shall, notwithstanding the provisions of any contract to the contrary, cause to be paid fair wage to labour indirectly engaged on the work, including any labour engaged by his sub-contractors in connection with the said work, as if the labour had been immediately employed by him/her.

In respect of all labourers directly or indirectly employed in the works for performance of the contractor's part of the contract, the contractor shall comply with or cause to be complied with the contractor's Labour Regulations made by the State Government / Government of India, from time to time in regard to payment of wages, wage period, deductions from wages, recovery of wages not paid and deductions made without authority, maintenance of wage books or wage slips, publication of scale of wage and other terms of employment, inspection and submission of periodical returns and all other matter likewise in nature or as per the provisions of the Contract Labour (Regulation and Abolition) Act, 1970, and the inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, Minimum Wages Act, 1948, Equal Remuneration Act, 1976, wherever applicable.

- a) The Engineer-in-Charge concerned shall have the right to deduct from the money due to the contractor any sum required or estimated to be required for making good the loss suffered by a worker or workers by reason of non-fulfillment of the conditions of the contract for the benefit of the workers, non-payment of wages or of deductions made from his/her/their wages which are not justified by their terms of the contract or non-observance of the regulations.
- b) Under the provision of Weekly Holidays Act, 1986, the contractor is bound to allow to the labours, directly or indirectly employed in the work, one day rest for 6 days of continuous work, and pay wages at the same rate as for duty. In the event of default, the Engineer-in-charge shall have the right to deduct the sum or sums not paid on account of wages for weekly holidays to any labour and pay the same to the persons entitled thereto from any money due to the contractor by the Engineer-in-charge concerned.

The contractor shall also comply with the provisions of the 'Employees Liability Act, 2008', Workmen's Compensation Act and 'Maternity Benefits Act' or the amendments thereof or any other law relating thereto, and the rules made there under from time to time.

The Contractor shall indemnify and keep indemnified the Owner against payments to be made under and for the observance of the laws aforesaid and PW Contractor's Labour Regulations without prejudice to this right to claim indemnity from his/her sub-contractors.

The laws aforesaid shall be deemed to be a part of this contract and any breach thereof shall be deemed to be a breach of this contract.

Whatever is the minimum wage for the time being, or if the wage payable is higher than minimum wage, such wage shall be paid by the contractor to the workers directly without the intervention of any Dafadar, and that Dafadar shall not be entitled to deduct or recover any amount from the minimum wage payable to the workers as and by way of commission or otherwise.

The contractor shall ensure that no amount by way of commission or otherwise is deducted or recovered by the Dafadar from the wage of workers.

**Clause 6:** The contractor shall arrange labour license for his workers and take Workmen Compensation Policy for his labours. He should comply with all the labour laws as mentioned elsewhere in the contract. He should also be registered with Labour, PF and GST Depts.

**Clause 7:** The contractor shall comply with the provisions of the Apprentices Act, 1961 and the Apprenticeship Rules, 1992 and orders issued there under from time to time. If he/she fails to do so, his/her failure will be a breach of the contract and the Engineer-in-Charge may, in his/her discretion, cancel the contract. The contractor shall also be liable for any pecuniary liability arising on account of any violation by him/her of the provisions of the said Act.

**Clause 8:** The contractor shall comply with all the provisions of The Minimum Wages Act, 1948, Contract Labour (Regulation and Abolition) Act, 1970, Employees Liability Act, Industrial Disputes Act and Maternity Benefit Act, 1961, as amended from time to time and rules framed there under and other labour laws affecting contract labour that may be brought into force by the Government from time to time.

**Clause 9:** All relevant applicable laws, as amended from time to time shall be applied wherever necessary.

**Clause 10: (Arbitration):** All disputes and differences, except matters on which the decision of the particular party is specifically stated to be final, binding and conclusive elsewhere in the agreement (hereinafter referred to as excepted matters), shall be referred to the Sole Arbitration of an Arbitrator. The KMOMA shall give a panel of three names of government approved and experienced Arbitrators to the Contractor for the purpose of Arbitration from which the Contractor shall select one.

The Fees of the Arbitrator so appointed shall be paid half and half by each of the parties. All matters in dispute except "Excepted matters", shall be referred to the Sole Arbitration of the Arbitrator so appointed. Arbitrator's decision shall be final, binding and conclusive on all matters referred to him. The proceedings of this Arbitration shall be guided by the law relating to Indian Arbitration and Reconciliation Act 1996 amended up to date.

All such disputes and differences shall be referred to Arbitration within **90 (Ninety) days** after the completion of all the works under the Agreement as certified by the EIC or within **90 (Ninety) days** from the date on which the notice for Termination of the Contract is served on the Contractor.

