

**Request for Proposal**  
For  
Design, Construction, Commissioning and Handing over  
Along with Facility Management and  
5 years Operation and Maintenance of  
Integrated Command and Control Centre Building  
At Panjabari near Vipanan Kendra  
In Guwahati, Assam  
On  
DESIGN, BUILD AND OPERATE BASIS

**Volume III: General Conditions of Contract (GCC)**



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Tender No. : SPV/GSCL/DEV/93/2018/206

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## **GENERAL CONDITIONS OF CONTRACT**

### **DEFINITIONS AND INTERPRETATION**

#### **1.1 Definitions**

In the Contract (as hereinafter defined) the following words and expressions shall have the meanings hereby assigned to them, except where the context otherwise requires:

- (a) (i) "Employer" means "Guwahati Smart City Limited (GSCL) having office at "Guwahati Smart City Limited, 04th Floor, Aditya Tower, Opp. - Down Town Hospital G.S Road, Guwahati, Assam-781006, represented through its MANAGING DIRECTOR and includes its successor(s) in interest.
- (ii) "Contractor" means the person (legal or natural) who has been issued Letter of Award and who entered with an agreement with GSCL and includes its successor(s) in interest with the consent of the Employer.
- (iii) "Subcontractor" means any person named in the Contract as Subcontractor for a part of the Works or any person to whom a part of the Works has been subcontracted with the consent of the Engineer.
- (iv) "Engineer-in-Charge" means the person appointed by the Employer to act as Engineer-in-Charge for the purpose of the Contract, or any other competent person appointed by the Employer and notified to the Contractor to act in replacement to such person and shall include his authorized representative.
- (v) "Engineer" means the person appointed by the Employer to act as Engineer for the purposes of the Contract, or any other competent person appointed by the Employer and notified to the Contractor to act in replacement to such person and shall include his authorised representative.
- (vi) "Engineer's Representative" means a person appointed from time to time by the Engineer with the approval of Engineer-in-Charge as specified under Sub-Clause 2.2.
- (b) (i) "Contract" means these General Conditions, the Special Conditions, the Specifications, the Drawings, the Bill of Quantities, the Bid, the Letter of Award, and such further documents as may be expressly incorporated in the Letter of Award or Contract Agreement as the case may be.
- (ii) "Specification" means the specification of the Works included in the Contract and any modification thereof or addition thereto made by the Engineer or submitted by the Contractor and approved by the Engineer.
- (iii) "Drawings" means all drawings provided by the Engineer to the Contractor under the Contract and all drawings, calculations, samples, patterns, models, operation and maintenance manuals and other technical information of a like nature submitted by the Contractor and approved by the Engineer.
- (iv) "Bill of Quantities" means the priced and completed bill of quantities forming part of the Bid.

- (v) "Bid" means the Contractor's priced offer to the Employer for the execution and completion of the Works and the remedying of any defects therein in accordance with the provisions of the Contract, as accepted by the Letter of Award. The word 'Tender' is synonymous with 'Bid' and the word 'Tender Documents' with 'Bidding Documents'.
- (vi) "Letter of Award / Letter of Intent" means the formal acceptance of the bid by the Employer.
- (vii) "Contract Agreement" means the Contract Agreement (if any) referred to in Sub-Clause 9.1.
- (viii) "Appendix to Bid" means the appendix comprised in the form of Bid annexed to these Conditions.
- (c) (i) "Commencement Date" means the date specified in the notice to commence issued by the Engineer to the Contractor.
- (ii) "Time for Completion" means the time for completing the execution of and passing the Tests on Completion of the Works or any Section or part thereof as stated in the Contract (or as extended by the Employer) calculated from the Commencement Date.
- (d) (i) "Tests on Completion" means the tests specified in the Contract or otherwise agreed by the Engineer and the Contractor which are to be made by the Contractor before the Works or any Section or part thereof are taken over by the Employer.
- (ii) "Taking-Over Certificate" means a certificate issued pursuant to Sub-Clauses 48.1 to 48.5.
- (e) (i) "Contract Price" means the sum stated by the Employer in the Letter of Award / Letter of Intent as payable to the Contractor for the execution and completion of the Works and the remedying of any defects therein in accordance with the provisions of the Contract.
- (ii) "Retention Money" means the aggregate of all moneys retained by the Employer pursuant to Sub-Clause 60.5.
- (f) (i) "Works" means the works covered under the scope of the contract including Permanent Works and the Temporary Works or either of them as appropriate.
- (ii) "Permanent Works" means the permanent Works to be executed (including Plant) in accordance with the Contract.
- (iii) "Temporary Works" means all temporary Works of every kind (other than Contractor's Equipment) required in or about the execution and completion of the Works and the remedying of any defects therein.
- (iv) "Plant" means machinery, apparatus and the like intended to form or forming part of the Permanent Works.

- (v) “Contractor’s Equipment” means all appliances and things of whatsoever nature (other than Temporary Works) required for the execution and completion of the Works and the remedying of any defects therein, but does not include Plant, materials or other things intended to form or forming part of the Permanent Works.
- (vi) “Section” means a part of the Works specifically identified in the Contract as a Section.
- (vii) “Site” means the places provided by the Employer where the Works are to be executed and any other places as may be specifically designated in the Contract as forming part of the Site.
- (g) (i) “Cost” means all expenditures properly incurred or to be incurred, whether on or off the Site, including overhead and other charges properly allocable thereto but does not include any allowance for profit.
- (ii) “Day” means calendar day and “year” means 365 days.
- (iii) “Writing” means any hand written, type written, or printed communication, including telex, cable, facsimile and e-mail transmission.
- (h) “Facilities” means the Plant and Equipment to be supplied and installed, as well as the Services to be provided by the Contractor under the Contract.
- (i) “Plant and Equipment” means plant, equipment, machinery, apparatus, articles and things for all kinds to be provided and incorporated in the Facilities by the Contractor under the Contract including the spare parts to be supplied by the Contractor, but does not include Contractor’s Equipment.
- (j) “Installation Services” means all those services ancillary to the supply of Plant and Equipment for the Facilities, e.g. transportation and provision of marine or other similar insurance, inspection, expediting, Site preparation works (including the supply of all Construction materials required), installation including the supply of all Construction materials required), installation including Civil Works, testing, precommissioning, commissioning, the provision of operations and maintenance manuals, training etc.
- (k) “Precommissioning” means testing, checking and other works specified in the Technical Specifications which are to be carried out by the Contractor in preparation for Commissioning as provided in Clause GCC 85.1 hereof.
- (L) “Commissioning” means Trial operation of the Facilities or any part thereof by the Contractor (in terms of Clause GCC 86.1) following Completion.
- (m) “Guarantee Test(s)” means the test(s) specified in the Technical Specifications to be facilitated by the Employer to ascertain whether the Plant or a specified part thereof is able to attain the Functional Guarantees specified in the Technical Specifications in accordance with the provisions of Clause GCC 86.1 hereof.
- (n) “Operational Acceptance” means the acceptance by the Employer of the Facilities (or any part of the Facilities where the Contract provides for acceptance of the Facilities in parts), which certifies the Contractor’s fulfilment of the Contract in

respect of Commissioning of the Facilities (or the relevant part thereof) in accordance with the provisions of Clause GCC 86.

“Operation & Maintenance (O&M) Services” means the all those services required for proper and efficient O&M of the Facilities in accordance with provisions of Clause GCC 88.1.

- (o) “Guarantee/Efficiency Acceptance” means the acceptance of the Facilities by the Employer upon successful completion of all such tests as specified in Technical Specifications to be performed at site on the Facilities”.
- (p) “Final Acceptance/Employer’s Acceptance” means the taking over/final acceptance of the Facilities by the Employer upon successful completion of all the tests as specified in Technical Specifications to be performed at site prior to the completion of period for O&M services on the Facilities.
- (q) “Defect Liability Period” means and includes the period of validity of the warranties given by the Contractor which includes manufacturers guarantees commencing at successful completion of Commissioning (Trial Operation) of the Facilities or a part thereof, during which the Contractor is responsible for defects with respect to the Facilities (or the relevant part thereof) as provided in GCC 49 (Defect Liability) hereof.

“Drawings”, “Plans” shall mean and include all:

- a) Drawings furnished by the Employer/Consultant as a basis for bid.
- b) Supplementary drawings furnished by the Employer/Consultant to clarify and to define in greater detail the intent of the Contract.
- c) Drawings submitted by the contractor with his bid provided such drawings are acceptable to the Employer/Consultant.
- d) Drawings furnished by the Employer/Consultant to the Contractor during the progress of the work; and
- e) Engineering data and drawings submitted by the Contractor during the progress of the work provided such drawings are acceptable to the Engineer.

“GC” means the General Conditions hereof.

- (r) "Design-Build" means all work to be performed by the Contractor under the Contract to design, build, test and complete the Works and obtain the Completion Certificate.
- (s) “Base-Date” means the date 28 days prior to the latest date for submission of the Tender.

- (t) "Cut-Off Date" means the date, at the end of a specified period stated in the Contract Data, after the Time for Completion of the Design-Build or any extension thereto granted under Sub-Clause 44.1 Extension of Time for Completion.

- (u) "Rates and Prices" means the rates and prices inserted in the Schedules for the design, execution and completion of the Works and for the provision of the Operation Service as incorporated in the Contract.

## **1.2 Headings and Marginal Notes**

The headings and marginal notes in these Conditions shall not be deemed part thereof or be taken into consideration in the interpretation or construction thereof or of the Contract.

## **1.3 Interpretation**

Words importing persons or parties shall include firms, corporations and/or any legal entity or any organisation having legal identity.

## **1.4 Singular and Plural**

Words importing the singular shall include the plural and vice versa where the context so requires.

## **1.5 Notices, Consents, Approvals, Certificates and Determinations**

Wherever in the Contract provision is made for the giving or issue of any notice, consent, approval, certificate or determination by any person, unless otherwise specified such notice, consent, approval, certificate or determination shall be made in writing and the words "notify", "certify" or "determine" shall be made construed accordingly. Any such consent, approval, certificate or determination shall not unreasonably be withheld or delayed.

## **ENGINEER-IN-CHARGE, ENGINEER AND ENGINEER'S REPRESENTATIVE**

### **2.1 (i) Engineer-in-Charge Duties and Authority**

(a) The Engineer-in-Charge shall represent and act for the Employer at all times during the currency of the contract. All notices, instructions, orders, certificates, approvals and all other communications including the contract administration under the Contract shall be given by the Engineer-in-charge as delegated to him by the Employer.

#### **(ii) Engineer's Duties and Authority**

- (a) The Engineer shall carry out the duties specified in the Contract.
- (b) The Engineer may exercise the authority specified in or necessarily to be implied from the Contract, provided, however, that if the Engineer is required, under the terms of his appointment by the Employer, to obtain the specific approval of the Employer before exercising any such authority, particulars of such requirements shall be set out in Special Conditions of Contract. Provided further that any requisite approval shall be deemed to have been given by the Employer for any such authority by the Engineer.
- (c) Except as expressly stated in the Contract, the Engineer shall have no authority to relieve the Contractor of any of his liabilities and obligations under the Contract without requisite approval of the Employer.

## **2.2 Engineer's Representative**

The Engineer's Representative shall be appointed by and be responsible to the Engineer and shall carry out such duties and exercise such authority as may be delegated to him by the Engineer under Sub-Clause 2.3.

## **2.3 Engineer's Authority to Delegate**

The Engineer may from time to time delegate to the Engineer's Representative any of the duties and authorities vested in the Engineer and he may at any time revoke such delegation. Any such delegation or revocation shall be in writing and shall not take effect until a copy thereof has been delivered to the Employer and the Contractor. Any communication given by the Engineer's Representative to the Contractor in accordance with such delegation shall have the same effect as though it had been given by the Engineer. Provided that:

- (a) any failure of the Engineer's Representative to disapprove any work, materials or Plant shall not prejudice the authority of the Engineer to disapprove such work, materials or Plant and to give instructions for the rectification thereof;
- (b) if the Contractor questions any communication of the Engineer's Representative he may refer the matter to the Engineer who shall confirm, reverse or vary the contents of such communication.

## **2.4 Appointment of Assistants**

The Engineer or the Engineer's Representative may appoint any number of persons to assist the Engineer's Representative in the carrying out of his duties under Sub-Clause 2.2. He shall notify to the Contractor the name, duties and scope of authority of such persons. Such assistants shall have no authority to issue any instructions to the Contractor save in so far as such instructions may be necessary to enable them to carry out their duties and to secure their acceptance of materials, Plant or workmanship as being in accordance with the Contract, and any instructions given by any of them for those purposes shall be deemed to have been given by the Engineer's Representative.

## **2.5 Instructions in Writing**

Instructions given by the Engineer having financial or legal implications shall be in writing, provided that if for any reason the Engineer considers it necessary to give any such instruction orally, the Contractor shall comply with such instruction. Confirmation in writing of such oral instruction given by the Engineer, whether before or after the carrying out of the instruction, shall be deemed to be an instruction within the meaning of this Sub-Clause. Provided further that if the Contractor, within 7 days, confirms in writing to the Engineer any oral instruction of the Engineer and such confirmation is not contradicted in writing within 7 days by the Engineer, it shall be deemed to be an instruction of the Engineer.



The provisions of this Sub-Clause shall equally apply to instructions given by the Engineer's Representative and any assistants of the Engineer or The Engineer's Representatives pursuant to Sub-Clause 2.4.

## **2.6 Engineer to Act Impartially.**

Wherever, under the Contract, the Engineer is required to exercise his discretion by:

- a) giving his decision, opinion or consent, or
- b) expressing his satisfaction or approval, or
- c) determining value, cost or extension of time, or
- d) otherwise taking action which may affect the rights and obligations of the Employer or the Contractor,

he shall exercise such discretion impartially within the terms of the Contract.

## **ASSIGNMENT AND SUBCONTRACTING**

### **3.1 Assignment of Contract**

The Contractor shall not, without the prior and express consent of the Employer (which consent notwithstanding the provisions of Sub-Clause 1.5 shall be at the sole discretion of the Employer), assign the Contract or any part thereof, or any benefit or interest therein or thereunder, otherwise than by

- (a) A charge in favour of Contractors, bankers, of any monies due or to become due under the Contract, or
- (b) assignment to the Contractor's insurers (in cases where the insurers have discharged the Contractor's loss or liability) of the Contractor's right to obtain relief again any other party liable.

### **4.1 Subcontracting**

No sub contracting shall be permitted other than vendor supply items with installations and commissioning, which shall be done with the prior consent of the Engineer. Any such consent shall not relieve the Contractor from any liability or obligation under the Contract in respect of or in relation to the subcontracted works and he shall be responsible for the acts, defaults and neglects of any Subcontractor, his agents, servants or workmen as fully as if they were the acts, defaults or neglects of the Contractor, his agents, servants or workmen.

Provided that the Contractor shall not be required to obtain such consent for:

- a) the provision of labour, or
- b) the purchase of materials which are in accordance with the standards specified in the Contract, or
- c) the subcontracting of any part of the Works for which the Subcontractor is named in the Contract.

## 4.2 Assignment of Subcontractor's Obligation

In the event of a Subcontractor having undertaken towards the Contractor in respect of the work executed, or the goods, materials, Plant or services supplied by such Subcontractor, any continuing obligation extending for a period exceeding that of the Defects Liability Period under the Contract, the Contractor shall at any time, after the expiration of such Period, assign to the Employer, at the Employer's request and cost, the benefit of such obligation for the unexpired duration thereof.

## CONTRACT DOCUMENTS

### 5.1 Language and Law

- (a) The **English** language only shall be used in the Contract documents and all official correspondence.
- (b) Laws which shall apply to the Contract and according to which the Contract shall be construed shall be the laws of India.

