

(Form-9)

Agreement with Contractor for

THIS AGREEMENT (hereinafter, together with the appendices and all the documents annexed hereto and forming an integral part hereof, referred to as the “Contract”) made in (No of copies) on this day _____ of the month of _____ in the year _____ by and between [Beneficiary’s name and address] (hereinafter referred to as the “Employer”) and [Contractor’s name and address] (hereinafter referred to as the “Contractor”) to perform [Description of the Project] (hereinafter referred to as the “Project”).

WHEREAS, the following documents are hereby incorporate into and made an integral part of this agreement.

- (a) The BID Documents
- (b) This Construction Agreement
- (c) The Special Conditions of the Agreement, if any.
- (d) The Drawings and Designs.
- (e) The Bill of Quantities.
- (f) The Specifications.

WHEREAS, the Employer has awarded the Works to the Contractor and the Contractor has accepted the Employer’s offer;

NOW, it is agreed by and between the Employer and the Contractor as follows:

ARTICLE – I DESCRIPTION OF THE CONTRACT

1.1 This Agreement is for execution of Works comprising:

(a) Type of Works:

<i>S.No</i>	<i>Type of Works</i>	<i>Total Area (Sq.m)</i>	<i>No of Floors</i>
i)	New Construction:		
ii)	Extension of existing Building:		
iii)	Rehabilitation of Building:		
iv)			
v)			

(b) Brief Description of the Project:

ARTICLE – II

CONTRACT AMOUNT AND MODE OF PAYMENT

- 2.1 In consideration of the faithful performance of this Agreement by the Contractor, the Employer shall pay to the Contractor the total sum of [amount in figures and words]
- 2.2 The Contract Amount shall be a fixed and lump sum and therefore shall not be subject to any fluctuation or variation.
- 2.3 The Contractor shall notify the Employer promptly upon completion of any part of the Project in respect of which any payment is claimed pursuant to this contract. Any Invoice presented by the Contractor for payment shall be supported by the following:
 - (a) Details of the executed Works as per the Bill of Quantities and prices approved in the contract.
 - (b) Approval of the Consultant for quantities, qualities and financial claims;
 - (c) Details of the Contractor's bank account.
- 2.1 The clearance of the Consultant and payment of Invoice shall not relieve the Contractor from his obligation to do any missing Works or rectify any Works or items in accordance with this contract. The Contractor's Invoice shall be paid by the Employer within 30 working days from the date of receipt and acceptance of the Employer. The Contractor shall not hold the Employer responsible for any payment delays that are beyond his control.
- 2.2 **Retention:** An amount of 5% shall be deducted from the Invoices submitted by the Contractor as retention money to be utilized in case of default or defective materials, equipment, supplies, work or service not rectified by the Contractor. The retention money, less any sums properly charged against it by the Employer, shall be paid over to the Contractor at the end of the defects liability period and issuance of the Final Hand-Over Certificate.
- 2.3 **Advance Payment:** The Contractor may claim an advance payment not exceeding 20% of the value of the Contract, provided that it is covered by an unconditional and irrevocable bank guarantee from a first-class bank. Such guarantee should be valid for the entire contract implementation period & will be recoverable in equal installment in the succeeding payment Valuation Certificates.
- 2.4 **Performance Bond:**
 - (a) the Contractor shall provide an unconditional and irrevocable guarantee (Performance Bond) that should cover 10% of the value of the contract from a first class bank or reputable insurance company. Such guarantee should be valid until the completion of Work.
 - (b) In case of difficulty in providing a Performance Bond, the Employer may allow the replacement of such guarantee by an additional deduction of 5% from the Contractor's submitted Invoices. These deductions are repaid to the Contractor on completion of the Project.
 - (c) The Performance Bond shall be confiscated if the Contractor, unilaterally, withdraws from the execution of the contract, fall behind the agreed work program, or deviates from the specifications set forth without first written consent of the Employer.

ARTICLE – III

IMPLEMENTATION PERIOD

- 3.1 The Works shall be completed within ____ calendar days from the date of signing of this Agreement.
- 3.2 For each calendar day of delay in the completion of the Works due to the fault or negligence of the Contractor, the Contractor shall pay to the Employer a sum equal to ____/1000 of the Agreement Amount with an upper limit of ____% (____ percent) of the Project cost.
- 3.3 Any claim for extension of the completion date of the Project shall be made by the Contractor in writing to the Employer, through the Consulting Engineer, not more than ____ days after the commencement of the delay, and shall be approved by the Employer.
- 3.4 The Contractor shall liaise with the Employer and the Consultant and prepare a Detailed Implementation Schedule within 7 days from date of signature of this Agreement. This Implementation Schedule shall show the various parts of the Works and duration of execution of such activities, and the flow of Works till the completion of the Project within the specified implementation period.

ARTICLE – IV

DEFECTS, LIABILITY PERIOD

- 4.1 There shall be a “Defects Liability Period” of ____ months for all Works executed by the Contractor under this Agreement.
- 4.2 The commencement date of this “Defects Liability Period” shall be from the date when the Employer certifies in writing that the Project has been 100% satisfactorily completed. A “Certificate of Initial Hand-Over” shall be issued to the Contractor by the Consultant. Until a “Certificate of Final Hand-Over” is issued by the Consultant at the end of the Defects liability Period, the Contractor shall continue to be bounded by this Agreement.
- 4.3 The Contractor shall be obliged to rectify any defects or non-conformities with this Agreement that are notified to him by the Employer or the Consultant during the “Defects Liability Period” at his own cost.