All such disputes arising out of or in any way connected with this Agreement shall be deemed to have arisen in Kolkata and only the Courts in Kolkata shall have jurisdiction to determine the same.

## **SECTION – IV**

### **APPLICABLE TAXES & OTHER STATUTORY PAYMENTS:**

#### **Clause 1:**

- i) All tendered rates shall be inclusive of statutory taxes and levies (Except GST for works contract) payable under respective statutes. However, if any further tax or cess is imposed by Statute, after the last stipulated date for the receipt of tender including extensions if any and the contractor thereupon necessarily and properly pays such taxes/levies /cess, the contractor shall be reimbursed the amount so paid. Provided such payments, if any, is not, in the opinion of the Engineer-in-charge (whose decision shall be final and binding on the contractor) attributable to delay in execution of work within the control of the contractor.
- ii) The contractor shall keep necessary books of accounts and other documents for the purpose of this condition as may be necessary and shall allow inspection of the same by a duly authorized third party representative of the Owner and/or the Engineer-in-Charge and further shall furnish such other information/document as the Engineer- in-Charge may require from time to time.
- iii) The contractor shall, within a period of 30 days of the imposition of any such further tax or levy or excess, give a written notice thereof to the Engineer-in-Charge that the same is given pursuant to this condition, together with all necessary information relating thereto.

2. TDS as applicable shall be deducted from the bills.

## **SECTION – V**

### **DEFAULTS & TERMINATIONS:**

**Clause 1:** Without prejudice to any of the rights or remedies under this contract if the contractor passes away, KMOMA shall have the option of terminating the contract without compensation to the contractor, but would be liable to clear full dues and claims on work done to his/her legal successor/s.

**Clause 2:** No engineer of Gazette rank or other Gazetted officer employed in engineering or administrative duties in the Government shall work as a contractor or employee of a contractor for a period of one year after his/her retirement from Government service without the previous permission of Government in writing. This

contract is liable to be cancelled if either the contractor or any of his employees is found at any time to be such a person who had not obtained the permission of Government as aforesaid, before submission of the tender or engagement in the contractor's service, as the case may be.

**Clause 3:** The contract shall not be assigned or sublet without specific orders from Owner in respect of a specified sub-contractor. And if the contractor shall assign or sublet his contract, or attempt so to do, or become insolvent or commence any insolvency proceedings or make any composition with his creditor, or attempt to do so, or if any bribe, gratuity, gift, loan, perquisite, reward or advantage, pecuniary or otherwise, shall either directly or indirectly be given, promised, or offered by the contractor, or any of his servants or agents to any officer or person in the employ of the Owner in any way relating to his office of employment, or if any such officer or person shall become in any way directly or indirectly interested in the contract, the Owner may thereupon by notice in writing rescind the contract, and the security deposit of the contractor shall thereupon stand forfeited and be absolutely at the disposal of Owner and the same consequences shall ensure as if the contract had been rescind under the Clause 3 hereof, and in addition the contractor shall not be entitled to recover or be paid for any work therefore actually performed under the contract.

**Clause 4:** All sums payable by way of compensation under any of these conditions shall be considered as reasonable compensation to be applied to the use of Owner without reference to the actual loss or damage sustained and whether or not any damage shall have been sustained.

**Clause 5:** Subject to other provisions contained in this clause, the Owner may without prejudice to his/her any other rights, remedy against the contractor in respect of any delay, inferior workmanship, any claims for damages and/or any other provisions of the contract or otherwise, and whether the date of completion has or has not been elapsed, by notice in writing, absolutely determine the contract in any of the following cases:

- i. If the contractor has been given by the Owner a notice in writing to rectify, reconstruct or replace any defective work or that work is being performed in an inefficient or otherwise improper or un-workman like manner, shall omit to comply with the requirements of such notice for a period of seven days thereafter;
- ii. If the contractor has without reasonable cause suspended the progress of work, or has failed to proceed with the work with due diligence so that, in the opinion of the Engineer-in-charge he/she will be unable to secure completion of the work by the schedule date for completion, and continues to do so after a notice of seven days in writing from the Owner;
- iii. If the contractor fails to complete the work within the stipulated date or the Milestones/items of work within individual dates of completion, if any, stipulated on or before such date(s) of completion and does not complete them or reach the defined Milestones within the period specified in the notice given in writing in that effect by the Owner;
- iv. If the contractor persistently neglects to carry out his/her obligations under the contract and/or commits default by not complying with any of the terms & conditions of the contract and does not remedy it, or

take effective steps to remedy it, within seven days after a notice in writing is given to him/her in that effect by the Engineer-in-charge;

- v. Any other order passed by a competent court of law, which prevents the Contractor from executing the work.