### 5.2 Priority of Contract Documents

The several documents forming the Contract are to be taken as mutually explanatory of one another, but in case of ambiguities or discrepancies/ inconsistencies the same shall be explained and adjusted by the Engineer who shall thereupon issue to the Contractor instructions thereon and in such event, unless otherwise provided in the Contract, the following documents forming the Contract override the next below and following documents given hereunder in sequential order shall be as follows:

- (a) *The Contract Agreement ( including addenda, clarification, when signed by all parties concerned)*
- (b) *The Letter of Acceptance*
- (c) *Volume III Special Conditions of Contract*
- (d) *Volume III : General Conditions of Contract*
- (e) *Volume II : Works Requirement / Technical Specification*
- (f) *Volume I : Information to Bidder*
- (g) *The Bid (accepted Price Proposal)*
- (h) *Volume IV: Price Bid BOQ*
- (i) *Completed Technical Schedules*
- (j) *Bidder's Technical Proposal other than Completed Technical Schedules*
- (k) *Any other documents issued by the GSCL before signing the Contract Agreement and forming the part of the Contract*

However, the Contract Documents are complementary. Anything mentioned in the specification and not shown on the drawing, or shown on the drawings and not

mentioned in the specifications, shall have the effect as if they are mentioned in both unless such a meaning lead to repugnancy.

## **DESIGN, DRAWINGS AND DOCUMENTS**

### **6.1 General Design Obligations**

- 6.1.1 The Contractor shall establish a design liaison office at Guwahati within 08 days from the Commencement Date to facilitate preparation and submission of designs, drawings Construction documents, etc., for review and approval by the Employer's Representative. The design liaison office shall preferably be located near the Employer's office to facilitate communications and frequent interactions with the Employer's Representative and the Employer. The Contractor shall provide full-time design staff and continuously maintain the design liaison office. The Contractor will be fully responsible for ensuring that its designs, drawings, and construction documents satisfy all requirements for constructing Works that are complete and fully functional in all respects. The Contractor shall carry out, and be responsible for, the design of the Works, Site surveys, subsoil investigations, materials testing, and all other things necessary for proper planning and design. Design shall be prepared by qualified designers who are engineers or other professionals who comply with the criteria (if any) stated in the Employer's Requirements. The Contractor shall submit to the Employer's Representative for consent the name and particulars of each proposed designer and design Subcontractor.
- 6.1.2 The Contractor warrants that he, his designers and design Subcontractors have the experience and capability necessary for the design. The Contractor undertakes that the designers shall be available to attend discussions with the Employer's Representative at all reasonable times.

### **6.2 Contractors Documents**

- 6.2.1 The Contractor's Documents shall comprise the technical documents specified in the Employer's Requirements, documents required to satisfy all regulatory approvals, and the documents described in Sub-Clause 6.5 [As-Built Documents]. Unless otherwise stated in the Employer's Requirements, the Contractor's Documents shall be written in the language for communications defined in Sub-Clause 5.1 [Language and Law].
- 6.2.2 The Contractor shall prepare all Contractor's Documents, and shall also prepare any other documents necessary to instruct the Contractor's Personnel. The Employer's Personnel shall have the right to inspect the preparation of all these documents, wherever they are being prepared.
- 6.2.3 If the Employer's Requirements describe the Contractor's Documents which are to be submitted to the Employer's Representative for review leading to consent and/or for approval, they shall be submitted accordingly, together with a Notice as described below. The Employer's Representative gives his consent to a document when he is satisfied that the Contractor's Documents conform to the Employer's Requirements. In the following provisions of this Sub-Clause, (i) "review period" means the period required by the Employer's Representative for review leading to consent and (if so specified) for approval, and (ii) "Contractor's Documents" exclude any documents

which are not specified as being required to be submitted for review leading to consent and/or for approval. The Contractor's Documents which require approval from the Employer's Representative shall be as listed in the Contract Data.

- 6.2.4 Unless otherwise stated in the Employer's Requirements or agreed with the Employer's Representative, each review period shall not exceed 21 days, calculated from the date on which the Employer's Representative receives a Contractor's Document and the Contractor's Notice. This Notice shall state that the Contractor's Document is considered ready for review leading to either approval (if so specified) or consent with regard to conformity with the Employer's Requirements, in accordance with this Sub-Clause and for use. The Notice shall also state that the Contractor's Document complies with the Contract, or the extent to which it does not comply.
- 6.2.5 The Employer's Representative may, within the review period, give Notice to the Contractor that a Contractor's Document fails (to the extent stated) to conform with the Contract. If a Contractor's Document so fails to conform, it shall be rectified, resubmitted and reviewed (and, if specified, approved) in accordance with this Sub-Clause, at the Contractor's cost. If such re-submission and review causes the Employer to incur additional costs, the Contractor shall, subject to Sub-Clause 53.1 [ Notice of Claims], pay these costs to the Employer.
- 6.2.6 For each part of the Works, and except to the extent that the prior approval or consent of the Employer's Representative shall have been obtained:
- a) in the case of a Contractor's Document which has (as specified) been submitted for the Employer's Representative's approval or consent:
    - i. the Employer's Representative shall give Notice to the Contractor that the Employer's Representative gives his consent that the Contractor's Document conforms with the Employer's Requirements or is approved, or that it does not (to the extent stated) comply with the Contract;
    - ii. execution of such part of the Works shall not commence until the Employer's Representative has either approved or given his consent to the Contractor's Document; and
    - iii. the Employer's Representative shall be deemed to have approved the Contractor's Documents or given his consent that the Contractor's Documents conform to the Employer's Requirements upon the expiry of the review periods for all the Contractor's Documents which are relevant to the design and execution of such part, unless the Employer's Representative has previously notified otherwise in accordance with sub-paragraph (i);
  - b) execution of such part of the Works shall not commence prior to the expiry of the review periods for all the Contractor's Documents which are relevant to its design and execution;
  - c) execution of such part of the Works shall be in accordance with those Contractor's Documents for which the Employer's Representative has given his

consent as to the conformity with the Employer's Requirements, (and, if specified, approved); and

- d) if the Contractor wishes to modify any design or document which has previously been submitted for review (and, if specified, approval), the Contractor shall immediately give Notice to the Employer's Representative, accompanied by a written explanation of the need for such modification. Thereafter, the Contractor shall submit revised documents to the Employer's Representative in accordance with the above procedure.

6.2.7 Any such consent and/or approval (where specified) (under this Sub-Clause or otherwise) shall not relieve the Contractor from any obligation or responsibility.

### **6.3 Contractor's Undertaking**

6.3.1 If the Employer's Representative reasonably instructs that further Contractor's Documents are required, the Contractor shall prepare them promptly at his own cost. The Contractor undertakes that the design, the Contractor's Documents, the execution and the completed Works will be in accordance with:

- a) the Laws of the Country; and
- b) the documents forming the Contract, as altered or modified by Variations.

### **6.4 Technical Standards and Regulations**

6.4.1 Unless otherwise stated, the design, the Contractor's Documents, the execution and the completed Works shall comply with the Country's technical standards, building, construction and environmental Laws, and other standards specified in the Employer's Requirements, applicable to the Works, or defined by the applicable Laws.

6.4.2 All these Laws shall, in respect of the Works and each Section, be those prevailing when the Completion Certificate is issued in accordance with Sub-Clause 43.1 [Time for Completion]. References in the Contract to published standards shall be understood to be references to the edition applicable on the Base Date, unless stated otherwise.

6.4.3 If changed or new applicable standards come into force in the Country after the Base Date, the Contractor shall give Notice to the Employer's Representative and (if appropriate) submit proposals for compliance. In the event that:

- a) the Employer's Representative determines that compliance is required; and
- b) the proposals for compliance constitute a variation,

then the Employer's Representative shall initiate a Variation in accordance with Clause 51 [ALTERATIONS, ADDITIONS AND OMISSIONS].

### **6.5 As-built Documents**

6.5.1 The Contractor shall prepare, and keep up-to-date, a complete set of "as-built" records of the execution of the Works, showing the exact as-built locations, sizes and

details of the work as executed. These records shall be kept on the Site and shall be used exclusively for the purposes of this Sub-Clause. At least two copies shall be supplied to the Employer's Representative prior to the commencement of the Tests on Completion of Design-Build.

6.5.2 In addition, the Contractor shall supply to the Employer's Representative as-built drawings of the Works, showing all Works as executed, and submit them to the Employer's Representative for review under Sub-Clause 6.2 [Contractor's Documents]. The Contractor shall obtain the consent of the Employer's Representative as to their size, the referencing system, and other relevant details.

6.5.3 Prior to the issue of the Completion Certificate, the Contractor shall supply to the Employer's Representative the specified numbers and types of copies of the relevant as-built drawings, in accordance with the Employer's Requirements. The relevant work shall not be considered to be completed for the purposes of issuing the Completion Certificate under Sub-Clause 43.1 [Time for Completion] until the Employer's Representative has received these documents.

## **6.6 Design Error**

6.6.1 If errors, omissions, ambiguities, inconsistencies, inadequacies or other defects are found in the Contractor's Documents, they and the Works shall be corrected at the Contractor's cost, notwithstanding any consent or approval under this Clause.

## **7.1 Supply of Drawings and Documents**

The Contractor shall supply to the Engineer four copies of all Drawings, Specifications and other documents submitted by the Contractor and approved by the Engineer in accordance with Sub-Clauses 7.1 to 7.3, together with a reproducible copy of any material which cannot be reproduced to an equal standard by photocopying. In addition the Contractor shall supply such further copies of such Drawings, Specifications and other documents as the Engineer may request in writing for the use of the Employer, who shall pay the cost thereof.

## **7.2 Copy of Drawings to be kept on Site**

Two copies of Drawings, provided to or supplied by the Contractor as aforesaid, shall be kept by the Contractor on the Site and the same shall at all reasonable times be available for inspection and use by the Engineer and by any other person authorised by the Engineer in writing.

## **7.3 Disruption of Progress**

The Contractor shall give notice to the Engineer, with a copy to the Employer, whenever planning or execution of the Works is likely to be delayed or disrupted unless any further drawing or instruction is issued by the Engineer within a reasonable time. The notice shall include details of the drawing or instruction required and why and by when it is required and of any delay or disruption likely to be suffered if it is late.

## **7.4 Delay and Cost of Delay of Drawings**

If, by reason of any failure or inability of the Engineer to issue, within a time reasonable in all the circumstances, any drawing or instruction for which notice has been given by the Contractor in accordance with Sub-Clause 7.3, the Contractor suffers delay then if so requested by the Contractor the Engineer shall, after due consultation with the Employer and the Contractor, determine any extension of time to which the Contractor is entitled under Sub-Clauses 44.1 to 44.3, and shall notify the Contractor accordingly, with a copy to the Employer. Any price adjustment which may be applicable for such time extension granted by the Engineer will be determined in accordance with the provision of Sub-Clauses 70.1 to 70.8.

#### **7.5 Failure by Contractor to Submit Drawings**

If the failure or inability of the Engineer to issue any drawings or instructions is caused in whole or in part by the failure of the Contractor to submit Drawings, Specifications or other documents which he is required to submit under the Contract, the Engineer shall take such a failure or inability caused by the Contractor into account when making his determination pursuant to Sub Clause 7.4.

#### **7.6 Supplementary Drawings and Instructions**

The Engineer shall have authority to issue to the Contractor, from time to time, such supplementary Drawings and instructions as shall be necessary for the purpose of the proper and adequate execution and completion of the Works and the remedying of any defects therein. The Contractor shall carry out and be bound by the same.

### **GENERAL OBLIGATIONS**

#### **8.1 Contractor's General Responsibilities**

The Contractor shall design, execute and complete the Works and provide the Operation Service in accordance with the Contract and shall remedy any defects in the Works. When completed, the Works shall be fit for the purposes for which the Works are intended as defined in the Contract, and the Contractor shall be responsible for ensuring that the Works remain fit for such purposes during the Operation Service Period.

The Contractor shall provide the Plant and Contractor's Documents specified in the Contract, and all Contractor's Personnel, Goods, consumables and other things and services, whether of a temporary or permanent nature, required to meet the Contractor's obligations under the Contract.

The Works shall include any work which is necessary to satisfy the Employer's Requirements, Contractor's Proposal and Schedules, or is implied by the Contract, and all works which (although not mentioned in the Contract) are necessary for stability or for the completion, or safe and proper utilization/operation, of the Works.

The Contractor shall be responsible for the adequacy, stability and safety of all Site operations, of all methods of construction and of all the Works during both the Design-Build Period and the Operation Service Period.

The Contractor shall, whenever required by the Employer's Representative, submit details of the arrangements and methods which the Contractor proposes to adopt for the execution of the Works. No significant alteration to these arrangements and methods shall be made without this having previously been notified to the Employer's Representative.

The Contractor shall attend all meetings as reasonably required by the Employer or the Employer's Representative.

The Contractor shall strictly comply with the relevant conditions of the Environment Clearance (EC) granted by State Level Environment Impact Assessment Authority (SEIAA) . In case of non compliance a requisite amount will be deducted as penalty by the Engineer from any outstanding payment of the Contractor. Any action/penalty by state Environmental authorities including –State Pollution Control Board, will be sole responsibility of the Contractor and they shall bear and take appropriate remedial actions.

The Contractor shall promptly notify the Employer and the Engineer of any error, omission, fault or any other defect in the design of or specifications for the Works which he discovers when reviewing the Contract documents or in the process of execution of Works.

## **8.2 Site Operations and Methods of Construction**

The Contractor shall take full responsibility for the adequacy, stability and safety of all Site operations and methods of construction for the Works provided that the Contractor shall not be responsible (except as stated hereunder or as may otherwise be agreed) for design or specification of permanent Works, or for the design or specification of any Temporary Works not prepared by the Contractor. Where the Contract expressly provides that part of the permanent Works shall be designed by the Contractor, he shall be fully responsible for that part of such Works, notwithstanding any approval by the Engineer. The Contractor shall be responsible for construction of any item, material or equipment whether or not designed by the Contractor.

## **8.3 Sufficiency of the Contract Price**

The Contractor shall be deemed to:

- a) have satisfied himself as to the correctness and sufficiency of the Contract Price; and
- b) have based the Contract Price on the data, interpretations, necessary information, inspections, examinations and satisfaction as to all relevant matters referred to in Sub-Clause 11.1 and 11.2, and any further data relevant to the Contractor's design.

The Contract Price covers all the Contractor's obligations under the Contract (including those under Provisional Sums, if any) and all things necessary for the proper design, execution and completion of the Works, the remedying of any defects and the provision of the Operation Service.



## **9.1 Contract Agreement**

The Contractor shall, enter into and execute the Contract Agreement with the Employer in the form annexed to these conditions with such modifications as may be necessary.

### **10.1 Performance Security**

The Contractor shall provide Performance Security for due and faithful performance of the Contract to the Employer within **15** days after the receipt of the Letter of Award. The performance security shall be in the form of an unconditional bank guarantee issued by any Nationalized/ Scheduled Bank located in India, for 10%(Ten percent ) of the Contract Price and in the form provided in Vol-I. The cost of complying with the requirements of this Clause shall be borne by the Contractor. When providing such security to the Employer, the Contractor shall notify the Engineer of so doing.

### **10.2 Period of Validity of Performance Security**

The Performance Security shall be valid until the Contractor has executed and completed the Works and remedied any and all defects therein in accordance with the Contract. The Performance Security shall be returned to the Contractor after satisfactorily Completion of Operation and Maintenance Period

### **10.3 Claims under Performance Security**

Prior to making a claim for encashment of Bank Guarantee provided by the Contractor as the Performance Security the Employer will, notify the Contractor stating the nature of the default in respect of which the claim is to be made. Encashment of the bank guarantee shall not be questioned or contested either by the Contractor or by the issuing Institution (Bank) on the ground of dispute if any.

### **11.1 Inspection of Site**

The Employer shall have made available to the Contractor, before the submission by the Contractor of the Tender, such data on hydrological and sub-surface conditions as have been obtained by or on behalf of the Employer from investigations undertaken relevant to the Works but the Contractor shall be responsible for collection of any additional data, for carrying out any additional surveys and tests, and for his own interpretation thereof.