ARTICLE – V

EMPLOYER’S AND CONTRACTOR’S OBLIGATIONS

- 5.1 The Employer and The Contractor shall perform their respective obligations under this Agreement through cooperation and good faith pursuant to the provisions of the Agreement, Bill of Quantities, Drawings, Specifications and the law of (...Country Name...)
- 5.2 The Employer shall secure and make available for use of the Contractor the Construction Site and such other places as are necessary for the Project execution.
- 5.3 The Employer may, when necessary, suspend the Works or revoke this Agreement by notifying

the Contractor in this affect in writing. The Employer shall compensate the Contractor for any loss caused by such suspension or termination up to the tune of the works implemented in the Project..

- 5.4 If the Contractor is convicted of any crime of offense, fails or refuses to comply with the written polices or reasonable directive of the Employer, is guilty of services misconduct in connection with performance hereunder, is considerably delayed in the implementation of the Project ,or materially breaches provisions of the Agreement, the Employer, at any time, may terminate the engagement of the Contractor immediately and without prior written notice. The Contractor has no right to ask for any compensation of loss or damage in this case.
- 5.5 The Contractor shall not assign transferred, pledged, sub-contracted or any other disposition of this Agreement without prior written approval of the Employer. Approval of the sub-contract shall not relieve the main Contract from any liability or obligations under the Contractor's Agreement with the Employer nor shall it create any contractual relation between the sub-Contractor and the Employer.
- 5.6 The Contractor shall provide and furnish all materials, equipment, machinery, labor, services and any requirements for the satisfactory and faithful performance of all the Works.
- 5.7 The Contractor shall take adequate insurance policy for the Works with a reputable insurance company until Final Handing-Over of the Project.
- 5.8 All equipment, materials and supplies to be used for or in the Project shall be of first-class quality and free of defects. All Works and services performed pursuant to this Agreement shall be of high professional quality & workmanship and according to standards.
- 5.9 The Contractor shall repair or replace at his own expenses any aspect of Work, which fails to conform to the Employer's specifications or approved standards within the "Defects Liability Period" specified hereunder.
- 5.10 The Contractor shall be liable for, and shall indemnify the Employer against any expenses or claims arising in respect of property or personnel damages caused by the carrying out of the Works.
- 5.11 The Contractor shall not do any extra work, provide extra equipment or supplies or perform any services resulting any charges to the Employer over the Agreement Amount without the written authorization of the Employer.
- 5.12 On the completion of the Works the Contractor shall clear away and remove from site all surplus materials, rubbish and temporary work of every kind, and leave the whole of the site and Works clean and in a good workmanship up to the satisfaction of the Employer.
- 5.13 The Contractor may suspend the Works if the performance of the Works is impossible because the Employer fails to make the Construction Site available to him, or if the Employer has considerably delayed in making partial payments; or because of Force Majeure. The Contractor shall immediately recommence the suspended works when the causes mentioned above are resolved and claim to the Employer an extension of time for completion of the Works as appropriate.

ARTICLE – VI FORCE MAJEURE

- 6.1 No party shall be liable for breach of any aspect of this Agreement where this breach can be reasonably ascertained to have been occasioned by an act of Force Majeure including but not limited to Acts of War, Rebellion, Lockouts, Strikes or Blockades, Government Policy, Natural Disaster or any Act of God which was not reasonably foreseen at the date of signing of this Agreement.

ARTICLE – VII SETTLEMENT OF DISPUTE

- 7.1 If any disagreement of dispute has arisen out of or in connection with the provisions of this Agreement, the Employer and the Contractor shall make every effort to resolve it amicably by direct negotiation. In case of further disagreement the issue shall be brought before the Competent Courts in the Country where the project is located.

ARTICLE – VIII LANGUAGE AND LAW

- 8.1 The provisions of this Agreement shall be in the _____ Language. The law governing the provision of this Agreement shall be the applicable law(s) of the Government of _____ [Name of the Country].

ARTICLE – IX SUPPLEMENTARY PROVISION

- 9.1 Any matter not provided for in this Agreement shall be agreed upon by negotiation between the Employer, the Consultant and the Contractor.

ARTICLE – X AMENDMENT OF THE AGREEMENT

- 10.1 No amendment, modification or change of this Agreement shall be valid unless it is made in writing and signed by the parties hereto.

ARTICLE – XI NOTICES

- 11.1 Any and all notice, demands, or other communications required or desired to be given hereunder by one party to the other shall be in writing and addressed according to the following:

_____ [Name of the Employer]
 _____ [Address of the Employer/Tele/Fax/Email etc.]

_____ [Name of the Contractor]
 _____ [Address of the Contractor/Tele/Fax/Email etc.]

IN THE WITNESS WHEREOF, the parties thereto have affixed their signatures and seals below on the date first above written:

The Employer:

The Contractor:

Signature:

Signature:

Name:

Name:

Witnesses:

(1).....

(2)