

CONDITION OF CONTRACT

This contract is to last from.....to.....but in the event of any breach of the agreement at any time on the part of the contractor th contract may be terminated summarily by the Controller of Stores, Himachal Pradesh.....without compensation to the contractor.

Any change in the constitution of the firm shall be notified forthwith by the contractor in writing to the authority sanctioning the contract and such change shall not relieve any former member of the firm from any liability under the contract.

No new partner/partners shall be accepted in to the firm by the contractor in respect of this contract unless he/they agree to abide by all its terms, conditions and deposit with the officer sanctioning the contract a written agreement to this effect. The contractor"s receipt of acknowledgment or that of any partners subsequently accepted as above shall bind all of them and will be sufficient discharge for any of the purposes of the contract.

2. The Contractor will supply nothing but genuine articles described in column 2 of Schedule A, of the rate contract from time to time in such quantities as may be entered in the indents sent at the rates set forth in column 3 of Schedule A of the rate contract for use in offices/institutions/ departments under the administrative control of Government of the Himachal Pradesh, as may be required by the Indenting Officers. No guarantee can be given as to the quantity which will be ordered during this period. The purchaser reserves the right of placing orders of store items as given in Schedule "A" with one or more contractors as he may think fit and the contractor binds himself not to revoke this contract during the said period. The Controller of Stores/Addl. Controller of Stores, HIMACHAL PRADESH reserves to himself the right to obtain contracted items of stores when available from any Government department/ approved source without any pre-judice to this contract. He further reserves the right to negotiate any of the tenderers and award parallel rate contract to any or all of the participating tenderers.

3. The articles to be supplied under this contract will be of the quality equal and answerable in every respect to the specifications given in the list accompanying with the tender and approved by the Controller of Stores, Himachal Pradesh. The Contractor shall be responsible for all complaints as regard the quality. In case any of dispute regarding quality of articles, the decision of the Controller of Stores/Addl. Controller of Stores, Himachal Pradesh will be final and binding on the contractor. It will be open to the Controller of Stores/Addl. Controller of Stores, or any Indenting Officer to send samples submitted by the tenderer/ contractor to any laboratory for chemical analysis and the cost thereof will be borne by the tenderer/contractor.

4. The Controller of Stores/Addl. Controller of Stores, Himachal Pradesh may, by notice in writing call upon the contractor to supply additional articles to serve as sample, and upon receiving such notice in writing the contractor shall at his own cost be bound to supply the additional samples, such additional samples being in all respects of the same quality as the sample first supplied.

5. The contractor will be responsible for damage or loss in transit and replace goods broken or lost within 10 days from the date of notice thereof.

6. All goods must be dispatched within 45 days of the receipt of supply order by the contractor unless otherwise specifically mentioned in Schedule "A" of rate contract.

7. Conditions as to time for performance whether laid down herein or in any indent shall be always regarded as the essence of the contract.

8. The Controller of Stores, HIMACHAL PRADESH or the Additional Controller of Stores or any of the experts attached to the Industries Department of HIMACHAL PRADESH or the Indenting Officer or any other officer or person duly authorized in writing by the Controller of Stores Himachal Pradesh shall have the power to inspect the Stores before, during or after manufacture, collection, dispatch transit or arrival and to reject the same or any part or portion after the written approval of the Controller of Stores, Himachal Pradesh. If he or they be not satisfied that the same is equal or according to the samples submitted by the contractor. The contractor shall not charge or be paid for supplies rejected as above and such supplies shall be removed by the contractor at once and at his own expense. He shall neither claim nor be entitled to payment for any damage that rejected supplies may suffer from any harm whatsoever incidental to a full and proper examination and test of such supplies. Government shall be under no liability whatever for rejected supplies and the same will be at the contractor's risk. Rejected supplies shall be removed by the contractor within 10 days after notice has been issued to him of such rejection and failing such removal rejected goods will be at contractors risk and Government may charge the contractor rent for the space occupied by such rejected goods.