The Contractor shall be deemed to have inspected and examined the Site and its surroundings and information available in connection therewith and to have satisfied himself so far as is practicable before submitting his Tender, as to:

- (a) the form and nature thereof, including the sub-surface conditions,
- (b) the hydrological and climatic conditions,
- (c) the extent and nature of work and materials necessary for the execution and completion of the Works and the remedying of any defects therein, and
- (d) the means of access to the Site and the accommodation he may require and, in general, shall be deemed to have obtained all necessary information, subject as

above mentioned, as to risks, contingencies and all other circumstances which may influence or affect his Tender.

### **11.2 Access to Data**

Data made available by the Employer in accordance with Sub-Clause 11.1 shall be deemed to include data that may be listed in Special Conditions of Contract that shall be open for inspection at the specified location.

### **12.1 Sufficiency of Tender**

The Contractor shall be deemed to have based his Tender on the data made available by the Employer and on his own inspection and examination, all as aforementioned.

The Contractor shall be deemed to have satisfied himself as to the correctness and sufficiency of the Tender and of the rates and prices stated in the Bill of Quantities, all of which shall, except insofar as it is otherwise provided in the Contract, cover all his obligations under the Contract (including those in respect of the supply of goods, materials, Plant or services or of contingencies) and all matters and things necessary for the proper execution and completion of the Works and the remedying of any defects therein.

### **12.2 Adverse Physical Obstructions or Conditions.**

If, however, during the execution of the Works the Contractor encounters physical obstructions or physical conditions, other than climatic conditions on the Site, which obstructions or conditions, were in his opinion, not foreseeable by an experienced Contractor, the Contractor shall forthwith give notice thereof to the Engineer, with a copy to the Employer. On receipt of such notice, the Engineer shall, if in his opinion such obstructions or conditions could not have been reasonably foreseen by an experienced Contractor if so requested by the Contractor, after due consultation with the Employer and the Contractor determine any extension of time to which the Contractor is entitled under Sub-Clauses 44.1 to 44.3, and shall notify the Contractor accordingly, with a copy to the Employer.

### **13.1 Work to be in Accordance With Contract**

The Contractor shall execute and complete the Works and remedy any defects therein in strict accordance with the Contract to the satisfaction of the Engineer. The Contractor shall comply with and adhere strictly to the Engineer's instructions on any matter, whether mentioned in the Contract, or not, touching or concerning the Works. The Contractor shall take instructions only from the Engineer or, subject to the provisions of Sub-Clause 2.2 to 2.6, from the Engineer's Representative.

### **14.1 Programme to be submitted**

The Contractor shall submit a detailed time programme to the Employer's Representative within 14 days after receiving the Notice under Sub-Clause 41.1 [Commencement of Works]. The Contractor shall also submit a revised programme whenever the previous programme is inconsistent with actual progress or with the Contractor's obligations. Each programme shall include:

- a) the order in which the Contractor intends to carry out the Works, including the anticipated timing of each stage of design, Contractor's Documents, procurement, manufacture, inspection, delivery to Site, construction, erection, testing, commissioning and trial operation;
- b) the period of Operation Service if any;
- c) the periods for reviews under Sub-Clause 6.2 [Contractor's Documents] and for any other submissions, including the supply of samples in accordance with Sub-Clause 36.1 and 36.2 [Samples], approvals and consents specified in the Employer's Requirements;
- d) the sequence and timing of inspections and tests specified in the Contract, and
- e) a supporting report which includes:
  - i. a general description of the methods which the Contractor intends to adopt for both the Design-Build and the Operation Service if any;
  - ii. details showing the Contractor's reasonable estimate of the number of each class of Contractor's Personnel and of each type of Contractor's Equipment, required on the Site for each major stage; and
  - iii. the Contractor's proposed manning schedule for the Operation Service.

Unless the Employer's Representative, within 14 days after receiving a programme, gives Notice to the Contractor stating the extent to which it does not comply with the Contract, the Contractor shall proceed in accordance with the programme, subject to his other obligations under the Contract. The Employer's Personnel shall be entitled to rely upon the programme when planning their activities.

#### **14.2 Revised Programme**

If, at any time, the Employer's Representative gives Notice to the Contractor that a programme fails (to the extent stated) under the preceding Sub-Clause 14.1 to comply with the Contract or to be consistent with actual progress and the Contractor's stated intentions, the Contractor shall submit, within 14 days, a revised programme to the Employer's Representative in accordance with this Sub-Clause showing the modifications to such programme necessary to ensure completion of the Works within the Time for Completion.

#### **14.3 Cash Flow Estimate to be submitted**

The Contractor shall, within 14 days after the date of the Letter of Award, provide to the Engineer for his information a detailed cash flow estimate, in quarterly periods, of all payments to which the Contractor will be entitled under the Contract and the Contractor shall subsequently supply revised cash flow estimates at quarterly intervals, if required to do so by the Engineer.

#### **14.4 Contractor Not Relieved of Duties or Responsibilities**

The submission to and consent by the Engineer of such programmes or the provision of such general descriptions or cash flow estimates shall not relieve the Contractor of any of his duties or responsibilities under the Contract.

#### **14.5 Reports to be submitted**

The Contractor shall maintain a daily log of the labour, equipment and materials supplied to and used at the site, and shall prepare monthly progress reports in such form and detail as acceptable to the Engineer.

#### **15.1 Contractor's Superintendence**

The Contractor shall provide all necessary superintendence during the execution of the Works and as long thereafter as the Engineer may consider necessary for the proper fulfilling of the Contractor's obligations under the Contract. The Contractor, or a competent and authorized representative approved of by the Engineer, which approval may at any time be withdrawn, shall give his whole time to the superintendence of the Works. Such authorized representative of the Contractor shall receive, on behalf of the Contractor, instructions from the Engineer or, subject to the provisions of Sub-Clause 2.1 to 2.6, the Engineer's Representative.

If approval of the representative is withdrawn by the Engineer, the Contractor shall, as soon as is practicable, having regard to the requirement of replacing him as hereinafter mentioned, after receiving notice of such withdrawal, remove his representative from the Works and shall not thereafter employ him again on the Works in any capacity and shall replace him by another representative approved by the Engineer.

#### **16.1 Contractor's Employees**

The Contractor shall provide on the Site in connection with execution and completion of the Works and the remedying of any defects therein:

- (a) only such technical assistants as are skilled and experienced in their respective callings and such foremen and leading hands as are competent to give proper superintendence of the Works; and
- (b) such skilled, semiskilled and unskilled labour as are necessary for the proper and timely fulfilling of the Contractor's obligations under the Contract.

#### **16.2 Engineer at Liberty to Object**

The Engineer shall be at liberty to object to and require the Contractor to remove forthwith from the Works any person provided by the Contractor who, in the opinion of the Engineer, misconducts himself, or is incompetent or negligent in the performance of his duties, or whose presence on Site is otherwise considered by the Engineer to be undesirable, and such person shall not be again allowed upon the Works without the consent of the Engineer. Any person so removed from the Works shall be replaced by competent person as approved by the Engineer.

### **16.3 Language Ability of Contractor's Staff.**

It is expected that the Contractor and his representative shall have adequate knowledge of English and local language so as to ensure proper transmission of instructions and information.

The Contractor is encouraged, to the extent practicable and reasonable having regard to the nature of the work, to employ staff and labour from within the State where the work is executed. . A reasonable proportion of the Contractor's superintending staff shall have working knowledge of local language.

### **17.1 Setting-out**

The Contractor shall be responsible for:

- (a) the accurate setting-out of the Works in relation to original points, lines and levels of reference given by the Engineer in writing;
- (b) the correctness, subject as above mentioned, of the position, levels, dimensions and alignment of all parts of the Works; and
- (c) the provision of all necessary instruments, appliances and labour in connection with the foregoing responsibilities.

If, at any time during the execution of the Works, any error appears in the position, levels, dimensions or alignment of any part of the Works, the Contractor, on being required so to do by the Engineer, shall, at his own cost, rectify such error to the satisfaction of the Engineer,. The checking of any setting-out or of any line or level by the Engineer shall not in any way relieve the Contractor of his responsibility for the accuracy thereof and Contractor shall carefully protect and preserve all bench- marks, sight-rails, pegs and other things used in setting-out the Works. The Contractor, shall give to the Engineer not less than 48 hours notice of his intention to set out or give levels for any part of the Work so that timely arrangement may be made for checking and issuing instructions.

### **18.1 Boreholes and Exploratory Excavation**

If at any time during the execution of the Works, the Engineer requires the Contractor to make boreholes or to carry out exploratory excavations the same shall be carried out by the Contractor at no additional cost completely as per Engineers instruction.

### **19.1 Safety, Security and Protection of the Environment**

The Contractor shall, throughout the execution and completion of the Works and remedying of any defects therein:

- (a) have full regard for the safety of all persons entitled to be upon the Site and keep the Site (so far as the same is under his control) and the Works (so far as the same are not completed or occupied by the Employer) in an orderly state appropriate to the avoidance of danger to such persons;
- (b) provide and maintain at his own cost all lights, guards, fencing, warning signs, watching, when and where necessary or required by the Engineer or by any duly constituted authority, for the protection of the Works or for the safety and convenience of the public or others;
- (c) take all reasonable steps to protect the environment on and off the Site and to avoid damage or nuisance to persons or to property of the public or others resulting from pollution, noise or other causes arising as a consequence of his methods of operation; and
- (d) screen all lights provided by the Contractor so as to not to interfere with any signal light on the railways or with any traffic or signal lights of any local or other authority.
- (e) The Contractor shall not set fire to any standing jungle, trees, bush wood or grass without a written permit from the Engineer.

When such permission is given, and also in all cases when destroying, cut or dug up trees, grass, etc. by fire the Contractor shall take necessary measures to prevent such fire spreading to or otherwise damaging surrounding property.

- (f) Compensation for all damages done intentionally or unintentionally by Contractor's labours, whether in or beyond the limits of including any damage caused by the spreading of fire mentioned in (e) above shall be estimated by the Engineer, subject to the decision of the Engineer, on appeal, shall be final and the Contractor shall be bound to pay the amount of the assessed compensation on demand failing which the same will be recovered from the Contractor shall be deducted by the Engineer from any sums that may be due to or become due from Employer to the Contractor under this contract or otherwise.

The Contractor shall bear the expenses of defending any action or other legal proceedings that may be brought by any person for injury sustained by him owing to neglect of precautions to prevent the spread of fire and he shall also pay any damage and cost that may be awarded by the court in consequence.

## **19.2 Employer's Responsibilities**

If under Sub-Clauses 31.1 and 31.2 the Employer shall carry out work on the site with his own workmen he shall, in respect of such work:

- (a) have full regards to the safety of all persons entitled to be upon the Site, and
- (b) Keep the site in an orderly state appropriate to the avoidance of danger to such persons.

If under Sub-Clauses 31.1 and 31.2 the Employer shall employ other Contractors on the site he shall require them to have the same regard for safety and avoidance of danger.

### **20.1 Care of Works**

The Contractor shall take full responsibility for the care of the Works and materials and Plant for incorporation therein from the Commencement Date until the date of issue of the Taking-Over Certificate for the whole of the Works, when the responsibility for the said care shall pass to the Employer. Provided that:

- (a) if the Engineer issues a Taking-Over Certificate for any Section or part of the Permanent Works the Contractor shall cease to be liable for the care of that Section or part from the date of issue of the Taking -Over Certificate, when the responsibility for the care of that Section or part shall pass to the Employer, and
- (b) the Contractor shall take full responsibility for the care of any outstanding Works and materials and Plant for incorporation therein which he undertakes to finish during the Defects Liability Period until such outstanding Works have been completed pursuant to Sub-Clauses 49.1 to 49.5.

### **20.2 Responsibility to Rectify Loss or Damage**

If any loss or damage happens to the Works, or any part thereof, or materials or Plant for incorporation therein, during the period for which the Contractor is responsible for the care thereof, from any cause whatsoever other than the risks defined in Sub-Clause 20.4, the Contractor shall, without any extra cost to the Employer, rectify such loss or damage so that the Permanent Works conform in every respect with the provisions of the Contract to the satisfaction of the Engineer. The Contractor shall also be liable for any loss or damage to the Works occasioned by him in the course of any operations carried out by him for the purpose of complying with his obligations under Sub-Clauses 49.1 to 49.5 and 50.1.

### **20.3 Loss or Damage Due to Employer's Risk**

In the event of any such loss or damage happening from any of the risks defined in Sub-Clause 20.4 or in combination with other risks, the Contractor shall, if and to the extent required by the Engineer, rectify the loss or damage and the Engineer shall determine an addition to the Contract Price in accordance with Clauses 51 and shall notify the Contractor accordingly, with a copy to the Employer. In the case of a combination of risks causing loss or damage any such determination shall take into account the proportional responsibility of the Contractor and the Employer.

### **20.4 Employer's Risks**

The Employer's risks are:

- (a) insofar as they directly affect the execution of Works in the country where the Permanent Works are executed:
  - (i) war and hostilities (whether war be declared or not), invasion, act of foreign enemies;

- (ii) rebellion, revolution, insurrection, or military or usurped power, or civil war;
- (iii) ionising radiation, or contamination by radioactivity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
- (iv) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds;
- (v) riot, commotion or disorder, unless solely restricted to the employees of the Contractor or of his Subcontractors and arising from the conduct of the Works;
- (b) loss or damage due to the use or occupation by the Employer of any Section or part of the Permanent Works, except as may be provided for in the Contract;
- (c) loss or damage to the extent that it is due to the design of the Works, other than any part of the design provided by the Contractor or for which the Contractor is responsible; and
- (d) any operation of the forces of nature (insofar as it occurs on the site) which an experienced Contractor:
  - (i) could not have reasonably foreseen, or
  - (ii) could reasonably have foreseen but against which he could not reasonably have taken at least one of the following measures:
    - (a) prevent loss or damage to physical property from occurring by taking appropriate measures, or
    - (b) Insure against.

## **INSURANCE**

### **21.1 Insurance of Works and Contractor's Equipment**

The Contractor shall, without limiting his or the Employer's obligation and responsibilities under Sub-Clauses 19.1, 19.2 and 20.1 to 20.4, insure:

- (a) the Works, together with materials and Plant for incorporation therein, to the full replacement cost;
- (b) an additional sum of 15 percent of such replacement cost to cover any additional costs of and incidental to rectification of loss or damage including professional fees and the cost of demolishing and removing any part of the Works and of removing debris of whatsoever nature; and
- (c) the Contractor's Equipment and other things brought onto the Site by the Contractor, for a sum sufficient to provide for their replacement at the site.

The insurance shall be issued by an insurance company which has been determined by the Contractor to be acceptable to the Employer.



## 21.2 Scope of Cover

The insurance in paragraphs (a) and (b) of Sub-Clause 21.1 shall be in the joint names of the Contractor and the Employer and shall cover:

- (a) the Employer and the Contractor against all loss or damage from whatsoever cause arising, other than as provided in Sub-Clause 21.4, from the start of work at the Site until completion of Operation and Maintenance period
- (b) the Contractor for his liability:
  - (i) for loss or damages occasioned by the Contractor in the course of any operations carried out by him for the purpose of complying with his obligations under Sub-Clause 84.1.
- (c) It shall be the responsibility of the Contractor to notify the Insurance Company of any change in the nature and extent of the Works and to ensure the adequacy of the Insurance cover at all times during the period of contract.
- (d) It shall be responsibility of the Contractor to prepare and make claims in consultation with the Employer and submit claim documents complete in all respect to the insurance company and make required follow up till the claim is fully settled and realized.

## 21.3 Responsibility for Amounts Not Recovered

Any amounts not insured or not recovered from the insurers shall be borne by the Employer or the Contractor in accordance with their responsibility under Sub-Clauses 20.1 to 20.4.