**Clause 6:** AND THEREFORE, if the contractor has made itself liable for action under any of the conditions aforesaid in Clause 5, the Owner shall have the powers to adopt any of the following actions, as may be deemed best suited to the interest of the Owner: -

- a) To determine the contract as aforesaid, upon such determination, the Earnest Money Deposit, Security Deposit already recovered for executed works and Performance Guarantee under the contract shall be liable to be forfeited and shall be absolutely at the disposal of the employer.
- b) After giving notice to the contractor to measure up the work executed and to take such whole or the balance or part thereof, as shall be un-executed out of his/her hands, and to give it to another contractor to complete the balance work. The contractor, whose contract is determined as above, shall not be allowed to participate in the tendering process for the balance work.
- c) To employ labour paid directly by the Employer, and to supply materials, to carry out the works or any part of the work, debarring the contractor and debiting the cost of labour and price of materials (of the amount of which cost and price determined by certificate of the Engineer-in-Charge shall be final and conclusive against the contractor) and crediting him/her with the value of the work done, in all respects in the same manner and at the same rates as if it had been carried out by the contractor under the terms of his/her contract; the certificate of the EIC as to the value of the work done shall be final and conclusive against the contractor.

In the event of above course being adopted by the Engineer-in-charge, the contractor shall have no claim of compensation for any loss sustained by him/her by reason of his/her having purchased or procured any material or entered into any engagement or made any advances on any account or with a view to execute the work or the performance of the contract. In case, action is taken under any of the provisions aforesaid, the contractor shall not be entitled to recover or be paid any sum for any work thereof actually performed under this contract, unless and until the Engineer-in-charge has certified in writing that the performance of such work and value payable in respect thereof, and he/she shall only be entitled to be paid the value so certified.

**Clause 7:** In case, the work cannot be started due to reasons not within the control of the contractor within 3 months of issue of LOI of the stipulated time for completion of the work, which is accepted as a valid & justified reason by the Owner. In such a situation, either party viz. Contractor & the Owner may terminate the contract. In such an eventuality, the earnest money deposited and the security of the contractor shall be refunded, but no payment on account of interests, loss of profit or damages etc. shall be payable at all.

**Clause 8:** In cases in which any of the powers conferred upon the Owner under Clause 4 herein above shall have become exercisable but the same had not been previously exercised, non-exercising thereof shall not constitute as a waiver of any of the conditions hereto, and such powers shall, notwithstanding be exercisable in the event of any future case of default by the contractor, for which by any clause or clauses hereof, Contractor is declared liable to pay compensation amounting to whole of the Security Deposit, and the liability of the contractor for past and future compensation shall remain unaffected.

## SECTION - VI

### ADDITIONAL RULES OF CONTRACT

1. A senior level Engineer as nominated from the end of Owner (KMOMA) will be the Engineer-in-Charge in respect of the tender contract and all correspondences concerning rates, claims, change in specifications and/or design and similar important matters will be valid only if accepted/ recommended by the Engineer - in-Charge. If any correspondence of above tender is made with Officers other than the Engineer- in-charge for speedy execution of works, the same will not be valid unless copies are sent to the Engineer-in-Charge and also approved by him. Instructions given by the Site Engineers on behalf of the Engineer-in-Charge shall also be valid (who have been authorized to carry out the work on behalf of the Engineer-in-Charge) regarding specification, supervision, approval of materials and workmanship. In case of dispute relating to specification and work, the decision of Engineer-in-Charge shall be final and binding.
2. Engineer-in-Charge shall not entertain any claim whatsoever from the contractor for payment of compensation on account of idle labour on such grounds including non-possession of encumbrance free land.
3. Engineer-in-Charge shall not be held liable for any compensation due to machines becoming idle or any circumstances including untimely rains, other natural calamities, strikes etc.
4. Cess as applicable of the cost of construction works shall be deducted from the Gross value of all works Bill. His/her establishment shall also be registered with the competent registering Authority, i.e. Assistant Labour Commissioner / Dy. Labour Commissioner of the region.
5. No mobilization / secured advance will be allowed unless specified otherwise in the contract.
6. All working tools & plants, scaffolding, construction of vats & platforms and arrangement of Labour Camps will have to be arranged by the contractor at his/her own cost.

