

## Section 9 - Contract Forms

This Section contains forms which, once completed, will form part of the Contract. The forms for Performance Security and Advance Payment Security, when required, shall only be completed by the successful Bidder after contract award.

### Table of Forms

<b>Letter of Acceptance.....</b>	<b>2</b>
<b>Contract Agreement.....</b>	<b>3</b>
<b>Performance Security .....</b>	<b>4</b>
<b>Advance Payment Security .....</b>	<b>5</b>
<b>Draft format for Excise/Custom duty exemption .....</b>	<b>6</b>

## Letter of Acceptance

*[on letterhead paper of the Employer]*

..... *date* .....

To: ..... *name and address of the Contractor* .....

Subject: ..... *Notification of Award Contract No.* .....

This is to notify you that your Bid dated .... *date* .... consisting of the Technical Bid and the Price Bid for execution of the ..... *name of the contract and identification number, as given in the Contract Data* ..... for the Accepted Contract Amount of the equivalent of ..... *amount in numbers and words and name of currency* ....., as corrected and modified in accordance with the Instructions to Bidders is hereby accepted by our Agency.

You are requested to furnish the Performance Security within 28 days in accordance with the Conditions of Contract, using for that purpose the format of the Performance Security Form included in Section 9 (Contract Forms) of the Bidding Document.

Authorized Signature: .....

Name and Title of Signatory: .....

Name of Agency: .....

Attachment: Contract Agreement

## Contract Agreement

THIS AGREEMENT made the . . . . . day of . . . . ., between . . . . . *name of the Employer*. . . . . (hereinafter "the Employer"), of the one part, and . . . . . *name of the Contractor*. . . . . (hereinafter "the Contractor"), of the other part:

WHEREAS the *Employer* desires that the Works known as . . . . . *name of the Contract*. . . . . should be executed by the Contractor, and has accepted a Bid by the Contractor for the execution and completion of these Works and the remedying of any defects therein,

The Employer and the Contractor agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.
  - the Letter of Acceptance
  - the Technical Bid
  - the Addenda Nos . . . . . *insert addenda numbers if any*. . . . .
  - the Particular Conditions
  - the General Conditions;
  - the Specification
  - the Drawings;
  - the completed Schedules, and
  - the Price Bid
3. In consideration of the payments to be made by the Employer to the Contractor as indicated in this Agreement, the Contractor hereby covenants with the Employer to execute the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of . . . . . *name of the borrowing country*. . . . . on the day, month and year indicated above.

Signed by .....

Signed by .....

for and on behalf of the Employer  
in the presence of

for and on behalf the Contractor  
in the presence of

Witness, Name, Signature, Address, Date

Witness, Name, Signature, Address, Date

## Performance Security

..... *Bank's Name, and Address of Issuing Branch or Office* .....

**Beneficiary:** ..... *Name and Address of Employer* .....

**Date:** .....

**Performance Guarantee No.:** .....

We have been informed that ..... *name of the Contractor*. .... (hereinafter called "the Contractor") has entered into Contract No. .... *reference number of the Contract*. .... dated .....with you, for the execution of ..... *name of contract and brief description of Works*. .... (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Contractor, we ..... *name of the Bank*. .... hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of ..... *name of the currency and amount in figures\**. .... (*amount in words*. .... ) such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the ..... Day of ....., ..... \*\*, and any demand for payment under it must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458, except that subparagraph (ii) of Sub-article 20(a) is hereby excluded.

.....  
*Seal of Bank and Signature(s)*

### **Note**

All italicized text is for guidance on how to prepare this demand guarantee and shall be deleted from the final document.

<sup>1</sup> The Guarantor shall insert an amount representing the percentage of the Contract Price specified in the Contract and denominated either in the currency(ies) of the Contract or a freely convertible currency acceptable to the Employer.

<sup>2</sup> Insert the date twenty-eight days after the expected completion date. The Employer should note that in the event of an extension of the time for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Employer's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

## Advance Payment Security

..... *Bank's Name, and Address of Issuing Branch or Office* .....

**Beneficiary:** ..... *Name and Address of Employer* .....

**Date:** .....

**Advance Payment Guarantee No.:** .....

We have been informed that ..... *name of the Contractor*. .... (hereinafter called "the Contractor") has entered into Contract No. .... *reference number of the Contract*. .... dated ..... with you, for the execution of ..... *name of contract and brief description of Works*. .... (hereinafter called "the Contract").

Furthermore, we understand that, according to the Conditions of the Contract, an advance payment in the sum ..... *name of the currency and amount in figures\**. .... (*amount in words*. .... ) is to be made against an advance payment guarantee.

At the request of the Contractor, we ..... *name of the Bank*. .... hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of ..... *name of the currency and amount in figures\**. .... (*amount in words*. .... ) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation under the Contract because the Contractor used the advance payment for purposes other than the costs of mobilization in respect of the Works.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Contractor on its account number ..... *Contractor's account number*. .... at ..... *name and address of the Bank*. ....

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Contractor as indicated in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that eighty (80) percent of the Contract Price has been certified for payment, or on the . . day of . . . . ., . . . \*\*, whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date..

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

.....  
*Seal of Bank and Signature(s)*

### **- Note -**

All italicized text is for guidance on how to prepare this demand guarantee and shall be deleted from the final document.

<sup>1</sup> The Guarantor shall insert an amount representing the amount of the advance payment denominated either in the currency(ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Employer.

<sup>2</sup> Insert the expected expiration date of the Time for Completion. The Employer should note that in the event of an extension of the time for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Employer's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

## Draft format for Excise/Custom duty exemption

### TO WHOMSOEVER IT MAY CONCERN

#### ESSENTIALITY CERTIFICATE

This is to certify that the work for \_\_\_\_\_ (Package No. & Name of work) \_\_\_\_\_ has been awarded to M/s \_\_\_\_\_ (Name of Contractor) \_\_\_\_\_ amounting to Rs. \_\_\_\_\_ (Amount of Contract Agreement) \_\_\_\_\_ only by the Economic Re-Construction Agency (ERA) and that this project has duly been approved by Government of India. The Project is funded by Asian Development Bank under loan agreement No.-----IND between Government of India and Asian Development and being implemented by the J&K Economic Re-Construction Agency Government of Jammu and Kashmir.

It is certified that M/S \_\_\_\_\_ (Name of Contractor) \_\_\_\_\_ for the above project requires to purchase \_\_\_\_\_ (Quantity of Material and name of material) \_\_\_\_\_ under work \_\_\_\_\_ (Package No. & Name of work) \_\_\_\_\_.

It is further certified that the aforesaid material is required for the execution of the said project.

The validity of this certificate is from \_\_\_\_\_ to \_\_\_\_\_.

Director Central, Srinagar, ERA

Chief Executive Officer, Srinagar, ERA

Director (Finance) ERA

Countersigned

Secretary, Finance  
Government of Jammu and Kashmir