## 21.4 Exclusions

There shall be no obligation for the insurance in Sub-Clause 21.1 to include loss or damage caused by the Employer's risks listed under Sub-Clause 20.4 (a) (i) to (v).

## 21.5 War Risk Insurance

If the Contractor receives instructions from the Employer to insure against War Risk, such insurance if normally available shall be effected at the cost of the Employer, with an Insurance Company acceptable to the Employer and shall be in the joint names of the Contractor and the Employer.

## 22.1 Damage to Persons and Property

The Contractor shall, except if and so far as the Contract provides otherwise, indemnify the Employer against all losses and claims in respect of:

- (a) death of or injury to any person, or
- (b) loss of or damage to any property (other than the Works),

Which may arise out of or in consequence of the execution and completion of the Works and the remedying of any defects therein, and against all claims, proceedings,

damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto, subject to the exceptions defined in Sub- Clause 22.2.

## **22.2 Exceptions**

The “exceptions” referred to in sub-clause 22.1 are:

- a. the permanent use or occupation of land by the works, or any part thereof,
- b. the right of the Employer to execute the Works, or any part thereof, on, over, under, in or through any land
- c. damage to property which is the unavoidable result of the execution and completion of the Works or the remedying of any defects therein, in accordance with the Contract
- d. death of or injury to persons or loss of or damage to property resulting from any act or neglect of the Employer, his agents, servants or other Contractors not being employed by the Contractor, or in respect of any claims, proceedings, damages, costs, charges and expenses in respect thereof or in relation thereto or, where the injury or damage was contributed to by the Contractor, his servants or agents, such part of the said injury or damage as may be just and equitable having regard to the extent of the responsibility of the Employer, his servants or agents or other Contractors for the injury or damage.

## **22.3 Indemnity by Employer (Clause Deleted)**

## **22.4 Indemnity to Employer's Officials and Employer Representative**

The Contractor shall indemnify and hold harmless the Employer, the Employer's Personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of:

- (a) Bodily injury or accidental death, of any person whatsoever arising out of or in the course of or by reason of the design, execution and completion of the Works and the remedying of any defects, unless attributable to any negligence, wilful act or breach of the Contract by the Employer, the Employer's Personnel, or any of their respective agents, and
- (b) Damage to or loss of any property, real or personal (other than the Works), to the extent that such damage or loss:
  - a. Arises out of or in the course of or by reason of the design, execution and completion of the Works by the Contractor and the remedying of any defects, and
  - b. Is not attributable to any negligence, wilful act or breach of the Contract by the Employer, the Employer's Personnel, their respective agents, or anymore directly or indirectly employed by any of them.

## **22.5 Liability for breach of professional duty**

- i. The Contractor shall insure the legal liability of the Contractor arising out of the negligent fault, defect, error or omission of the Contractor or any person for whom the Contractor is responsible in the carrying out their professional duties in an amount not less than that stated in the Contract .

### 23.1 Third Party Insurance (including Employer's Property)

The Contractor shall, without limiting his or the Employer's obligations and responsibilities under Sub-Clause 22.1, in the joint names of the Contractor and the Employer, against liabilities for death of or injury to any person (other than as provided in Sub-Clauses 24.1 and 24.2) or loss of or damage to any property (other than the Works) arising out of the performance of the Contract, other than the exceptions defined in paragraphs (a), (b) and (c) of Sub- Clause 22.2

### 23.2 Amount of deductibles for Insurance

1	<b>Maximum amount of deductibles for insurance</b>	<p>Rs 1,00,000/- OR</p> <p>The Contractor shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Start Date to the end of the Maintenance Period</p> <p>The minimum insurance amounts and deductibles shall be:</p> <p>(a) for loss or damage to the Works, Plant and Materials: Full Replacement Cost</p> <p>(b) for loss or damage to Equipment: Full Replacement Cost / Repair Cost</p> <p>(c) for loss or damage to property (except the Works, Plant, Materials, and Equipment) in connection with Contract: Full Replacement Cost / Repair Cost</p> <p>(d) for personal injury or death:</p> <p>(i) of the Contractor's employees: Rs. 10,00,000/- per occurrence and no. of occurrences unlimited</p> <p>(ii) of other people: Rs. 10,00,000/- per occurrence and no. of occurrences unlimited</p>
2	<b>Minimum amount of third party insurance</b>	<p>Rs. 1,00,000/- per occurrence with number of occurrences unlimited. The insurance should be valid during currency of the contract.</p>

### **23.3 Cross Liabilities**

The insurance policy shall include a cross liability clause such that the insurance shall apply to the Contractor and to the Employer as separate insured.

### **24.1 Accident or Injury to Workmen**

The Employer shall not be liable for or in respect of any damages or compensation payable to any workman or other than death or injury resulting from any act or default of the Employer, his agents or servants. The Contractor shall indemnify and keep indemnified the Employer against all such damages and compensation, other than those for which the Employer is liable as aforesaid, and against all claims, proceedings, damages, costs, charges, and expenses whatsoever in respect thereof or in relation thereto.

### **24.2 Insurance against Accident to Workmen**

The Contractor shall insure against such liability and shall continue such insurance during the whole of the time that any persons are employed by him on the Works. Provided that, in respect of any persons employed by any Subcontractor, the Contractor's obligations to insure as aforesaid under this Sub- Clause shall be satisfied if the Subcontractor shall have insured against the liability in respect of such persons in such manner that the Employer is indemnified under the policy, but the Contractor shall require such Subcontractor to produce to the Employer, when required, such policy of insurance and the receipt for the payment of the current premium.

### **25.1 Evidence and Terms of Insurance**

The Contractor shall provide evidence to the Employer prior to the start of Work at the Site that the insurance required under the Contract have been affected and shall, within 30 days of the Commencement Date, provide the insurance policies to the Employer. When providing such evidence and such policies to the Employer, the Contractor shall notify the Engineer of so doing. Such insurance policies shall be consistent with the general terms agreed prior to the issue of the Letter of Award. The Contractor shall effect all insurance for which he is responsible with insurers and in terms approved by the Employer.

### **25.2 Adequacy of Insurance**

The Contractor shall notify the insurers of changes in the nature, extent or programme for the execution of the Works and ensure the adequacy of the insurances at all times in accordance with the terms of the Contract and shall, when required, produce to the Employer the insurance policies in force and the receipts for payment of the current premiums.

### **25.3 Remedy on Contractor's Failure to Insure**

If the Contractor fails to effect and keep in force any of the insurances required under the Contract, or fails to provide the policies to Employer within the period required by Sub- Clause 25.1, then and in any such case the Employer may effect and keep in force any such insurances and pay any premium as may be necessary for that purpose and from time to time deduct the amount so paid from any monies due or to become due to the Contractor, or recover the same as a debt due from the Contractor.

### **25.4 Compliance with Policy Conditions**

In the event that the Contractor or the Employer fails to comply with conditions imposed by the insurance policies effected pursuant to the Contract, each shall indemnify the other against all losses and claims arising from such failure.

### **25.5 Source of Insurance**

The Contractor shall be entitled to place all insurances relating to the Contract (including but not limited to insurances referred to in clauses 21, 23 and 24) with insurers determined by Contractor and acceptable to the Employer from any eligible source country, listed in section 10 of the bidding documents.

## **CONTRACTOR'S OBLIGATIONS**

### **26.1 Compliance with Statutes, Regulations**

The Contractor shall conform and comply in all respects, including by the giving of all notices and the paying of all fees, with the provisions of:

- (a) any National or State Statute, Ordinance, or other Law, or any regulation, or by law of any local or other duly constituted authority in relation to the execution and completion of the Works and the remedying of any defects therein, and

(b) the rules and regulations of all public bodies and companies whose property or rights are affected or may be affected in any way by the execution of Works, and the Contractor shall keep the Employer indemnified against all penalties and liability of every kind for breach of any such provision. Provided always that the Employer shall be responsible for obtaining any planning, zoning or other similar permission required for the Works to proceed.

### **27.1 Fossils**

All fossils, coins, articles of value or antiquity and structures and other remains or things of geological or archaeological interest discovered on the Site shall, as between the Employer and the Contractor, be the absolute property of the Employer and shall be handed over to the Employer or his authorised representative. The Contractor shall take reasonable precautions to prevent his workmen or any other persons from removing or damaging any such article or thing and shall, immediately upon discovery thereof and before removal, acquaint the Engineer of such discovery and carry out the Engineer's instructions for dealing with the same. If, by reason of such instructions, the Contractor suffers delay and/or incurs costs then the Engineer shall, after due consultation with the Employer and the Contractor, determine any extension of time to which the Contractor is entitled under Sub-Clauses 44.1 to 44.3, and shall notify the Contractor accordingly, with a copy to the Employer. Any price adjustment which may be applicable for such time extension granted by the Engineer will be determined in accordance with Sub-Clauses 70.1 to 70.8.

### **28.1 Patent Rights**

The Contractor shall save and hold harmless and indemnify the Employer from and against all claims and proceedings for or on account of infringement of any patent right, design trademark or name or other protected rights in respect of any Contractor's Equipment, materials or Plant used for or in connection with or for incorporation in the Works from and against all damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto, except where such infringement results from compliance with the design or Specification provided by the Engineer.

### **28.2 Royalties**

Except where otherwise stated, the Contractor shall pay all royalties, rent and other payments or compensation to the Government, if any, for getting stone, sand, gravel, clay or other materials required for the Works. ***Contractor shall produce proof of payment to the Engineer before submission of final bill.***

### **29.1 Interference with Traffic and Adjoining Properties**

All operations necessary for execution and completion of the Works and the remedying of any defects therein shall, so far as compliance with the requirements of the Contract permits, be carried on so as not to interfere unnecessarily or improperly with:

(a) the convenience of the public, or

- (b) the access to, use and occupation of public or private roads, railways, footpaths and any other right of way to or of properties whether in the possession of the Employer or of any other person.

The Contractor shall save harmless and indemnify the Employer in respect of all claims, proceedings, damages, costs, charges and expenses whatsoever arising out of, or in relation to, any such matters insofar as the Contractor is responsible therefore.

### **30.1 Avoidance of Damage to Roads**

The Contractor shall use every reasonable means to prevent any of the roads or bridges communicating with or on the routes to the Site from being damaged or injured by any traffic of the Contractor or any of his Subcontractors and, in particular, shall select routes, choose and use vehicles and restrict and distribute loads so that any such extraordinary traffic as will inevitably arise from the moving of materials, Plant, Contractor's Equipment or temporary Works from and to the Site shall be limited, as far as reasonably possible, and so that no unnecessary damage or injury may be occasioned to such roads and bridges.

### **30.2 Transport of Contractor's Equipment or Temporary Works**

Save insofar as the Contract otherwise provides, the Contractor shall be responsible for and shall pay the cost of strengthening any bridges or altering or improving any road communicating with or on the routes to the Site to facilitate the movement of Contractor's Equipment or Temporary Works and the Contractor shall indemnify and keep indemnified the Employer against all claims for damage to any such road or bridge caused by such movement, including such claims as may be made directly against the Employer, and shall negotiate and pay all claims arising solely out of such damage.

If it is found necessary for the Contractor to move one or more loads of heavy construction equipment, materials or pre-constructed units or parts of units of work over roads, highways, bridges on which such oversized and overweight items are not normally allowed to be moved, the Contractor shall obtain prior permission from the concerned authorities. Payments for complying with the requirements, if any, for protection of or strengthening of the roads, highways or bridges shall be made by the Contractor and such expenses shall be deemed to be included in his Contract Price.

### **30.3 Transport of Materials or Plant**

If, notwithstanding Sub-Clause 30.1, any damage occurs to any bridge or road communication with or on the routes to the Site arising from the transport of materials or Plant, the Contractor shall notify the Engineer with a copy to Employer as soon as he becomes aware of such damage or as soon as he receives any claim from the authority entitled to make such claim. Where under any law or regulation the haulier of such materials or Plant is required to indemnify the road authority against damage, the Employer shall not be liable for any costs, charges or expenses in respect thereof or in relation thereto.

### **30.4 Waterborne Traffic**

Where the nature of the Works is such as to require the use by the Contractor of waterborne transport the foregoing provisions of the Clause shall be construed as though "road" included a lock, dock, sea wall or other structure related to a waterway and "vehicle" included craft, and shall give effect accordingly.

### **31.1 Opportunities for Other Contractors**

The Contractor shall, in accordance with the requirements of the Engineer, afford all reasonable opportunities for carrying out their work to:

- (a) any other Contractors employed by the Employer and their workmen,
- (b) the workmen of the Employer, and
- (c) the workmen of any duly constituted authorities who may be employed in the execution on or near the Site of any work not included in the Contract or of any contract which the Employer may enter into in connection with or ancillary to the Works.

### **31.2 Facilities for Other Contractors**

If, however, pursuant to Sub-Clause 31.1 the Contractor shall, on the written request of the Engineer:

- (a) make available to any such other Contractor, or to the Employer or any such authority, any roads or ways for the maintenance of which the Contractor is responsible, or
- (b) permit the use, by any such, or Temporary Works or Contractor's Equipment on the Site, or
- (c) provide any other service of whatsoever nature for any such Works

the Engineer shall determine an addition to the Contract Price in accordance with Clause 52 .1and shall notify the Contractor accordingly, with a copy to the Employer.

### **32.1 Contractor to Keep Site Clear**

During the execution of the Works the Contractor shall keep the Site free from all unnecessary obstruction and shall store or dispose of any Contractor's Equipment and surplus materials and clear away and remove from the Site any wreckage, rubbish or Temporary Works no longer required.

### **33.1 Clearance of Site on Completion**

Before the issue of any Taking-Over Certificate the Contractor shall clear away and remove from that part of the Site to which such Taking-Over Certificate relates all Contractor's Equipment, surplus material, rubbish and Temporary Works of every kind, and leave such part of the Site and Works clean and in a workmanlike condition to the satisfaction of the Engineer. Provided that the Contractor shall be entitled to retain on Site, until the end of the Defects Liability Period, such materials, Contractor's



Equipment and Temporary Works as are required by him for the purpose of fulfilling his obligations during the Defects Liability Period.

### **33.2 Epidemics**

In the event of any outbreak of illness of an epidemic nature, the Contractor shall comply with such regulations and carry out such orders as are issued by the Government or Local Authority.

## **LABOUR**

### **34.1 Engagement of Staff and Labour**

The Contractor shall make his own arrangements for the engagement of all staff and labour, local or other, and for their payment, housing, feeding, water and transport.

### **34.2 Compliance with Labour Regulations**

The Contractor and his Sub-Contractors shall abide by the local laws and regulations governing labour as detailed in Annexure A and Annexure A-1.

### **34.3 Alcoholic Liquor or Drugs**

The Contractor shall not, otherwise than in accordance with the Statutes, Ordinances and Government Regulations or Orders for the time being in force, import, sell, give, barter or otherwise dispose of any alcoholic liquor or drugs, or permit or suffer any such importation, sale, gift, barter or disposal by his Subcontractors, agents, staff or labour

### **34.4 Arms and Ammunition**

The Contractor shall not give, barter or otherwise dispose of to any person or persons, any arms or ammunition of any kind or permit or suffer the same as aforesaid

### **34.5 Festivals and Religious Customs**

The Contractor shall in all dealings with his staff and labour have due regard to all recognized festivals, days of rest and religious or other customs

### **35.1 Returns of Labour and Contractor's Equipment**

The Contractor shall deliver to the Engineer a return in detail, in such form and at such intervals as the Engineer may prescribe, showing the staff and the numbers of the several classes of labour from time to time employed by the Contractor on the Site and such information in respect of Contractor's Equipment as the Engineer may require.