9. The contractor shall provide without any extra charge all materials, tools labour and assistance of every kind which the aforesaid officer may consider necessary for any test or examination which he may require to be made on the contractor's premises and shall pay all cost attendants thereon. In the case of stores inspected at maker's premises the maker shall provide all facilities including testing appliances, for making necessary tests other than special test or independent tests. Failing the facilities at his own premises for making the tests, the contractor shall bear the cost of carrying out tests elsewhere. The contractor shall also provide and deliver free of charge at such place as the aforesaid officer may direct such materials as he may require for tests by chemical analysis or independent testing machine. If for the purpose of determining the quality of stores the above said officer finds it necessary to have the stores tested at the test house or laboratory expenses incidental to the test shall be borne by the contractor. On the failure of the contractor to pay the expenses within ten days of the receipt of intimation in this behalf from the Inspecting Officer, the Controller of Stores shall have the right to deduct the amount from the security deposited by the contractor and if the amount so deducted is not deposited within 10 days, the Controller of Stores may treat the default as a breach of the agreement and proceed under clause (i) of the agreement without further notice. Further the aforesaid officer shall have the right to put all articles or materials to such tests as he may think proper for the purpose of ascertaining whether the same are in accordance with the specifications or sealed sample mentioned in the tender and to cut out or off/or destroy a portion not exceeding 2 percent from each

delivery for such purpose the quantity so cut out or off and/or destroyed as aforesaid shall be replaced by the contractor free of charge.

10. Packing cases, containers, gunny packages etc. which may be used for purpose of packing and which are delivered with stores will not be returned and paid for unless specially stipulated and then at contractor's expense.

11. Unless otherwise specified in a requisition bills for the whole of the goods referred to in each indent in triplicate will be prepared and submitted by the contractor to the consignee for direct payment under intimation to the Controller of Stores, Himachal Pradesh. The full amount will be paid on receipt of stores, in good condition after their verification as regards specification etc. Should the payment of any bill be not made within three months from the date of its submission, the party to whom the bills were forwarded should be addressed first. Failing satisfaction the matter should be reported to the Controller of Stores, Himachal Pradesh. All such complaints should give-

- (i) the number and date of the requisition.
- (ii) the designation of the requisitioning officer.
- (iii) the designation and address of the consignee.
- (iv) the designation and address of the officer to whom the bill was sent by the Contractor.
- (v) the number of the bill and date on which the bill was sent to the officer mentioned in (iv) above.
- (vi) Full referenced to reminders if issued.

12(i) With every dispatch of goods or material under this contract invoices in triplicate will be prepared by the contractor. Invoices in duplicate, are to be sent by the contractor to the Indenting Officer, the duplicate to be returned by the Indenting Officer with the quantities or number received duly noted thereon and the third copy to be sent by the contractor to the Controller of Stores, Himachal Pradesh for record in his office.

(ii) Railway/goods receipt where ever applicable will be forwarded to the consignee immediately after despatch of stores. Should any demurrage charge be incurred owing to delay on the part of the contractor in forwarding the railway receipt, the amount of such charge will be deducted from the bill.

(iii) The Contractor shall dispatch material „Freight paid" in all cases where his offer is F.O.R. destination. In the even of his failure to do so, a penalty of 5 percent will be charged on the amount paid as freight by the Indenting Officer on his behalf.

(iv) The contractor will send to the Controller of Stores/Addl. Controller of Stores, HIMACHAL PRADESH, quarterly statement of the goods supplied under this arrangement in the following form which should reach before the 15th July, 15th October, 15th January and 15th April positively:-

Name of Office	Indent No.	Name of Articles	Quantity or Number supplied and to whom supplied and where	Value of Supplies Rs.	Remarks
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In the event of failure to submit the said statement within 90 days of the expiry of the rate contract the security money/earnest money deposited by the Contractors shall automatically stand forfeited to the Government without any further notice to this effect.

(v) All dispatches by rail/road will be made at contractors risk and expense.

(vi) If, during the currency of the contract the specification of any article or articles to be supplied thereunder are changed the contractor shall continue to comply with demands for the supply of the said article/ articles in accordance with the new specifications at a rate to be mutually agreed to in writing at the time of such change and in default of such agreement the contract in so far as it relates to the said article or articles in respect of which no agreement has been arrived at shall terminate but no such change shall effect the supply of any other articles under the contract or entitle the contractor to any compensation.

