

Law Department, Andhra Pradesh

Template regarding Commercial Contracts

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(7) Performance Bank Guarantee

- a) Within fifteen (15) days of the Effective Date, the Project Management Consultant (PMC) shall furnish to the Employer, the Performance Bank Guarantee from any Indian Nationalized / Scheduled Bank / Indian branch of an International Bank acceptable to Employer for an amount of Rs.....(Rupees.....). The PMC shall procure the Performance Bank Guarantee in the form set out in (Annexure-....) (Form of Performance Bank Guarantee). The PMC shall maintain the Performance Bank Guarantee at its own expense, and shall ensure it shall remain valid for a period of not less than 3 (three) months after the expiry of Defects Liability Period. The Performance Bank Guarantee shall be extended by such period as the Employer may require if the Completion is delayed beyond the Time for Completion and/or the Final Completion delayed beyond the scheduled date of Final Completion and any extension thereof as per directions of the Engineer-in-Charge/ (Authority concerned).
- b) If the Performance Bank Guarantee is or becomes invalid for any reason (other than its expiry) the PMC shall immediately notify the Engineer-in-charge/ (Authority concerned) and obtain within 7 (seven) days a replacement Performance Bank Guarantee in the form appearing in Schedule.
- c) Without prejudice to the obligation of the PMC under sub-clause (a) above not later than 30 (Thirty) business days before the expiry of the Performance Bank Guarantee, the PMC shall upon request of the Engineer-in-charge obtain extension of the validity of such Performance Bank Guarantee for the period sated in such request by the Engineer In charge and provide a copy of such renewed security. If the PMC fails to extend the Performance Bank Guarantee, the Employer shall be entitled to receive the undrawn amount thereunder pending the completion of the project provided that the amount so received shall be treated as a cash retention and to the extent that there are no outstanding claims thereto, shall be released upon submission of new Performance Bank Guarantee accepted to the Employer.

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- d) The Performance Bank Guarantee shall be returned to the PMC after 3 (Three) months from the expiry of defect liability period.
- e) If the PMC fails to provide, maintain or renew the Performance Bank Guarantee in accordance with the contract then the Employer may, without prejudice to any other rights and remedies to which it may be entitled, by written notice, terminate the contract forthwith.
- f) In the event the Performance Bank Guarantee is invoked either partially or fully, the same shall be recouped by the PMC promptly, within 7 (seven) days of such invocation, failing to which, the contract shall stand terminated. Provided that if the Agreement is terminated due to any event other than a PMC's default, the Performance Bank Guarantee, if subsisting, as of the termination date shall subject to Employer's right to receive amounts, if any, due from the PMC under this Agreement, be duly discharged and released to the PMC.