## **MATERIALS, PLANT AND WORKMANSHIP**

### **36.1 Quality of Materials, Plant and Workmanship**

All materials, Plant and workmanship shall be:

- (a) of the respective kinds described in the Contract and in accordance with the Engineer's instructions, and

- (b) subjected from time to time to such tests as the Engineer may require at the place of manufacture, fabrication or preparation, or on the Site or at such other place or places as may be specified in the Contract, or at all or any of such places.

The Contractor shall provide such assistance, labour, electricity, fuels, stores, apparatus and instruments as are normally required for examining, measuring and testing any materials or Plant and shall supply samples of materials, before incorporation in the Works, for testing as may be selected and required by the Engineer.

The Contractor is encouraged, to the extent practicable and reasonable, to use plant and materials from sources within India.

### **36.2 Cost of Samples**

All samples shall be supplied by the Contractor at his own cost if the supply thereof is clearly intended by or provided for in the Contract.

### **36.3 Cost of Tests**

The cost of making any test shall be borne by the Contractor if such test is:

- (a) clearly intended by or provided for in the Contract, or
- (b) particularised in the Contract (in cases only of a test under load or of a test to ascertain whether the design of any finished or partially finished work is appropriate for the purposes which it was intended to fulfil) in sufficient detail to enable the Contractor to price or allow for the same in his Tender.

### **36.4 Cost of Tests Not Provided For**

If any test required by the Engineer which is:

- (a) not so intended by or provided for, or
- (b) (in the cases above mentioned) not so particularised, or
- (c) (though so intended or provided for) required by the Engineer to be carried out at any place other than the Site or the place of manufacture, fabrication or preparation of the materials or Plant tested,

shows the materials, Plant or workmanship not to be in accordance with the provisions of the Contract to the satisfaction of the Engineer, then the cost of such test shall be borne by the Contractor.

Provided that if, as a result of the Contractor's method of working not being in accordance with the Contract, the Engineer has reasonable grounds to suspect that any materials, Plant or workmanship used in any part or parts of the Works may not be in accordance with the provisions of the Contract, he may require the Contractor to carry out any test, which in the opinion of the Engineer is necessary to verify the quality of such materials, Plant or workmanship in such part or parts of the Works and the cost of any test so required shall be borne by the Contractor regardless of whether or not such test shows the materials, Plant or Workmanship to be in accordance with the

provisions of the Contract and to the satisfaction of the Engineer and the Contractor shall not be allowed to claim any extension of time as a result of having to carry out such tests.

Contractor shall submit Quality Assurance Plan as mentioned in Section 3.

### **37.1 Inspection of Operations**

The Engineer, and any person authorized by him, shall at all reasonable times have access to the Site and to all workshops and places where materials or Plant are being manufactured, fabricated or prepared for the Works and the Contractor shall afford every facility for and every assistance in obtaining the right to such access.

### **37.2 Inspection and Testing**

The Engineer shall be entitled, during manufacture, fabrication or preparation to inspect and test the materials and Plant to be supplied under the Contract. If materials or Plant are being manufactured, fabricated or prepared in workshops or places other than those of the Contractor, the Contractor shall obtain permission for the Engineer to carry out such inspection and testing in those workshops or places. Such inspection or testing shall not release the Contractor from any obligation under the Contract.

### **37.3 Dates for Inspection and Testing**

The Contractor shall agree with the Engineer on the time and place for inspection or testing of any materials or Plant as provided in the Contract. The Engineer shall give the Contractor not less than 24 hours notice of his intention to carry out the inspection or to attend the tests. If the Engineer, or his duly authorised representative, does not attend on the date agreed, the Contractor may, unless otherwise instructed by the Engineer, proceed with the tests, which shall be deemed to have been made in the presence of the Engineer. The Contractor shall forthwith forward to the Engineer duly certified copies of the test readings. If the Engineer has not attended the tests, he shall accept the said readings as accurate.

### **37.4 Rejection**

If, at the time and place agreed in accordance with Sub-Clause 37.3, the materials or Plant are not ready for inspection or testing or if, as a result of the inspection or testing referred to in this Clause, the Engineer determines that the materials or Plant are defective or otherwise not in accordance with the Contract, he may reject the materials or Plant and shall notify the Contractor thereof immediately. The notice shall state the Engineer's objections with reasons. The Contractor shall then promptly make good the defect or ensure that rejected materials or Plant comply with the Contract. If the Engineer so requests, the tests of rejected materials or Plant shall be made or repeated under the same terms and conditions. All costs incurred by the Employer by the repetition of the tests shall, after due consultation with the Employer and the Contractor, be determined by the Engineer and shall be recoverable from the Contractor by the Employer and may be deducted from any monies due or to become due to the Contractor and the Engineer shall notify the Contractor accordingly, with a copy to the Employer.

### **37.5 Independent Inspection**

If the Engineer so desires, he may delegate inspection and testing of materials or Plant to an independent inspector. Any such delegation shall be effected in accordance with Sub-Clause 2.4 and for this purpose such independent inspector shall be considered as an assistant of the Engineer. Notice of such appointment (not being less than 14 days) shall be given by the Engineer to the Contractor.

### **37.6 Works to be open to inspection, Contractor or responsible agent to be present**

All works under or in course of execution or executed in pursuance of the contract shall at all times, be open to the inspection and supervision of the Engineer and his subordinates and the Contractor shall, at all times during the usual working hours, and at all other times at which reasonable notice of the intention of the Engineer or his subordinate to visit the works shall have been given to the Contractor, either himself be present to receive orders and instructions, or have a responsible agent duly accredited in writing present for the purpose. Orders given to the Contractor's duly authorised agent shall be considered to have the same force and effect as if they had been given to the Contractor himself.

### **37.7 Remedial Work**

At any time during the Contract Period, notwithstanding any previous test or certification, the Employer's Representative may instruct the Contractor to:

- a) repair, remove from the Site and replace, any Plant or Materials which is not in accordance with the Contract;
- b) remove and re-execute any other work which is not in accordance with the Contract; and
- c) execute any work which is urgently required for the safety of the Works or the provision of the Operation Service, whether because of an accident, unforeseeable event or otherwise.

The Contractor shall comply with the instruction within a reasonable time, which shall be the time (if any) specified in the instruction, or immediately if urgency is specified under sub-paragraph (c).

Except to the extent that the Contractor may be entitled to payment for the work required under sub-paragraph (c), the Contractor shall bear the cost of such remedial work. If the Contractor fails to comply with the instruction, the Employer shall be entitled to employ and pay other persons to carry out the work. Except to the extent that the Contractor would have been entitled to payment for the work, the Contractor shall, subject to Sub-Clause 53.1 to 53.5, pay to the Employer all costs arising from this failure.

### **38.1 Examination of Work Before Covering Up**

No part of the Works shall be covered up or put out of view without the approval of the Engineer and the Contractor shall afford full opportunity for the Engineer to examine and measure any such part of the Works which is about to be covered up or put out of view and to examine foundations before any part of the Works is placed thereon. The Contractor shall give notice to the Engineer whenever any such part of the Works or

foundations is or are ready or about to be ready for examination and the Engineer shall, without unreasonable delay, unless he considers it unnecessary and advises the Contractor accordingly, attend for the purpose of examining and measuring such part of the Works or of examining such foundations.

### **38.2 Uncovering and Making Openings**

If, for any reason whatsoever, the Contractor fails to comply with the provisions of Sub-Clause 38.1 before covering up the works, the Contractor shall uncover any part of the Works or make openings in or through the same as the Engineer may from time to time instruct and shall reinstate and make good such part. All costs shall be borne by the Contractor.

If following discovery of defective workmanship or materials in any part of the Works, the Engineer has reasonable grounds to suspect that further part or parts of the works may be similarly defective, the Contractor shall uncover such further part or parts of the Works or make further openings, in or through the same, as the Engineer may reasonably instruct, and the Contractor shall reinstate and make good such part or parts. The costs of all such works carried out by the Contractor under the provisions of this paragraph shall be borne by the Contractor and the Contractor shall not be entitled to claim nor shall the Engineer determine any extension of time as a result of carrying out such work

### **39.1 Removal of Improper Work, Materials or Plant**

The Engineer shall have authority to issue instructions from time to time, for:

- (a) the removal from the Site, within such time or times as may be specified in the instruction, of any materials or Plant which, in the opinion of the Engineer, are not in accordance with the Contract,
- (b) the substitution of proper and suitable materials or Plant, and
- (c) the removal and proper re-execution, notwithstanding any previous test thereof or interim payment therefor, of any work which, in respect of
  - (i) materials, Plant or workmanship, or
  - (ii) design by the Contractor or for which he is responsible,is not, in the opinion of the Engineer, in accordance with the Contract.

### **39.2 Default of Contractor in Compliance**

In case of default on the part of the Contractor in carrying out such instruction within the time specified therein or, if none, within a reasonable time, the Employer shall be entitled to employ and pay other agencies to carry out the same and all costs consequent thereon or incidental thereto shall, after due consultation with the Employer and the Contractor, be determined by the Engineer and shall be recoverable from the Contractor by the Employer, and may be deducted by the Employer from any monies due or to become due to the Contractor and the Engineer shall notify the Contractor accordingly, with a copy to the Employer.

### **39.3 Stores**

All stores of controlled materials such as cement, steel, etc. shall be properly secured and kept by the Contractor under lock and key and they will be accessible for inspection by the Engineer or his authorized representative.

In case the Contractor uses materials if supplied by Employer / Engineer in excess of what is required as per theoretical calculations without having an explanation therefore to the satisfaction of the Engineer or refuse to return in good condition, such materials issued in excess of the requirement so worked out for any reasons whatsoever, the Contractor shall be required to pay the cost of such extra materials at the penal rate which shall be at double the issue rate to be charged to the Contractor as per contract agreement.

## **SUSPENSION**

### **40.1 Suspension of Work**

The Contractor shall, on the instructions of the Engineer, suspend the Works or any part thereof for such time and in such manner as the Engineer may consider necessary and shall, during such suspension, properly protect and secure the Works or such part thereof so far as is necessary in the opinion of the Engineer.

Unless such suspension is:

- (a) otherwise provided for in the contract, or
- (b) necessary by reason of some default of or breach of Contract by the Contractor or for which he is responsible, or
- (c) necessary by reason of adverse and abnormal non working climatic weather conditions at the construction site , floods or
- (d) necessary for the proper execution of the Works or for the safety of the Works or any part thereof (save to the extent that such necessity arises from any act or default by the Engineer or the Employer or from any of the risks defined in Sub-Clause 20.4), Sub-Clause 40.2 shall apply.

### **40.2 Engineer's Determination Following Suspension**

Where, pursuant to Sub-Clause 40.1 this Sub-Clause applies the Engineer shall after due consultation with the Employer and the Contractor, determine any extension of time to which the Contractor is entitled under Sub-Clauses 44.1 to 44.3 and shall notify the Contractor accordingly, with a copy to the Employer. Any price adjustment which may be applicable for such time extension granted by the Engineer will be determined in accordance with Sub-Clauses 70.1 to 70.8.

### **40.3 Deleted**

## **COMMENCEMENT AND DELAYS**

#### **41.1 Commencement of Works**

The Contractor shall commence the Works as soon as is reasonably possible after the receipt by him of a notice to this effect by the Engineer. The Contractor shall proceed with the Works with due expedition and without delay, provided that:

- (a) the Engineer will, whenever possible, endeavour to issue the notice to proceed on the same day as the formal agreement is signed, subject to provision by the Contractor of a satisfactory Performance Security pursuant to Sub-Clauses 10.1 to 10.3 and proof of insurance pursuant to Sub-Clause 25.1; and
- (b) the Contractor will commence the Works not later than **15** days after issue by the Engineer of the notice to proceed.

#### **ACCESS TO SITE**

##### **42.1 Possession of Site and Access Thereto**

Save insofar as the Contract may prescribe:

- (a) the extent of portions of the Site of which the Contractor is to be given possession from time to time and,
- (b) the order in which such portions shall be made available to the Contractor and subject to any requirement in the Contract as to order in which the Works shall be executed, the Employer will, with the Engineer's notice to commence the Works, give to the Contractor possession of
- (c) so much of the Site, and
- (d) such access as, in accordance with the Contract, is to be provided by the Employer

as may be required to enable the Contractor to commence and proceed with the execution of the Works. The Employer will, from time to time as the Works proceed, give to the Contractor possession of such further portions of the Site as may be

required to enable the Contractor to proceed with the execution of the Works with due dispatch in accordance with the agreed programme or proposals, as the case may be.

#### **42.2 Failure to Give Possession**

If the Contractor suffers delay and/or incurs costs from failure on the part of the Employer to give possession in accordance with the terms of Sub-Clause 42.1, the Engineer shall, after due consultation with the Employer and the Contractor, determine any extension of time to which the Contractor is entitled under Sub-Clauses 44.1 to 44.3, and shall notify the Contractor accordingly, with a copy to the Employer. No price adjustment except for the extension of time will be offered to the Contractor.

#### **42.3 Way leaves and Facilities**

The Contractor shall bear all costs and charges for special or temporary wayleaves required by him in connection with access to the Site. The Contractor shall also provide at his own cost any additional facilities outside the Site required by him for the purposes of the Works.

#### **42.4 Access to the Site**

The Contractor shall arrange to construct, maintain and afterwards remove and reinstate any temporary access required for and in connection with the execution of the Works. Reinstatement shall include restoring the area of the access route to at least the degree of safety, stability, drainage and appearance that existed before the Contractor entered the site.

#### **42.5 Use of Site**

- (a) The Contractor shall not use any portion of the site for any purpose not connected with the Works without the prior written approval of the Engineer. Such approval shall only be issued by the Engineer after due consultation with the Employer.
- (b) The Contractor shall maintain and permit access for the inspection, operation and maintenance of any plant or works belonging to the Employer or other authorities which lie within the Site or in other areas which are affected by the Contractor's operations
- (c) The Contractor shall observe all agreements entered into by the Employer and made known to the Contractor with any person or persons relating to occupation of land and properties by the Employer and the execution of the Works thereon
- (d) The Contractor shall not disturb damage or pull down any hedge, tree, wall or building outside the area occupied by the permanent Works and within the Site without the written consent of the Engineer after approval by the Employer, unless specifically stated otherwise under the Contract.



## **TIME**

### **43.1 Time for Completion**

The Contractor shall complete the whole of the Design-Build of the Works, and each Section (if any), within the Time for Completion of Design-Build of the Works or Section (as the case may be) as set out in the Contract , including:

- a) passing the Tests on Completion under Sub-Clause 37.2 [Inspection and Testing];
- b) completing all work which is stated in the Contract; and
- c) preparation and delivery to the Employer's Representative of Contractor's Documents required under Sub-Clause 6.2 [Contractor's Documents].

The whole of the Works and, if applicable, any section required to be completed within a particular time as stated in the Appendix to Tender, shall be completed, in accordance with the provisions of Sub-Clauses 48.1 to 48.5, within the time stated in the Appendix to Tender for the whole of the Works or the Section (as the case may be), calculated from the Commencement Date, or such extended time as may be allowed under Sub-Clauses 44.1 to 44.3.

### **43.2 No claim to Compensation on account of Loss due to delay in supply of materials by Employer, if any**

The Contractor shall not be entitled to claim any compensation from Employer / Engineer for the loss suffered by him on account of delay by Employer in the supply of materials if any, where such delay is caused by:

- Force Majeure events or conditions that shall include
  - a. any cause which is beyond the control of the CONTRACTOR or the OWNER, as the case may be,
  - b. natural phenomenon including but not limited to abnormal weather conditions, floods, drought, earthquakes and epidemics,
  - c. acts of any Governmental authority, domestic or foreign, including but not limited to war, declared or undeclared, priorities, quarantine, embargoes, licensing control or production or distribution restrictions,
  - d. accidents and disruptions including but not limited to fires, explosions and power shortage,
  - e. transportation delay due to force majeure or accidents,
  - f. strikes, slowdown, lockouts and sabotages,
  - g. riots and civil commotions,
  - h. failure or delay in the CONTRACTOR's source of supply due to force majeure causes enumerated at (a) to (g) above.
- Act of God
- Act of enemies of the State or any other reasonable cause beyond the control of Employer.