13. In the event of withdrawal or discontinuance of any article or articles and consequent ceasing of or reduction in demand the contractor shall not be entitled to any compensation. Government will however make all reasonable endeavors to give a warning of any impending complete withdrawal or of any reduction seriously effecting quantities likely to be required under contract.

14. The time for and date of delivery or dispatch stipulated in the said schedule shall be deemed to be the essence of the contract and should the contractor fail to deliver or dispatch any consignment within the period prescribed for such delivery or dispatch in the said schedule then without prejudice to his rights otherwise the purchaser shall be entitled to recover from the contractor a sum of equal to 2 per cent of the contract price of such consignment for each and every month or a part of a month during which the supply of dispatch of such consignment may be in arrears or alternatively at the option of the purchaser. The purchaser, shall be entitled to purchase such consignment (or if not available the best and the nearest available substitute therefore) else where on the account and at the risk of the contractor or to cancel the contract, and the contractor shall be liable for any loss or damage which the purchaser may sustain by reason of such failure on the part of the contractor.

15. The contractor acknowledges that he has made himself fully acquainted with all the conditions and circumstances under which the supplies required under the contract will have to be made or furnished and with all the terms, clauses, conditions, specifications and other details of the contract and the contractor shall not plead ignorance of any of those as excuse in case of complaint against or on rejection of supplies tendered by him or with a view either to asking for enhancement of any rates agreed to in the contract or to evading any of his obligations under the contract.

16. No payment will be made in advance for any supplies under this contract.

17. (i) The contractor shall not:-

a) assign or subject the contract without written approval of the officer sanctioning the contract.

(b) disclose details of the conditions governing this to unauthorised person (Indenting against this contract is permissible only for the bonafide use of Government departments and quasi-public and not for private parties or for the private use of the Government officers).

(ii) In the event of the contractor failing duly and properly to fulfill or committing breach of any of the terms and conditions of this contract or repeatedly supplying goods liable to rejections hereunder or failing, declining, neglecting or delaying to comply with any demand or requisition or otherwise not executing the same in accordance with the terms of this contract or if any contractor or his agent or servants being guilty of fraud in respect of the contract or any other contract entered into by the contractor or any of his partners or representatives thereof with the Government directing, giving promising or offering any bribes, gratuity, gift, loan, perquisite, reward or advantages pecuniary or otherwise to any person in the employment of Government if any of his partners become insolvent or apply for relief as insolvent debtor or commence any insolvency proceeding or make any compositions with his/their creditors or attempts to do so then without prejudice to Government's right and remedies otherwise Government shall be entitled to terminate this contract forthwith and to blacklist the contractor for a period not exceeding one year from the date of issue of such orders, and purchase or procure or arrange from Governments stocks or otherwise at the contractor's risk and at the absolute discretion of the Controller of Stores/ Addl. Controller of Stores, Himachal Pradesh as regard the manner, place or time of such purchases, such supplies as have not been supplied or have been rejected under this agreement or are required subsequently by Government there under and in cases, where issues in replacement are made from Government's stocks or supplies, the cost of value of such stocks or supplies, together with all incidental charges or expenses, shall be recoverable from the contractor on demand and the contractor shall not be entitled to benefit from any profit which may thus accrue to Government.

18. If any question, difference or objection whatsoever shall arise in any way connected with or arising out of this instrument or the meaning or operation of any part thereof or the rights, duties or liabilities of either party then save in so far as the decision of any such matter is hereinbefore provided for and has been so decided, every such matter including whether its decision has been otherwise provided for and or whether it has finally decided accordingly or whether the contract should be terminated or has been rightly terminated in whole or part and as regards the rights and obligations of the parties as the result of such termination shall be referred for arbitration to any officer appointed by Himachal Pradesh Government acting as such at the time of reference and his decision shall be final and binding and where the matter involves a claim the amount if any awarded in such arbitration shall be recoverable in respect of the matter so referred.

19. If the price of a contracted article is controlled by Government, the payment will in no case be made at higher rate than the controlled rate.

20 (i):The price charged for the stores supplied under the contract by the contractors shall in no case exceeds the lowest price at which the contractor sells the stores or offers to sell stores of identical description to any person/organizations including the purchaser or any department of the Central/State Government or any statutory undertakings of the Central or State Government, as the case may be during the period till performance of all supply orders placed during the currency of the rate contract is completed.

