

As per Store Purchase Manual, 2013

ANNEXURE 23

FORM OF AGREEMENT

(For contract for supply of articles or goods or machinery)

AGREEMENT executedday of.....BETWEEN
..... (hereafter called “ the Contractor”) and The Kerala State
Homoeopathic Co-operative Pharmacy Ltd. No. T-432, Pathirappally P.O., Alappuzha,
Kerala, pin: 688 521 (hereinafter called “HOMCO”).

WHEREAS Contractor has quoted for the supply of articles for the use of the
HOMCO as per tender Notification No..... date
..... which tender notification shall form part of this Agreement
as if incorporated herein.

AND WHEREAS the HOMCO/ Purchasing Officer have/ has been pleased to accept
offer subject to the conditions stipulated in the Supply Orders (which shall form part of this
agreement as if incorporated herein)in respect of the articles mentioned therein”.

AND WHEREAS Contractor has as security for the due fulfillment of his obligations
this deed deposited Rs being per cent of the
estimated value of the contract as per demand draft on..... Bank
duly approved by the Government / in the form of a letter of guarantee for such amount from
..... Bank approved by Government.

NOW THESE PRESENTS WITNESS AS FOLLOWS

1. (a) In cases where along with the tender samples have been forwarded to the HOMCO and the sample approved, The Contractor agrees to supply the materials according to the approved sample. In other cases the Contractor agrees to forward sample to HOMCO for approval if so required and then to supply materials according to such approved samples. When the samples are not required, the Contractor agrees to supply according to standard specifications. Sample forwarded by the Contractor to the HOMCO will not be paid for and shall be the property of HOMCO but the HOMCO are at liberty to return them to the Contractor on the completion of his contract or to pay for them at agreed rate if they so choose. All samples must be clearly labeled showing to what particular items tendered for they relate and they should be of sufficient size and quantity to enable the HOMCO to see if the supplies made are according to the approved samples.

b) In cases where the product to be supplied is exclusively made for HOMCO and involves making of any dye or mold for printing HOMCO's emblem of logo, the mold or dye will be the property of HOMCO and the same should be returned to HOMCO in full running condition after completion of the supply when demanded and such product with HOMCO's logo/emblem should not be supplied to any other party at any circumstance.

c) The Contractor hereby declares that the goods sold to the buyer under this contract shall be of the best quality and workmanship and shall be strictly in accordance with the specifications and particulars contained in the copy of the order attached herewith and the contractor hereby guarantees that the said goods 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 to the HOMCO and that notwithstanding the fact the HOMCO may, have inspected and/ or approved the said goods, if during the aforesaid period of days/ months

the said goods be discovered not to conform to the description and quality aforesaid or have deteriorated and the decision of the HOMCO in that behalf will be final and conclusive the HOMCO will be entitled to reject the said goods or such portion thereof as may be discovered not to conform to the said description and quality . On such rejection the goods will be at the Contractor's risk and all the provisions herein contained relating to rejection of goods, etc., shall apply. The Contractor shall of so called upon to do, replace the goods, etc., or such portion thereof as is rejected by the HOMCO. Otherwise the Contractor shall pay to the HOMCO 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 HOMCO in that behalf under this contract or otherwise.

2 Request for enhancement of rates once accepted will not be considered except where HOMCO have prior to the actual supplies, Expressly agreed in writing for any price variation under specified circumstances, Conditions of sale or other special terms and conditions, if any, printed on the quotation sheets of the Contractor or attached with the Contractor's tender or any other letter or paper from the contractor will not govern this contract not bind the HOMCO in any manner whatsoever unless such terms have been expressly accepted by the HOMCO in writing.

3. The articles and quantities to be supplied are shown in the copy of the Supply order attached herewith. The Contractor agrees to

supply the quantities of the articles shown in the order at the rate tendered by his for each article within the time fixed.

4. In the case of goods delivered by shipment, the Contractor, shall where the expected tonnage of goods is more than 200 tons, deliver the goods through the Cochi Port if so required by the HOMCO.

5. The Contractor agrees that time is the essence of this contract.

6. (a) If the Contractor defaults in the supply of all or any of the articles correctly and promptly as above the HOMCO are at liberty to procure the same from elsewhere without cancelling the Contract as whole. If HOMCO incur, in thus procuring such materials a higher cost than the agreed rate such excess cost may be deducted by the HOMCO from the Contractor's bill or adjusted or otherwise realized from his security deposit or recovered, from him by other means. The Contractor agrees that he shall not be entitled to claim the excess, if any, of the tendered rate over such cost to HOMCO.