In case of such delay in the supply of materials, Employer / Engineer shall grant such extension of time for the completion of the work as shall appear to the Engineer to be reasonable in accordance with the circumstances of the case. Contractor shall accept the decision of the Engineer as to the extension of time as final.

#### **44.1 Extension of Time for Completion**

In the event of

- a) force majeure such as acts of God, acts of public enemy, acts of Government, floods, epidemics, etc., or
- b) abnormally bad weather, or
- c) serious loss of damage by fire, or
- d) civil commotion, local combination of workmen, strike or lockout of any of the traders employed on the work, or
- e) delay on the part of other Contractors or tradesmen engaged by the Employer in executing Works not forming part of the Contract, or
- f) non-availability of stores which are the responsibility of the Employer to supply, or
- g) the ordered variations namely the amount or nature of extra or additional work referred in Clause 51, or
- h) reasons stated in Sub-Clauses 6.3, 6.4 and 12.2, or
- i) any other cause which, in the absolute discretion of the Engineer is beyond the Contractor's control.

being such as fairly to entitle the Contractor to an extension of the Time for Completion of the Works, or any Section or part thereof, The Engineer upon request by the contractor, shall, after due consultation with the Employer and the Contractor, determine the amount of such extension and shall notify the Contractor accordingly, with a copy to the Employer. No payments for any time extension will be made. Payments will be only for additional or extra or variation leading to gross amount more than contract amount.

#### **44.2 Contractor to Provide Notification and Detailed Particulars**

Provided that the Engineer is not bound to make any determination unless the Contractor has:

- (a) within 28 days after such event has first arisen notified the Engineer with a copy to the Employer, and
- (b) within 28 days, or such other reasonable time as may be agreed by the Engineer, after such notification submitted to the Engineer detailed particulars of any extension of time to which he may consider himself entitled in order that such submission may be investigated at the time.

#### **44.3 Interim Determination of Extension.**

Provided also where an event has a continuing effect such that it is not practicable for the Contractor to submit detailed particulars within the period of 28 days referred to in

Sub-Clause 44.2 (b), he shall nevertheless be entitled to an extension of time provided that he has submitted to the Engineer interim particulars at intervals of not more than 28 days and final particulars within 28 days of the end of the effects resulting from the event. On receipt of such interim particulars, the Engineer shall, without undue delay, make an interim determination of extension of time and on receipt of the final particulars, the Engineer shall review all the circumstances and shall determine an overall extension of time in regard to the event. In both such cases the Engineer shall make his determination after due consultation with the Employer and the Contractor and shall notify the Contractor of the determination, with a copy to the Employer. No final review shall result in a decrease of any extension of time already determined by the Engineer.

#### **45.1 Restriction on Working Hours**

The working hours and timing of the work shall be as statutorily provided and there will be no violation by the Contractor or any of his staff in respect thereof.

#### **46.1 Rate of Progress**

If for any reason, which does not entitle the Contractor to an extension of time, the rate of progress of the Works or any Section is at any time, in the opinion of the Engineer, too slow to comply with the Time for Completion, the Engineer shall so notify the Contractor who shall thereupon take such steps as are necessary, subject to the consent of the Engineer, to expedite progress so as to comply with the Time for Completion. The Contractor shall not be entitled to any additional payment for taking such steps. If, as a result of any notice given by the Engineer under this Clause, the Contractor considers that it is necessary to do any work at night or on locally recognised days of rest, he shall be entitled to seek the consent of the Engineer so to do. Provided that if any steps, taken by the Contractor in meeting his obligations under this Clause, involve the Employer in additional supervision costs, such costs shall, after due consultation with the Employer and the Contractor, be determined by the Engineer and shall be recoverable from the Contractor by the Employer, and may be deducted by the Employer from any monies due or to become due to the Contractor and the Engineer shall notify the Contractor accordingly, with a copy to the Employer.

### **LIQUIDATED DAMAGES**

#### **47.1 Liquidated Damages for Delay**

If the Contractor fails to complete the work within the Time for Completion in accordance with Clause 48 for the whole of the Works or, if applicable, any Section within the time prescribed by Sub-Clause 43.1, then the Contractor shall pay to the Employer the sum stated in this clause as liquidated damages for such delay and not as a penalty (which sum shall be the only monies due from the Contractor for such delay) for every week or part of a week which shall elapse between the Time for Completion and the date stated in the Taking-Over Certificate of the whole of the Works or the relevant Section, subject to the applicable limit stated in this clause.

Liquidated damages will also be applicable for the failure of the Contractor to meet intermediate milestones as per the approved Programme and the same will be released if the Contractor catches with the next milestone as instructed by Engineer-in-charge.

The Employer may, without prejudice to any other method of recovery, deduct the amount of such damages from any monies due or to become due to the Contractor. The payment or deduction of such damages shall not relieve the Contractor from his obligation to complete the Works, or from any of his other obligations and liabilities under the Contract.

Amount of Liquidated Damage shall be 0.5 % of the price of the undelivered product at the stipulated rate for each week or part thereof during which the delivery of such product may be delayed subject to a maximum limit of 10% of the contract amount.

#### **47.2 Reduction of Liquidated Damages**

If, before the Time for Completion of the whole of the Works or, if applicable, any Section, a Taking-Over Certificate has been issued for any part of the Works or of a Section, the liquidated damages for delay in completion of the remainder of the Works or of that Section shall, for any period of delay after the date stated in such Taking-Over Certificate, and in the absence of alternative provisions in the Contract, be reduced in the proportion which the value of the part so certified bears to the value of the whole of the Works or Section, as applicable. The provisions of this Sub- Clause shall only apply to the rate of liquidated damages and shall not affect the limit thereof.

### **TAKING OVER**

#### **48.1 Taking-Over Certificate**

When the whole of the Works have been functionally completed i.e. fit to be occupied and used and have satisfactorily passed required Tests on Completion prescribed by the Contract, the Contractor will give a notice to that effect to the Engineer, with a copy to the Employer, accompanied by a written undertaking to finish with due expedition any outstanding work during the Defects Liability Period. Such notice and undertaking shall be deemed to be a request by the Contractor for the Engineer to issue a Taking-Over Certificate in respect of the Works. The Engineer shall, within 21 days of the date of delivery of such notice, either issue to the Contractor, with a copy to the Employer, a Taking-Over Certificate stating the date on which, in his opinion, the Works were functionally completed in accordance with the Contract, or give instructions in writing to the Contractor specifying all work which, in the Engineer's opinion, is required to be done by the Contractor before the issue of such Certificate. The Engineer shall also notify the Contractor of any defects in the Works affecting functional completion that may appear after such instructions and before completion of the Works specified therein. The Contractor shall be entitled to receive such Taking-Over Certificate within 21 days of completion, to the satisfaction of the Engineer, of the Works so specified and remedying any defects so notified.

For the purpose of this clause "Substantial completion" would mean readiness of the Works for Commissioning or nearly full functional and operational use as specified in the Contract and "Substantial Completion" shall deem to be accomplished when the Works are complete in accordance with the Contract and are ready for sound and safe operational or functional occupation save some minor outstanding Works, to be completed by the Contractor which can be completed during the Defects Liability Period, without affecting the sound and safe operational and functional occupation of the Works.

Satisfaction and judgement of the Employer about in this respect as to whether the work is substantially completed shall be final and binding on the contractor.

#### **48.2 Taking Over of Sections or Parts**

Similarly, in accordance with the procedure set out in Sub-Clause 48.1, the Contractor may request and the Engineer shall issue a Taking - Over Certificate in respect of:

- (a) any Section in respect of which a separate Time for Completion is provided in the Appendix to Bid, or
- (b) any substantial part of the Permanent Works which has been both completed to the satisfaction of the Engineer and, otherwise than as provided for in the Contract, occupied or used by the Employer, or
- (c) any part of the Permanent Works which the Employer has elected to occupy or use prior to completion (where such prior occupation or use is not provided for in the Contract has not been agreed by the Contractor as a temporary measure).

#### **48.3 Functional Completion of Parts**

If any part of the Permanent Works has been substantially completed and has satisfactorily passed any Tests on Completion prescribed by the Contract, the Engineer may issue a Taking-Over Certificate in respect of that part of the Permanent Works before completion of the whole of the Works and, upon the issue of such Certificate, the Contractor shall be deemed to have undertaken to complete with due expedition any outstanding work in that part of the permanent Works during the Defects Liability Period.

#### **48.4 Surfaces Requiring Reinstatement**

The Contractor shall restore and reinstate the surface at the worksite as provided in the contract and as per the instruction of the Engineer before finally handing over of the worksite to the employer. No taking over certificate will be issued in the absence of such reinstatement.

#### **48.5 Prevention from Testing**

If the Contractor is prevented from carrying out the Tests on Completion by a cause for which the Employer or the Engineer or other Contractors employed by the Employer are responsible, the Employer shall be deemed to have taken over the Works on the date when the Tests on Completion would have been completed but for such prevention. The Engineer shall issue a Taking-Over Certificate accordingly. Provided always that the Works shall not be deemed to have been taken over if they are not functionally accepted in accordance with the Contract.

If the Works are taken over under this Sub-Clause the Contractor shall nevertheless carry out the Tests on Completion during the Defects Liability Period. The Engineer shall require the tests to be carried out by giving 14 days notice.

## **DEFECTS LIABILITY**

### **49.1 Defects Liability Period**

In these Conditions the expression “Defects Liability Period” shall mean the defects liability period named in the Appendix to Bid, calculated from:

- (a) the date of functional completion of the Works certified by the Engineer in accordance with Sub Clauses 48.1 to 48.5 or
- (b) in the event of more than one certificate having been issued by the Engineer under Sub-Clauses 48.1 to 48.5, the respective dates so certified and in relation to the Defects Liability Period the expression “the Works” shall be construed accordingly.

### **49.2 Completion of Outstanding Work and Remedying Defects**

To the extent that the Works shall, at or as soon as practicable after the expiration of the Defects Liability Period, be delivered to the Employer in the condition required by the Contract, fair wear and tear excepted, to the satisfaction of the Engineer, the Contractor shall:

- (a) complete the work, if any, outstanding on the date stated in the Taking-Over Certificate as soon as practicable after such date, and
- (b) execute all such work of amendment, reconstruction, and remedying defects, or other faults as the Engineer may, during the Defects Liability Period or within 14 days after its expiration, as a result of an inspection made by or on behalf of the Engineer prior to its expiration, instruct the Contractor to execute.

### **49.3 Cost of Remedying Defects**

All work referred to in Sub-Clause 49.2 including remedying of defects shall be executed by the Contractor within the Contract Price if the necessity thereof is, in the opinion of the Engineer, due to:

- (a) the use of materials, Plant or workmanship not in accordance with the Contract, or
- (b) where the Contractor is responsible for the design for part of the Permanent Works, any fault in such design, or
- (c) the neglect or failure on the part of the Contractor to comply with any obligation, expressed or implied, on the Contractor’s part under the Contract.

If, in the opinion of the Engineer, such necessity is due to any other cause, he shall determine an addition to the Contract Price in accordance with Clauses 51 and shall notify the Contractor accordingly, with a copy to the Employer.

### **49.4 Contractor’s Failure to Carry Out Instructions**

In case of default on the part of the Contractor in carrying out such instruction within a reasonable time, the Employer shall be entitled to employ and pay other persons to carry out the same and if such work is work which, in the opinion of the Engineer, the Contractor was liable to do at his own cost under the Contract, then all costs

consequent thereon or incidental thereto shall, after due consultation with the Employer and Contractor, be determined by the Engineer and shall be recoverable from the Contractor by the Employer and may be deducted from any monies due or to become due to the Contractor and the Engineer shall notify the Contractor accordingly, with a copy to the Employer.

#### **49.5 Extension of Defects Liability**

The provisions of this Clause shall apply to all replacements or renewals of Plant carried out by the Contractor to remedy defects and damages as if the replacements and renewals had been taken over on the date they were completed. The Defects Liability Period for the Works shall be extended by a period equal to the period during which the Works could not be used by reason of a defect or damage. If only part of the Works is affected the Defects Liability Period shall be extended only for that part.

#### **50.1 Contractor to Search**

If any defect or other fault in the Works appears at any time prior to the end of the Defects Liability Period, the Engineer may instruct the Contractor, with a copy to the Employer, to search under the directions of the Engineer for the cause thereof. Unless such defect or other fault is one for which the Contractor is liable under the contract, the Engineer shall, after due consultation with the Employer and the Contractor, determine the amount in respect of the costs of such search incurred by the Contractor, which shall be added to the Contract Price, and shall notify the Contractor accordingly, with a copy to the Employer. If such defect or other fault is one for which the Contractor is liable, the cost of the work carried out in searching as aforesaid shall be borne by the Contractor and he shall in such case remedy such defect or other fault at his own cost in accordance with the provisions of Sub-Clauses 49.1 to 49.5.

### **51 ALTERATIONS, ADDITIONS AND OMISSIONS**

#### **51.1 Right to Vary**

51.1.1 Variations may be initiated by the Employer's Representative at any time prior to issuing the Commissioning Certificate, either by an instruction to the Contractor by the Employer's Representative or by a request for the Contractor to submit a proposal. A Variation shall not comprise the omission of any work which is to be carried out by others.



51.1.2 The Contractor shall execute and be bound by each Variation; unless the Contractor promptly gives Notice to the Employer's Representative stating (with supporting particulars) that (i) the Contractor cannot readily obtain the Goods required for the Variation, (ii) it will reduce the safety or suitability of the Works for the purposes for which they were intended under the Contract; (iii) it will have an adverse impact on the achievement of the Schedule of guarantees; or (iv) it will have an adverse effect on the provision of the Operation Service under the Contract. Upon receiving this Notice, the Employer's Representative shall cancel, confirm or vary the instruction and the Contractor shall execute and be bound by it.

51.1.3 If the Employer or the Employer's Representative wishes to instruct a Variation during the Operation Service Period, he shall give the Contractor written details of his requirements. The Contractor shall then proceed in accordance with Clause 51.3 [Variation Procedure] sub-paragraphs (a), (b) and (c). However, the Contractor shall not be obliged to proceed with the Variation until the matters covered in Sub-Clause 51.3 [Variation Procedure] sub-paragraphs (a), (b) and (c) have been agreed between the Employer and the Contractor.

## **51.2 Value Engineering**

51.2.1 The Contractor may, at any time, submit to the Employer's Representative a written proposal, which (in the Contractor's opinion) will, if adopted:

- a) accelerate completion of the Works;
- b) reduce the cost to the Employer of executing, maintaining or operating the Works;
- c) improve the efficiency or value to the Employer of the completed Works;
- d) improve the efficiency of the Operation Service being provided; or
- e) otherwise be of benefit to the Employer.

51.2.2 The proposal shall be prepared at the cost of the Contractor and shall include the items listed in Sub-Clause 51.3 [Variation Procedure].

## **51.3 Variation Procedure**

51.3.1 If the Employer's Representative requests a proposal, prior to instructing a Variation, the Contractor shall respond in writing as soon as practicable, either by giving reasons why he cannot comply (if this is the case) or by submitting:

- a) a description of the proposed design and/or work to be performed and a programme for its execution;
- b) the Contractor's proposal for any necessary modifications to the programme according to Sub-Clause 14.1 [Programme to be submitted] and to the Time for Completion; and
- c) the Contractor's proposal for adjustment to the Contract Price.

51.3.2 The Employer's Representative shall, as soon as practicable after receiving such proposal (under Sub-Clause 51.2 [Value Engineering] or otherwise), respond with approval, disapproval or comments. The Contractor shall not delay any work whilst awaiting a response.