(ii) If at any time, during the said period the contractor reduces the sale price or sells or offer to sell such stores to any person/organization including the purchaser or any department of Central/State Government or any statutory Undertaking of the Central or State Government as the case may be at a price lower than the price chargeable under the contract, he shall forthwith notify such reductions or sale or offer of sale to the Controller of Stores/ Addl. Controller of Stores, HIMACHAL PRADESH and the price payable under the contract for the store supplied after the date of coming into force of such reductions of sales or offer of sale shall stand correspondingly reduced. The above stipulation will however, not apply to:

(a) Export by the Contractor.

(b) Sale of goods such as drugs which have expired dates.

(iii) The Contractor shall furnish the following certificate to the concerned purchasing departments" alongwith each bill for payment for supplies made against the rate contract:-

"I/W e certify that there has been no reduction in sale price of the stores of description identical to the stores supplied to the Government under the contract herein and such stores have not been offered/sold by me/ us to any person/ organization including the purchaser or any department of Central Government /State Government or any statutory undertaking of the Central or State Government as the case may be upto the date of bill/ the date of completion of supplies against all supply/ orders placed during the currency of the rate contract at a price lower than the price charged to the Government under the contract except for quantity of stores mentioned in sub clauses(a) and (b) of sub para (ii) of para-20 of the Schedule "B".

21. All disputes shall be settled within the jurisdiction of the High Court of Himachal Pradesh.

22. The earnest money/ security money shall be addressed to the Addl. Controller of Stores, Himachal Pradesh in the shape of Bank guarantee /Fixed Deposit Receipt (FDR) issued by any Nationalized Bank.

WARRANTY CLAUSE:

The contractor/seller hereby declare that the goods/ stores/articles sold to the buyer under the contract shall be of the best quality and workmanship and shall be strictly in accordance with the specifications and particulars contained/ mentioned in the Schedule "A" of the rate contract and the contractor/seller hereby guarantee that the said goods/stores/articles would continue to conform to the description and quality aforesaid for a period of....days/months from the date of delivery of the said goods/stores/articles to the purchaser and that notwithstanding the fact that the purchaser (Inspector) may have inspected and/or approved the goods/stores/ articles, if during the aforesaid period of....days/ months the said goods/stores/ articles be discovered not to conform to the

description and quality or have deteriorated (and the decision of the purchaser in that behalf will be final and conclusive) the purchaser will be entitled to reject the said goods/stores/articles or such portion thereof as may be discovered not to conform to the said description and quality. On such rejection the goods/ stores/articles will be at the seller's risk and all the provisions herein contained relating to rejection of goods, etc., shall apply. The contractor/seller shall, if so called upon to do, replace the goods etc. or such portion thereof as is rejected by the purchaser such damages as may arise by reason of the breach of the condition herein contained. Nothing herein contained shall prejudice any other right of the purchaser in that behalf under this contract or otherwise.

In witness thereof the parties have hereinto set their hands on the dates indicated below:-

1. **(In the case of Partnership Firm)**

Signed by the above named firm of through partner(s) of the firm.

Dated **Signed by (Partner(s)/authorised signatory of firm (with Seal)**

2. **(In the case of a Company)**

The seal of the.....Company Limited, was affixed by virtue of the resolution of the Board No.....date.....the.....day of.....2020.

Dated **Signed by (Directors/authorised signatory of Company (with Seal)**

3. **(In the case of proprietorship firm):-**

Signed by (Owner/authorised signatory of firm (with Seal)

in the presence of-(Witnesses)

(i) **Signature, Name & Address of 1st Witness**

(ii) **Signature, Name & Address of 2nd Witness**

Dated

Signature of _____
on behalf of the Government of
Himachal Pradesh.

CONDITIONS OF RATE CONTRACT

1. Under the contract indents/Supply orders should reach the contractor by the last date of the validity of the contract. The supplies will have to be made within the specified time against the indents/supply orders under this contract upto the last date of the validity according to the terms and conditions of the agreement under the contract. Even if in certain cases the supplies cannot be arranged upto the last date of the validity period of the same will have to be made.