(b) If the Contractor fails to deliver all or any of the stores or perform the service within the time/period (s) specified in the Contract, the purchaser shall without prejudice to its other remedies under the Contract, deduct from the Contract price as liquidated damages, a sum equivalent to 0.5 % or 1 % the delivered price of the delayed stores or unperformed services for each week of delay until actual delivery or performance, up to a maximum deduction of 10% of the contract price of the delayed stores or services. Once the maximum is reached, the purchaser may consider termination of the contract at the risk and cost of the Contractor.

7. (a) All payments to the Contractor for supplies effected satisfactorily will be made after scrutiny of his bill;

(i) Either by departmental cheques payable at the Government Treasuries;

(ii) Or by cheques or drafts on, the Reserve Bank of India and State bank of India / UCO Bank / PNB, at any of their principal branches in India.

(iii) Or in the case of supplies from abroad by drafts or otherwise as may be agreed to

(b) The firms will produce stamped pre-receipted invoices in all cases where payments (advance/ final) for release of railway receipts/ shipping documents are made through Bank. In exceptional case where the stamped receipts of the firms are not received for the payments (in advance) the unstamped receipt of the Bank (i.e. counterfoils of pay-in slips issued by the Bank) alone may be accepted as a valid proof for the payment made.

8. All incidental expenses incurred by the HOMCO for making Payments outside the District in which the claim arises shall be borne by the Contractor.

9. The Contractor shall not assign or make over in part or wholly the contract or the benefit or burdens thereof. The Contractor shall not underlet or sublet the execution of the contract or any part thereof without the consent in writing of the HOMCO. The HOMCO shall have absolute power of refuse such consent or rescind such consent (if given) at any time. The contractor shall not be relieved from his obligation, duty or responsibility under this contract even if consent to let or sublet is given by HOMCO

10. NOT WITHSTANDING the provisions contained in clause 5, the HOMCO shall have the right to cancel the contract for any default on the part of the Contractor in due performance thereof.

11. It shall be lawful for the HOMCO from and out of any moneys for the time being payable or due to the Contractor from the HOMCO under this contract or otherwise to set off loss or expense, cost or damages sustained or incurred by the HOMCO by reason of the cancellation of the contract.

12. The security deposit shall subject to the conditions specified herein be returned to the Contractor within three months after the expiration of the contract. In all cases where there are guarantee for the goods supplied the security deposit will be released only after the expiry of the guarantee period.

13. The Contractor agrees that any communication address to him may be handed over to him or his agent personally or left at his residence or place of business or may be sent by prepaid post to his address as mentioned in this deed.

14. In case the supply of articles involves erection of machinery the contractor agrees that the machinery will be erected within the time and at the place specified by the HOMCO/ Purchasing Officer in that behalf. It shall also be the duty and responsibility of the contractor to see that the machinery thus erected is in good working condition to the satisfaction of the person duly authorized by the HOMCO/Purchasing Officer in that behalf and to ensure the proper functioning of the machinery till the guarantee period is over. In the event of the failure of the contractor to erect the machinery within the time and at the place specified by the HOMCO/ Purchasing Officer or in the event of the machinery failing to function properly during the guarantee period the amount spent by the HOMCO and the loss sustained by the HOMCO on this account by making alternative arrangements shall be recoverable from the contractor in the manner provided in Clause 15 hereunder.

15. "The Contractor agrees that all sums found due to the HOMCO under or by virtue of these presents shall be recoverable from him and his properties, movable and immovable, under the provisions If the Revenue Recovery Act, for the time being in force as though they are arrears of land revenue or in any other manner and within such time as the HOMCO may deem fit. The Contractor agrees that in deciding what sum of money is due from the Contractor under or by virtue of this agreement, the decision of the HOMCO shall be final and conclusive and shall be binding on the contractor."

16. The contractor agrees that any sum of money due and payable to him from HOMCO shall be adjusted against any sum of money due to HOMCO form him under any other contracts.

IN WITNESS WHERE OF THE Contractor and Shri(H.E. name and designation) for and on behalf of The Kerala State Homoeopathic Co-operative Pharmacy Ltd. No.T-432, Pathirappally P.O, Alappuzha, kerala have hereunto set their hands

Signed, sealed and delivered by

(Contractor)

In the presence of witnesses (1)

(2)

Signed, sealed and delivered by Sri

(Name & designation) for and on behalf of The Kerala State Homoeopathic Co-operative Pharmacy Ltd. No. T-432)

In the presence of witness (1)

(2)