Rates for items under change of scope and extra item shall be finalized as per the schedule of rates (SOR) as approved by GSCL and for non SOR items the rates will be based on rate analysis approved by GSCL. GSCL may ask the BIDDER to submit rate analysis with market rates with supporting quotations from suppliers etc.

51.3.3 Each instruction to execute a Variation, with any requirements for the recording of costs, shall be issued by the Employer's Representative to the Contractor, who shall acknowledge receipt.

51.3.4 Upon instructing or approving a Variation, the Employer's Representative shall proceed to agree/disagree or determine adjustments to the Contract Price and the Schedule of Payments. These adjustments, except adjustments made under Sub-Clause 70.8 [Subsequent Legislation] and Sub-Clause 51.4 [Adjustments for Changes in Technology], shall include reasonable profit, and shall take account of the Contractor's submissions under Sub-Clause 51.2 [Value Engineering] if applicable.

#### **51.4 Adjustments for Changes in Technology**

51.4.1 The Contract Price and programme for design, execution and operation of the Works shall be adjusted to take into account any increase or decrease in cost resulting from any changes in technology, new materials or products which the Contractor is obliged to adopt, either:

- a) where a proposal from the Contractor under Sub-Clause 51.2 [Value Engineering ] is accepted by the Employer's Representative;
- b) where the Employer's Representative instructs the Contractor to use new technology or new materials or products; or
- c) there is a statutory requirement for the Contractor to use new technology or new materials or products.

51.4.2 In any such case, the Contractor shall be entitled subject to Sub-Clause 53.1 [Notice of Claims] to:

- i. an extension of time for any such delay, if the events delay the completion of the Design-Build; and
- ii. any additional Cost, subject to an adjustment for any operational or other savings which the Contractor may make as a result of the introduction of such new technology, materials or products.

51.4.3 After receiving a Notice of claim, the Employer's Representative shall proceed in accordance with Sub-Clause 53.3 [Substantiation of Claims] to agree or determine

these matters. Where appropriate, the Employer's Representative shall issue a Variation to the Contractor with details of the required changes.

52 Deleted

## **PROCEDURE FOR CLAIMS**

### **53.1 Notice of Claims**

Notwithstanding any other provision of the Contract, if the Contractor intends to claim any additional payment pursuant to any Clause of these Conditions or otherwise, he shall give notice of his intention to the Engineer, with a copy to the Employer, within 28 days after the event giving rise to the claim has first arisen.

No compensation shall be allowed for any delay in execution of the work on account of water standing in borrow pits or compartments. The rates are inclusive of hard or cracked soil, excavation in mud, sub-soil water or water standing in borrow pits and no claim for an extra rate shall be entertained unless otherwise expressly specified.

### **53.2 Contemporary Records**

Upon the happening of the event referred to in Sub-Clause 53.1, the Contractor shall keep such contemporary records as may reasonably be necessary to support any claim he may subsequently wish to make. Without necessarily admitting the Employer's liability, the Engineer shall, on receipt of a notice under Sub-Clause 53.1, inspect such contemporary records and may instruct the Contractor to keep any further contemporary records as are reasonable and may be material to the claim of which notice has been given. The Contractor shall permit the Engineer to inspect all records kept pursuant to this Sub-Clause and shall supply him with copies thereof as and when the Engineer so instructs.

### **53.3 Substantiation of Claims**

Within 42 days, or such other reasonable time as may be agreed by the Engineer, of giving notice under the Sub-Clause 53.1, the Contractor shall send to the Engineer an account giving detailed particulars of the amount claimed and the grounds upon which the claim is based. Where the event giving rise to the claim has a continuing effect, such account shall be considered to be an interim account and the Contractor shall, at such intervals as the Engineer may reasonably require, send further interim accounts giving the accumulated amount of the claim and any further grounds upon which it is based. In cases where interim accounts are sent to the Engineer, the Contractor shall send a final account within 28 days of the end of the effects resulting from the event. The Contractor shall copy to the Employer all accounts sent to the Engineer pursuant to this Sub-Clause.

### **53.4 Failure to Comply**

If the Contractor fails to comply with any of the provisions of this Clause in respect of any claim which he seeks to make, his entitlement to payment in respect thereof shall not exceed such amount as the Engineer considers to be verified by contemporary records (whether or not such records were brought to the Engineer's notice as required under Sub-Clause 53.2 and 53.3).

### **53.5 Payment of Claims**

The Contractor shall be entitled to have included in any interim payment certified by the Engineer pursuant to Sub-Clauses 60.1 to 60.14. such amount in respect of any claim as the Engineer, after due consultation with the Employer and the Contractor, may consider due to the Contractor provided that the Contractor has supplied sufficient particulars to enable the Engineer to determine the amount due. If such particulars are insufficient to substantiate the whole of the claim, the Contractor shall be entitled to payments in respect of such part of the claim as such particulars may substantiate to the satisfaction of the Engineer. The Engineer shall notify the Contractor of any determination made under this Sub-Clause, with a copy to the Employer.

## **CONTRACTOR'S EQUIPMENT, TEMPORARY WORKS AND MATERIALS**

### **54.1 Exclusive Use for the Works**

All Contractor's Equipment, Temporary Works and materials provided by the Contractor shall, when brought on to the Site, be deemed to be exclusively intended for the execution of the Works and the Contractor shall not remove the same or any part thereof, except for the purpose of moving it from one part of the Site to another, without the consent of the Engineer. Provided that consent shall not be required for vehicles engaged in transporting any staff, labour, Contractor's Equipment, Temporary Works, Plant or materials to or from the Site.

### **54.2 Employer Not Liable for Damage**

The Employer shall not at any time be liable, save as mentioned in Sub-Clauses 20.1 to 20.4 and 65.1 to 65.8, for the loss of or damage to any of the said Contractor's Equipment, Temporary Works or materials.

### **54.3 Incorporation of Clause in Sub-Contracts**

The Contractor shall, where entering into any subcontract for the execution of any part of the Works, incorporate in such subcontract (by reference or otherwise) the provisions of this Clause in relation to Contractor's Equipment, Temporary Works or materials brought on to the Site by the Subcontractor.

### **54.4 Approval of Material Not Implied**

The operation of the Sub-Clauses 54.1 to 54.4 shall not be deemed to imply any approval by the Engineer of the material or other matters referred to therein nor shall it prevent the rejection of any such materials at any time by the Engineer.

## **MEASUREMENT**

### **55.1 Quantities**

The quantities set out in the Bill of Quantities are the estimated quantities for the Works, and they are not to be taken as the actual and correct quantities of the Works to be executed by the Contractor in fulfilment of his obligations under the Contract.

### **56.1 Works to be Measured**

The Engineer shall, except as otherwise stated, ascertain and determine by measurement the value of the Works in accordance with the Contract and the Contractor shall be paid that value in accordance with Sub-Clauses 60.1 to 60.14. The Engineer shall, when he requires any part of the Works to be measured, give reasonable notice to the Contractor's authorised agent, who shall:

- (a) forthwith attend or send a qualified representative to assist the Engineer in making such measurement, and
- (b) supply all particulars required by the Engineer.

Should the Contractor not attend, or neglect or omit to send such representative, then the measurement made by the Engineer or approved by him shall be taken to be the correct measurement of such part of the Works. For the purpose of measuring such Permanent Works as are to be measured by records and drawings, the Engineer shall prepare such records and drawings as the work proceeds as he deems necessary or appropriate and the Contractor, as and when called upon to do so in writing, shall within 14 days, attend to examine and agree such records and drawings with the Engineer and shall sign the same when so agreed. If after examination of such records and drawings, the Contractor does not agree the same or does not sign the same as agreed, they shall nevertheless be taken to be correct, unless the Contractor, within 14 days of such examination, lodges with the Engineer notice of the respects in which such records and drawing are claimed by him to be incorrect. On receipt of such notice, the Engineer shall review the records and drawings and either confirm or vary them.

### **57.1 Method of Measurement**

The Works shall be measured net, notwithstanding any general or local custom, except where otherwise provided for in the Contract.

### **57.2 Breakdown of Lump Sum Items**

For the purpose of statements submitted in accordance with Sub-Clause 60.1, the Contractor shall submit to the Engineer, within 28 days after the receipt of the Letter of Award, a breakdown for each of the lump sum items contained in the Tender. Such breakdowns shall be subject to the approval of the Engineer.

**58. PROVISIONAL SUMS (Not applicable for this Contract)**

58.1 Definition of "Provisional Sums" (Not applicable for this Contract)

58.2 Use of Provisional Sums (Not applicable for this Contract)

58.3 Production of Vouchers (Not applicable for this Contract)

**59. NOMINATED SUBCONTRACTORS (**

59.1 Definitions of "Nominated Subcontractors"()

Contractor nominated by the Bidder in his proposal, who has got relevant experience in execution of work or as appointed by Employer to work as Nominated Contractor.

**60. CERTIFICATES AND PAYMENTS****60.1 Monthly Statements and Bills**

The Contractor shall submit a statement in 3 copies to the Engineer by 7<sup>th</sup> day of each month for the work executed up to the end of previous month in a tabulated form approved by the Engineer, showing the amounts to which the Contractor considers himself to be entitled. The statement shall include the following items, as applicable, which shall be taken into account in the sequence listed:

- (a) the estimated Contract value of the Permanent Works executed up to the end of the month in question, at base unit rates and prices;
- (b) the actual value certified for payment for the Permanent Works executed up to the end of the previous month, at base unit rates and prices;
- (c) the estimated Contract value at base unit rates and prices of the Permanent Works for the month in question, obtained by deducting (b) from (a);
- (d) the value of any variations executed up to the end of the month in question, less the amount certified in the previous Interim Payment Certificate, pursuant to Clauses 51;
- (e) amount reflecting changes in cost and legislation, if any, pursuant to Sub-Clauses 70.1 to 70.8;
- (f) any amount to be withheld under the retention provision of Sub-Clause 60.5, determined by applying the percentage set forth in Sub-Clause 60.5 to the amounts due;

(g) any amount to be deducted as repayment of the Advance under the provisions of Sub-Clause 60.7;

(h) any other sum, to which the Contractor may be entitled under the Contract;

(i) any deduction for the advance income tax, advance works contract tax and Royalties on materials as per the relevant act and as provided in the Appendix to Bid.

## **60.2 Monthly Payments**

The said statement shall be approved or amended by the Engineer in such a way that in his opinion, it reflects the amounts due to the Contractor in accordance with the Contract after deduction, other than pursuant to Sub-Clauses 47.1 and 47.2, of any sums which may have become due and payable by the Contractor to the Employer. In case where there is a difference of opinion as to the value of any item the Engineer's view shall prevail. Within 30 days following the receipt of the monthly statement referred to in Sub-Clause 60.1, the Engineer shall determine the amounts due to the Contractor and shall issue to the Employer and the Contractor a certificate, herein called the "Interim Payment Certificate", certifying the amount due to the Contractor.

Notwithstanding the terms of this Clause or any other Clause of the Contract, no amount will be certified by the Engineer for payment until the performance security has been provided by the Contractor and approved by the Employer.

## **60.3 Material and Plant for the Permanent Works - Deleted**

## **60.4 Place of Payment**

Payments to the Contractor by the Employer shall be made into a bank account or accounts nominated by the Contractor, or as may otherwise be agreed.

## **60.5 Retention Money**

A retention amounting to 5% (Five) of the Contract amount shall be deducted from each Interim Payment certificates

## **60.6 Refund of Retention Money**

Retention money shall be refunded on satisfactory commissioning of the Project. Retention money withheld during Operation and maintenance period will be refunded on satisfactorily completion of same.

## **60.7 Advance Payment**

(a) No advance payment will be made to the Contractor.

## **60.8 Time for Payment**

The amount due to the Contractor under any Interim Payment Certificate issued by the Engineer pursuant to this Clause, or to any other term of the Contract shall, subject to Sub-Clauses 47.1 and 47.2, be paid by the Employer to the Contractor within 30 days



after the Certification from Engineer. , in the case of the Final Certificate, pursuant to Sub-Clause 60.13 within 90 days after the agreed Final Statement and written discharge have been submitted to the Engineer for certification..

#### **60.9 Correction of Certificate**

The Engineer may by any Interim Payment Certificate make any correction or modification in any previous Interim Payment Certificate which has been issued by him, and shall have the authority, if any work is not being carried out to his satisfaction, to omit or reduce the value of such work in any Interim Payment Certificate.

#### **60.10 Final Bill and Statement at Completion**

Not later than 42 days after the issue of the Taking-Over Certificate in respect of the whole of the Works, the Contractor shall submit to the Engineer a Statement at Completion with supporting documents showing in detail, in the form approved by the Engineer:

- (a) the final value of all work done in accordance with the Contract up to the date stated in such Taking-Over-Certificate;
- (b) any further sums which the Contractor considers to be due; and

- (c) an estimate of amounts which the Contractor considers will become due to him under the Contract.

Estimated amounts shall be shown separately in such Statement at Completion. The Engineer shall certify payment in accordance with Sub-Clause 60.2.

#### **60.11 Final Statement**

Not later than 28 days after the issue of the Defects Liability Certificate pursuant to Sub-Clause 62.1, the Contractor shall submit to the Engineer for consideration a draft final statement with supporting documents showing in detail, in the form approved by the Engineer:

- (a) the value of all work done in accordance with the contract; and
- (b) any further sums which the Contractor considers to be due to him under the Contract.

If the Engineer disagrees with or cannot verify any part of the draft final statement, the Contractor shall submit such further information as the Engineer may reasonably require and shall make such changes in the draft as may be agreed between them. The Contractor shall then prepare and submit to the Engineer the Final Statement as agreed (for the purpose of these Conditions referred to as "Final Statement").

If, following discussions between the Engineer and the Contractor and any changes to the draft final statement which may be agreed between them, it becomes evident that a dispute exists, the Engineer shall issue to the Employer an Interim Payment Certificate for those parts of the draft final statement which are not in dispute. The dispute shall then be settled in accordance with Sub-Clauses 67.1 to 67.5. The final statement shall be agreed upon settlement of the dispute.

#### **60.12 Discharge**

Upon submission of the Final Statement, the Contractor shall give to the Employer, with a copy to the Engineer, a written discharge confirming that the total of the Final Statement represents full and final settlement of all monies due to the Contractor arising out of or in respect of the Contract. Provided that such discharge shall become effective only after payment due under the Final Certificate issued pursuant to Sub-Clause 60.13 has been made and the Performance Security referred to in Sub-Clause 10.1 has been returned to the Contractor.

#### **60.13 Final Certificate**

Within 28 days after receipt of the Final Statement and the written discharge, the Engineer shall issue to the Employer (with a copy to the Contractor) a Final Certificate stating:

- (a) the amount which, in the opinion of the Engineer, is finally due under the Contract; and
- (b) after giving credit to the Employer for all amounts previously paid by the Employer and for all sums to which the Employer is entitled under the Contract

other than Sub-Clauses 47.1 and 47.2, the balance, if any, due from the Employer to the Contractor or from the Contractor to the Employer as the case may be.

#### **60.14 Cessation of Employer's Liability**

The Employer shall not be liable to the Contractor for any matter or thing arising out of or in connection with the Contract or execution of the Works, unless the Contractor shall have included a claim in respect thereof in his Final Statement and (except in respect of matters or things arising after the issue of the Taking - Over Certificate in respect of the whole of the Works) in the Statement at Completion referred to in Sub-Clause 60.10.

### **DEFECTS LIABILITY**

#### **61.1 Approval Only by Defects Liability Certificate**

Only the Defects Liability Certificate, referred to in Sub-Clauses 62.1 and 62.2, shall be deemed to constitute approval of the Works.