No action will be required on the indent/supply orders which are received after the last date of the period of contract. Such indents/supply orders will have to be returned to the concerned Demanding Officer with a note that no supply can be made as the period of rate contract has expired.

2. As mentioned in Schedule "A".

3. The goods will be inspected by the consignee before dispatch at the specified place duly authorized in writing by the Controller of Stores/ Addl. Controller of Stores, Himachal Pradesh Supply orders can be placed by any Demanding Officer of the Himachal Pradesh Government under this contract. The Controller of Stores, Himachal Pradesh or the Addl. Controller of Stores, or any of the experts attached to the Industries Department of Himachal Pradesh or the Indenting Officer, or any other officer or person shall have the power to inspect the stores, before, during or after manufacture collection, dispatch, transit or arrival and to reject the same or any part or portion. If he or they be not satisfied that the same is equal or according to the sample submitted by the contractor can reject the same. The contractor shall not charge or be paid for supplies rejected as above and such supplies shall be removed by the Contractor at once and at his expense. He shall neither claim nor be entitled to any payment for any damage that the rejected supplies may suffer from due to any harm whatsoever incidental to a full and proper examination and test of such supplies. The Government shall be under no liability whatsoever for rejected supplies and the same will be at the contractor's risk. Rejected supplies shall be removed by the contractor within 10 days after notice has been issued to him of such rejection, and failing such removal rejected goods will be at contractor's risk and Government may charge the contractor rent for the space occupied by such rejected goods.

4. The contractor shall provide without any extra charge all materials, tools, labour and assistance of every kind which the aforesaid officer may consider necessary for any test or examination which he may require to be made on the contractor's premises and shall pay all cost attendant thereon. In the case of stores inspected at maker's premises the maker shall provide all facilities including testing appliances, for making necessary tests other than special test or independent tests. Failing to provide such facilities at his own premises for making the tests, the contractor shall bear the cost of carrying out tests elsewhere. The contractor shall also provide and deliver free of charge at such place as the aforesaid officer may direct such materials as he may require for tests by chemical analysis or independent testing machine. If for the purpose of determining the quality of stores, the aforesaid officers finds it necessary to have the stores tested at the test house or laboratory, expenses

incidental to the tests shall be borne by the contractor. On the failure of the contractor to pay the expenses within ten days of the receipt of intimation in this behalf from the Inspecting Officer, the Controller of Stores/ Addl. Controller of Stores, shall have the right to deduct the amount from the security deposited by the contractor and if the amount so deducted is not deposited within 10 days, the Controller of Stores/ Addl. Controller of Stores, may treat their default as a breach of the agreement and proceed under clause-1 of the agreement without further notice. Further, the aforesaid officer shall have the right to put all articles of materials to such tests as he may think proper for the purpose of ascertaining whether the same are in accordance with the specification of sealed sample mentioned in the tender and to cut out or off/or destroy a portion not exceeding 2 percent from each delivery for such purpose the quantity so cut out or off /or destroyed as aforesaid shall be replaced by the contractor free of charge.

5. Price fall clause- The offer of rates by the tenderer will be subject to the price fall clause i.e. if any item is offered at a lower rate by the contractor at any other State/place in India, he shall not charge higher rate for the item offered in the tender. In the event of higher rates offered by such tenderer, the rates so offered by such party can be rejected at any stage.

The Contractor shall furnish the following certificate to the concerned purchasing departments alongwith each bill for payment for supplies made against the rate contract:-

"I/We certify that there has been no reduction in sale price of the stores of description identical to the stores supplied to the Government under the contract herein and such stores have not been offered/sold by me/ us to any person/ organization including the purchaser or any department of Central Government or any Department of State Government or any statutory undertaking of the Central or State Government as the case may be upto the date of bill/ the date of completion of supplies against all supply/ orders placed during the currency of the rate contract at a price lower than the price charged to the Government under the contract except for quantity of stores categories under sub clause(a) and (b) of sub para (ii) of para-20 of Schedule "B".

6. All goods must be dispatched within 45 days of the receipt of supply order by the contractor unless otherwise specifically mentioned in Schedule "A" of the Rate Contract.

7. 100% payment will be made within 21 days against physical delivery of inspected/accepted stores duly supported with satisfactory inspection note and after receipt of correct goods at consignee's site/ destination.

