

GUIDE ON THE USE OF THE DESIGN & BUILD / TURNKEY CONDITIONS OF CONTRACT

1.0 INTRODUCTION

The Technical Works Contract Committee was set up in late 1996 on the recommendation of MAMPU to draft the standard conditions of contract for works implemented on a Design & Build or Turnkey basis. This Committee chaired by JKR comprises members from the various divisions in JKR, JPS, DBKL, JPN, Peguam Persekutuan Kementerian Kerja Raya with support from the Treasury and MAMPU.

This D&B / Turnkey Conditions of Contract have been drafted for use in connection with projects for which the Contractor is responsible for all aspects of design and construction. The first edition i.e. Edition 2000 has been issued officially on the 14th of October 2000.

This Guide have been prepared to assist users of this D&B/Turnkey Conditions of Contract (Edition 2002) in the preparation of contract documents.

2.0 PREPARATION OF CONTRACT DOCUMENTS

2.1 Usage of Contract Form

Article 4 in the Articles of Agreement lists the documents forming part of the Contract as follows:

- i. Articles of Agreement
- ii. Conditions and Appendices annexed thereto
- iii. The Government's Requirements including the Instructions to Tenderers
- iv. The Contractor's Proposal including drawings and Specifications
- v. The Contract Sum Analysis
- vi. The Form of Tender
- vii. The Letter of Acceptance

This guide shall only set out to explain the Articles of Agreement, the Conditions, List of Appendices, Appendix 1 and the Form of Tender.

2.1.1 Articles of Agreement

The relevant spaces shall be filled. Action shall be taken as highlighted by the footnote on page AA/1.

2.1.2 Conditions of Contract

i) *Table of Contents*

Delete any of the Special Condition which is not relevant. Any additional clauses on Special Conditions shall be listed in successive sequence.

ii) *List of Appendices*

The numbering of the appendices shall be maintained to avoid any wrong cross-referencing or confusion. (Refer to para 2.2 below)

iii) *Conditions*

The Conditions consists of two parts i.e. the general conditions from Clauses 1 to 58 which is applicable to all projects and the special conditions which may be applicable to certain projects or as imposed by the Government from time to time.

(a) Clause 1.3(a)

To delete appendix reference "2" if method of payment is based on valuation on site. (Refer to para 2.3 below)

(b) Clause 1.3(c)

Delete any of the Special Condition Clause 59, 60 and/or 61 if not applicable. Insert any additional clause as Clause 63 and so on.

(c) Special Conditions

Clauses 59, 60 and 61 are Special Conditions which may only be applicable for certain projects as explained below whereas Clause 62 is a provision only recently applicable for turnkey/ design & build contracts:

Maintenance of Works and Services

Clause 59 under Special Conditions provide for the maintenance of Works and Services. Where the project does not require maintenance, this clause has to be deleted from the list under subclause 1.3(c).

Direct Payment to Contractor's Consultants

Clause 60 under Special Conditions provide for direct payment to Contractor's Consultants. Where direct payment is required, it is advisable for the P.D. to limit such direct payment to the provision of consultancy services by the consultants listed in the form of tender and approved by the P.D.

Bills of Quantities

Clause 61 under Special Conditions explains the status of the Bills of Quantities if included in the Contract. The quantities set out in the Bills shall not form part of the Contract unless stated as provisional but the rates shall be the basis for valuation of variations.

Advance Payment

Clause 62 under Special Conditions is a provision recently introduced by the Government for Turnkey/ Design & Build contracts whereby the Contractor is entitled to an advance payment subject to the terms as specified.

Other special conditions required for the project and approved by the Government may be added to the Special Conditions as Clause No. 63 and so forth.

iv) ***Appendix No. 1***

The spaces in this appendix shall be completed with the relevant information.

2.1.3 Form of Tender

The form of tender also provides for projects where sectional completion is envisaged. The relevant sentence in paragraph 2 shall be deleted before the calling of tenders.

2.2 List Of Appendices

The following appendices shall be listed and marked as 'List of Appendices' in the Prebid /Contract Document.

APPENDIX 1	-	Appendix to the Conditions of Contract
APPENDIX 2	-	Schedule of Payment*
APPENDIX 3	-	Government's Requirements
APPENDIX 4	-	Contractor's Proposal
APPENDIX 5	-	Contract Sum Analysis
APPENDIX 6	-	Contract Schedule of Rates* <i>(to be deleted if not applicable)</i>
APPENDIX 7	-	Certified Copy of Bank Guarantee for Performance Bond
APPENDIX 8	-	List of Government Multimodal Transport Operators <i>(To refer to latest Treasury Circular for list)</i>

2.3 Method of Payment

Two (2) methods of payment have been provided under the Conditions i.e. Payment based on Schedule and Payment based on Valuation on Site (refer Clause 50). The method of payment to be used for the project shall be specifically stated in the Government's Requirements forming part of the Prebid Document. Where the method of payment based on Valuation on Site is used, Appendix 2 shall be deleted from the List of Appendices.