7. The contractor shall supply mazdoors, bamboos, ropes, pegs, flags, Tapes etc. for laying out the work and for taking and checking measurements for which no extra payment will be made.
8. A machine page numbered Site Order book (with triplicate copy) will have to be maintained at site by the contractor. Instructions given by inspecting officers will be recorded in this book and the contractor must note down the action to be taken by him/her in this connection as quickly as possible.
9. No compensation for idle labour, establishment charge or on other reasons such as variation of price indices etc. will be entertained.
10. All precautions must be taken for the safety of the people and work force deployed at worksite as per safety rule in force in the state. In the event of default in safety norms, the contractor shall be fully responsible for the same. Contractor will remain responsible for his labour in respect of his liabilities under the Workmen's Compensation Act etc. He must deal with such cases as promptly as possible. Proper road signs as per PWD practice will have to be erected by the contractor at his own cost while operating public thoroughfares. A safety officer must be deployed full time at site by the contractor.
11. The contractor will have to maintain qualified engineer all time having at least diploma in civil Engineering with 5 years' experience.
12. The contractor will have to maintain Apprentices at site as per prevailing Apprentice Act or as stipulated in the contract.
13. The contractor will have to accept the work programme as per modifications and priority of work fixed by the Engineer-in-Charge so that most vulnerable reach and/or vulnerable items is completed before impending monsoon or for other suitable reasons.
14. All the concreting works (RCC) shall be done with Ready Mix concrete (RMC) from the reputed supplier as per required grade and specifications.
15. The cost of the necessary testing for the purpose of quality control shall be borne by the Contractor.
16. Pre-bid meeting shall be held before the last date of submission of the tender. The date, time & venue shall be intimated accordingly.
17. After evaluation of the technical bids, if found, no bids are satisfied the minimum eligibility criteria as specified in the NIT, in such case, financial bids shall not be opened and same shall be returned to the respective bidders. In this respect, the decision of KMOMA is final and binding.

**SECTION - VII**

**MISCELLANEOUS**

**DRAFT FORMAT OF  
CONTRACT AGREEMENT FORM**

This Deed of Agreement made on..... Two Thousand and \_\_\_\_\_ between THE KOLKATA MUSEUM OF MODERN ART (KMOMA), Plot no. IIE/3, Action Area – II, New Town, Kolkata 700161 (hereafter referred to as OWNER) of the one part represented by The Managing Trustee, The Kolkata Museum of Modern Art and \_\_\_\_\_  
\_\_\_\_\_ (hereafter referred to as Contractor, which expression unless repugnant to the extent shall mean and include his heirs, successors, assigns and administrators) of the other part.

Whereas, the Owner is desirous for the Construction of underground reservoir of capacity 2.50 lac litres (approx.) at their site, Plot No. IIE/3, Action Area-II, Newtown, Kolkata- 700161 and has caused drawings, specifications, General Terms & Conditions, Special Terms & Conditions, Bill of Quantities (BOQ) and also the scope describing the works to be done to be available to the Contractor.

AND WHEREAS the tender submitted by the Contractor has been accepted and whereas the said Contractor has agreed to accept the conditions of the contract set forth in NIT, Instructions to Bidders, General Terms & Conditions (GTC), Special Terms & Conditions, Technical Specifications, Schedule of Items & Rates and Tender Drawings for the construction of underground reservoir of capacity 2.50 lac litres (approx.) to be constructed by the Contractor which will be approved by the KMOMA and that the Contractor has affixed his signature in token of such acceptance on the said conditions of contract which is annexed herewith along with the “Letter of Intent (LOI)” under ref. no. \_\_\_\_\_.

AND WHEREAS the Contractor has agreed to execute the work at the agreed rates as mentioned in the Schedule of Items annexed herewith and maintenance of the same during the Defect Liability Period, amounting to Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_)

\_\_\_\_\_ including all the applicable Taxes / Duties / Octroi / Cess / Levis / Royalty etc., except GST. GST shall be paid by KMOMA.

NOW THIS AGREEMENT WITNESSETH that in pursuance of the above Terms & Conditions, KMOMA shall pay the contract amount or such other sum to the Contractor as shall become due at the time and in the manner specified in the conditions of the contract for the construction of underground reservoir of capacity 2.50 lac litres (approx.) at Plot No. IIE/3, Action Area-II, Newtown, Kolkata- 700161.

IN WITNESS THEREOF the parties hereto put their signature on the above-mentioned date and year.

**Witness-1**

**Owner:**

Name:.....

Signature:.....

Date: .....

Address:  
.....  
.....

**Witness-2**

**Contractor:**

Name:.....

Signature:.....

Date: .....

Address:  
.....  
.....