8. (i) With every dispatch of goods or material under this contract, invoices, in triplicate, will be prepared by the contractor, invoices in duplicate, are to be sent by the contractor to the Indenting Officer. The duplicate be returned by the Indenting Officer with the quantities or number received duly noted thereon and the third copy to be sent by the contractor to the Controller of Stores/ Addl. Controller of Stores, Himachal Pradesh, for record in his office.

(ii) Railway/Goods Receipt wherever applicable will be forwarded to the consignee immediately after dispatch of stores. Should any demurrage charge be incurred owing to

delay on the part of the contractor in forwarding the Railway/goods receipt as the case may be, the amount of such charge will be deducted from the bill.

(iii) The contractor shall dispatch material "Freight - paid" in all cases where his offer is F.O.R. destination in the event of his failure to do so, a penalty of 5 percent will be charged on the amount paid as freight by the Indenting Officer on his behalf.

(iv) All dispatches by rail/road will be made at contractor's risk.

9. No guarantee can be given as to the quantity which will be ordered during this period. But the purchaser undertakes to order from the contractor all stores as detailed in Schedule "A" which he requires to purchase, except that he reserves the right of placing the contract with one or more contractors as he may think fit and the contractor binds himself not to revoke this contract during the said period.

10. While placing orders preference shall be given to the Local Micro and Small Scale units/Startup Enterprises of the State of H.P. and also Local Suppliers/Enterprises entitled under Make in India, Policy, while placing orders, the purchase preference shall be given to them as per ratio percentage mentioned below from the total orders shall be placed with them on lowest approved rates, wherever applicable provided such products meet the required quality standards.

(i) Purchase Preference for Local Micro and Small Scale units/Startup Enterprises of the State:-

The following purchase preference ratio shall be applicable to the Local Micro and Small Scale Units of State and Local Micro and Small Scale categories under H.P. State Startup Scheme:-

1. Local Micro and Small Scale Units of State of H.P. =15%
2. Local Micro and Small Scale categories under H.P. State Startup Scheme=15%

(Total Purchase Preference =30%)

Provided that if Startup Enterprises will not be available, then 30% purchase preference shall automatically be given to Local Micro & Small Scale Unit and vice-versa as the case may be.

However, the minimum purchases from local manufacturers as provided in the rule shall not be applicable in respect of items which in the opinion of the Head of Department is an item of sophisticated nature and high technology and precision standards.

Provided further that where it is not possible to procure at least 30% from the local manufacturers, the Head of Department for reasons to be recorded in writing may purchased from other firms on rate contract/**GeM as the case may be.**

(ii) Purchase Preference for Local Suppliers under Make in India Policy:- “Provided further that the Local Suppliers/Enterprises under “Make in India Policy” will also be entitled for at least purchase preference provided that they meet the requisite quality standards as laid down in the tender”. This purchase preference shall be given in accordance with Public Procurement (Preference to Make in India) Order,2017-revision, issued by the Government of India, Ministry of Commerce and Industry, Department for Promotion of Industry and Internal Trade (Public Procurement Section) Udyog Bhawan,New Delhi vide letter No. P-45021/2/2017-PP(B.E.-II) dated 29.05.2019. The remaining contents in respect of Public Procurement (Preference to Make in India) Order,2017-revision shall remain same subject to changes made by Government of India from time to time.

11. The rates should be quoted F.O.R. destination any where in Himachal Pradesh unless otherwise specifically mentioned in the Schedule “A” of rate contract.

12. The contractor will be responsible for damage or loss in transit and replace goods broken or lost within 10 days from the date of notice thereof.

13. Refund of the amount of security and earnest money deposited by the firm will be made after three months from the date of expiry of the contract or after the date of satisfactory completion of the given supply orders, keeping in view both these conditions while making applications for refund of the amount of security, the concerned firm will have to furnish a certificate that the supply of all the supply order received by it, have been made to the consignee according to the prescribed specifications to their entire satisfaction.

14. All disputes shall be settled within the jurisdiction of the High Court of Himachal Pradesh

Sd/-
Addl. Controller of Stores
Himachal Pradesh,
for and on behalf of
Governor of Himachal Pradesh.