#### **62.1 Defects Liability Certificate**

The Contract shall not be considered as completed until a Defects Liability Certificate shall have been signed by the Engineer and delivered to the Employer, with a copy to the Contractor, stating the date on which the Contractor shall have completed his obligations to execute and complete the Works and remedy any defects therein to the Engineer's satisfaction. The Defects Liability Certificate shall be given by the Engineer within 28 days after the expiration of the Defects Liability Period or, if different defects liability periods shall become applicable to different Sections or parts of the Permanent Works, the expiration of the latest such period, or as soon thereafter as any works instructed, pursuant to Sub-Clauses 49.1 to 49.5 and 50.1, have been completed to the satisfaction of the Engineer.

#### **62.2 Unfulfilled Obligations**

Notwithstanding the issue of the Defects Liability Certificate the Contractor and the Employer shall remain liable for the fulfilment of any obligation remaining to be performed under the provisions of the Contract prior to the issue of the Defects Liability Certificate which remains unperformed at the time such Defects Liability Certificate is issued and, for the purpose of determining the nature and extent of any such obligation, the Contract shall be deemed to remain in force between the parties to the Contract.

### **REMEDIES AND TERMINATION**

#### **63.1 Default of Contractor**

If the Contractor is deemed by law unable to pay his debts as they fall due, or enters into voluntary or involuntary bankruptcy, liquidation or dissolution (other than a

voluntary liquidation for the purposes of amalgamation or reconstruction), or becomes insolvent, or makes an arrangement with, or assignment in favour of, his creditors, or agrees to carry out the Contract under a committee of inspection of his creditors, or if a receiver, administrator, trustee or liquidator is appointed over any substantial part of his assets, or in case the Contractor abandons the work owing to serious illness or death of the Contractor or if, under any law or regulation relating to reorganisation, arrangement or readjustment of debts, proceedings are commenced against the Contractor or resolutions passed in connection with dissolution or liquidation or if any steps are taken to enforce any security interest over a substantial part of the assets of the Contractor, or if any act is done or event occurs with respect to the Contractor or his assets which, under any applicable law has a functionally similar effect to any of the foregoing acts or events, or if the Contractor has contravened Sub-Clause 3.1, or has an execution levied on his goods or if the Engineer certifies to the Employer with a copy to the Contractor, that, in his opinion, the Contractor:

- (a) has repudiated the Contract, or
- (b) without reasonable excuse has failed
  - (i) to commence the Works in accordance with Sub-Clause 41.1, or
  - (ii) to proceed with the Works, or any Section thereof, within 28 days after receiving notice pursuant to Sub-Clause 46.1, or
- (c) has failed to comply with a notice issued pursuant to Sub-Clause 37.4 or an instruction issued pursuant to Sub-Clause 39.1 within 28 days after having received it, or
- (d) despite previous warning from the Engineer, in writing, is otherwise persistently or flagrantly neglecting to comply with any of his obligations under the Contract, or
- (e) has contravened Sub-Clause 4.1,
- (f) has contravened Sub-Clause 33.1

then the Employer may, after giving fourteen days notice to the Contractor, enter upon the Site and terminate the Contract of the Contractor without thereby releasing the Contractor from any of his obligations or liabilities under the Contract or affecting the rights and powers conferred on the Employer or the Engineer by the Contract, and may himself complete the Works or may employ any other Contractor to complete the Works at the risk and cost of the defaulting Contractor. The Employer or such other Contractor may use for such completion so much of the Contractor's Equipment, Plant, Temporary Works and materials which have been deemed to be reserved exclusively for the execution of the Works under the provisions of the Contract as he or they may think proper and the Employer may at any time sell any of the said Contractor's Equipment, Temporary Works and unused Plant and materials and apply the proceeds of sale in or towards the satisfaction of any sums due or which may become due to him from the Contractor under the Contract.

### **63.2 Valuation at Date of Termination**

The Engineer shall, as soon as may be practicable after any such entry and termination by the Employer, fix and determine exparte, or by or after reference to the parties or after such investigation or enquiries as he may think fit to make or institute, and shall certify:

- (a) what amount (if any) had, at the time of such entry and termination, been reasonably earned by or would reasonably accrue to the Contractor in respect of work then actually done by him under the Contract, and
- (b) the value of any of the said unused or partially used materials, any Contractor's Equipment and any Temporary Works.

### **63.3 Payment after Termination**

If the Employer shall enter and terminate the Contract of the Contractor under this Clause, the Employer shall forfeit the Performance Security provided under the terms of Sub-Clauses 10.1 to 10.3. The Employer shall not be liable to pay to the Contractor any further amount (including damages) in respect of the Contract until the expiration of the Defects Liability Period and thereafter until the costs of execution, completion and remedying of any defects, damages for delay in completion (if any) and all other expenses incurred by the Employer have been ascertained and the amount thereof certified by the Engineer. The Contractor shall then be entitled to receive only such sum (if any) as the Engineer may certify would have been payable to him upon due completion by him after deducting the said amount. If such amount exceeds the sum which would have been payable to the Contractor on due completion by him, then the Contractor shall, upon demand, pay to the Employer the amount of such excess and it shall be deemed a debt due by the Contractor to the Employer and shall be recoverable accordingly.

### **63.4 Assignment of Benefit of Agreement**

Unless prohibited by law, the Contractor shall, if so instructed by the Engineer within 14 days of such entry and expulsion referred to in Sub-Clause 63.1, assign to the Employer the benefit of any agreement for the supply of any goods or materials or services and/or for the execution of any work for the purposes of the Contract which the Contractor may have entered into.

### **64.1 Urgent Remedial Work**

If, by reason of any accident, or failure, or other event occurring to, in, or in connection with the Works, or any part thereof, either during the execution of the Works, or during the Defects Liability Period, any remedial or other work is, in the opinion of the Engineer, urgently necessary for the safety or progress of the Works and the Contractor is unable or unwilling at once to do such work, the Employer shall be entitled to employ and pay other persons to carry out such work as the Engineer may consider necessary. If the work or repair so done by the Employer is work which, in the opinion of the Engineer, the Contractor was liable to do at his own cost under the Contract, then all costs consequent thereon or incidental thereto shall, after due

consultation with the Employer and the Contractor, be determined by the Engineer and shall be recoverable from the Contractor by the Employer, and may be deducted by the Employer from any monies due or to become due to the Contractor and the Engineer shall notify the Contractor accordingly, with a copy to the Employer. Provided that the Engineer shall, as soon after the occurrence of any such emergency as may be reasonably practicable, notify the Contractor thereof.

## **SPECIAL RISKS**

### **65.1 No Liability for Special Risks**

The Contractor shall be under no liability whatsoever in consequence of any of the special risks referred to in Sub-Clause 65.2 whether by way of indemnity or otherwise, for or in respect of:

- (a) destruction of or damage to the Works, save to work condemned under the provision of Sub-Clauses 39.1 & 39.2 prior to the occurrence of any of the said special risks, or
- (b) destruction of or damage to property, whether of the Employer or third parties, or
- (c) injury or loss of life.

### **65.2 Special Risks**

The special risks are the risks defined under para (a) sub-para (i) to (v) of Sub-Clause 20.4

### **65.3 Damage to Works by Special Risks**

If the Works or any materials or Plant on or near or in transit to the Site, or any of the Contractor's Equipment, sustain destruction or damage by reason of any of the said special risks, the Contractor shall be entitled to payment in accordance with the Contract for any Permanent Works duly executed and for any materials or Plant so destroyed or damaged and, so far as may be required by the Engineer or as may be necessary for completion of the Works, to payment for:

- (a) rectifying any such destruction or damage to the Works, and
- (b) replacing or rectifying such materials or Contractor's Equipment,

and the Engineer shall determine an addition to the Contract Price in accordance with Clauses 51 (which shall in the case of the cost of replacement of Contractor's Equipment include the fair market value thereof as determined by the Engineer) and shall notify the Contractor accordingly, with a copy to the Employer.

### **65.4 Projectile, Missile**

Destruction, damage, injury or loss of life caused by the explosion or impact whenever and wherever occurring, of any mine, bomb, shell, grenade or other projectile, missile, munitions, or explosive of war, shall be deemed to be a consequence of the said special risks.

### **65.5 Increased Costs Arising from Special Risks**

Save to the extent that the Contractor is entitled to payment under any other provision of the Contract, the Employer shall repay to the Contractor any costs of the execution of the Works (other than such as may be attributable to the cost of reconstructing work condemned under the provisions of Sub-Clauses 39.1 and 39.2 prior to the occurrence of any special risks) which are howsoever attributable to or consequent on or the result of or in any way whatsoever connected with the said special risks, subject however to the provisions in this Clause hereinafter contained in regard to outbreak of war, but the Contractor shall, as soon as any such cost comes to his knowledge, forthwith notify the Engineer thereof. The Engineer shall, after due consultation with the Employer and the Contractor, determine the amount of the Contractor's costs in respect thereof which shall be added to the Contract Price and shall notify the Contractor accordingly, with a copy to the Employer.

### **65.6 Outbreak of War**

If during the currency of the Contract, there is an outbreak of war, whether war is declared or not, in any part of the world which, whether financially or otherwise, materially affects the execution of the Works, the Contractor shall, unless and until the Contract is terminated under the provision of this Clause, continue to use his best endeavours to complete the execution of the Works. Provided that the Employer shall be entitled, at any time after such outbreak of war, to terminate the Contract by giving notice to the Contractor and upon such notice being given, the Contractor shall, except as to the rights of the parties under this Clause and to the operation of Sub-Clauses 67.0 terminate, but without prejudice to the rights of either party in respect of any antecedent breach thereof.

### **65.7 Removal of Contractor's Equipment on Termination**

If the Contract is terminated under the provisions of Sub-Clause 65.6, the Contractor shall, with all reasonable dispatch, remove from the Site all Contractor/ Equipment.

### **65.8 Payment if Contract Terminated**

If the Contract is terminated as aforesaid, the Contractor shall be paid by the Employer, insofar as such amounts or items have not already been covered by payments on account made to the Contractor, for all Works executed prior to the date of termination at the rates and prices provided in the Contract and in addition:

- a) The amounts payable in respect of any preliminary items referred to in the Bill of Quantities so far as the Work or service comprised therein has been carried out or performed and a proper proportion of any such items which have been partially carried out or performed.
- b) The cost of materials, Plant or goods reasonably ordered for the Works which have been delivered to the Contractor or of which the Contractor is legally liable to accept delivery, such materials, Plant or goods becoming the property of the Employer upon such payments being made by him.

- c) A sum being the amount of any expenditure reasonably incurred by the Contractor in the expectation of completing the whole of the Works insofar as such expenditure has not been covered by any other payment referred to in this Sub-Clause.
- d) Any additional sum payable under the provisions of Sub-Clause 65.3 and 65.4
- e) Such proportion of the cost as may be reasonable, taking into account payments made or to be made for work executed, of removal of Contractor's Equipment under Sub-Clause 65.7 and if required by the Contractor, return thereof to the Contractor's main plant yard in his country of registration or to other destination at no greater cost.
- f) The reasonable cost of repatriation of all the Contractor's staff and workmen employed on or in connection with the Works at the time of such termination.

Provided that against any payment due from the Employer under this Sub-Clause, the Employer shall be entitled to be credited with any outstanding balances due from the Contractor for advances in respect of Contractor's Equipment, materials and Plant and any other sums which, at the date of termination, were recoverable by the Employer from the Contractor under the terms of the Contract. Any sums payable under this sub-Clause shall, after due consultation with the Employer and the Contractor, be determined by the Engineer who shall notify the Contractor accordingly, with a copy to the Employer.

#### **66.1 Payment in Event of Release from Performance.**

If any circumstance outside the control of both parties arises after the issue of the Letter of Award which renders it impossible or unlawful for either party to fulfil his contractual obligations, or under the law governing the Contract the parties are released from further performance, then the sum payable by the Employer to the Contractor in respect of the work executed shall be the same as that which would have been payable under Sub-Clauses 65.1 to 65.8 if the Contract had been terminated under the provisions of Sub-Clauses 65.1 to 65.8.

## **67 SETTLEMENT OF DISPUTES**

### **67.1 Amicable Resolution**

- (a) Save where expressly stated contrary to this terms and conditions and the RFP, any dispute, difference or controversy of whatever nature between the parties, howsoever arising under, out of or in relation to this Agreement (the "Dispute") shall in the first instance be attempted to be resolved amicably in accordance with the procedure set forth below.
- (b) Either Party may require such Dispute to be referred to the Chairperson, GSCL, and the Chief Executive Officer/Partner of the Contractor for the time being, for amicable settlement. In respect of disputes of a technical nature the Parties may engage an Expert.



Upon such reference, the two shall meet at the earliest mutual convenience and in any event within 15 days of such reference to discuss and attempt to amicably resolve the Dispute. If the Dispute is not amicably settled within 15 (fifteen) days of such meeting between the two, either Party may refer the Dispute to arbitration in accordance with the provisions of Article below.

### **67.2 Arbitration:**

In case, a dispute is referred to arbitration, the arbitration shall be under the Arbitration and Conciliation Act 1996 and any statutory modification or re-enactment thereof.

If during the subsistence of this Contract or thereafter, any dispute between the Parties hereto arising out of or in connection with the validity, interpretation, implementation, material breach or any alleged material breach of any provision of this Contract or regarding any question, including as to whether the termination of this Contract by one Party hereto has been legitimate, the Parties hereto shall endeavour to settle such dispute amicably and/or by Conciliation to be governed by the Arbitration and Conciliation Act, 1996 and any statutory modification or re-enactment thereof or as may be agreed to between the Parties. The attempt to bring about an amicable settlement is considered to have failed as soon as one of the Parties hereto, after reasonable attempts; which attempt shall continue for not less than thirty (30) days, gives thirty (30) day notice to refer the dispute to arbitration to the other Party in writing.

The Arbitration proceedings shall be governed by the Arbitration and Conciliation Act (Amendment Act), 1996 and any statutory modification or re-enactment thereof The Arbitration proceedings shall be held in Guwahati in Assam State, India.

The Arbitration proceeding shall be governed by the substantive laws of India. The proceedings of Arbitration shall be in Hindi/English language. Except as otherwise provided elsewhere in the contract if any dispute, difference, question or disagreement arises between the parties hereto or their respective representatives or assignees, at any time in connection with construction, meaning, operation, effect, interpretation or out of the contract or breach thereof the same shall be referred to a Tribunal of three (3) Arbitrators, constituted as per the terms of and under the (Indian) Arbitration and Conciliation Act,. Each party to the contract shall appoint/ nominate one Arbitrator each, the two Arbitrators so appointed/ nominated by the Parties herein shall together choose the third Arbitrator, who shall be the Presiding Arbitrator of the Tribunal. The consortium of the three Arbitrators shall form the Arbitral Tribunal.

In case, a party fails to appoint an arbitrator within 30 days from the receipt of the request to do so by the other party or the two Arbitrators so appointed fail to agree on the appointment of

third Arbitrator within 30 days from the date of their appointment upon request of a party, the Chief Justice of the Guwahati High Court or any person or institution designated by him shall appoint the Arbitrator/Presiding Arbitrator upon request of one of the parties.

Any letter, notice or other communications dispatched to contractor relating to either arbitration proceeding or otherwise whether through the post or through a representative on the address last notified to the Authority by Contractor shall be deemed to have been received by Contractor although returned with the remarks, refused 'undelivered' where about not known or words to that effect or for any other reasons whatsoever

If the Arbitrator so appointed dies, resigns, incapacitated or withdraws for any reason from the proceedings, it shall be lawful for the Authority to appoint another person in his place in the same manner as aforesaid. Such person shall proceed with the reference from the stage where his predecessor had left if both parties consent for the same; otherwise, he shall proceed de novo.

It is a term of the contract that the party invoking arbitration shall specify all disputes to be referred to arbitration at the time of invocation of arbitration and not thereafter.

It is also a term of the contract that neither party to the contract shall be entitled for any interest on the amount of the award. The Arbitrator shall give reasoned award and the same shall be final, conclusive and binding on the parties.

The fees of the arbitrator, costs and other expenses incidental to the arbitration proceedings shall be borne equally by the parties.

## **NOTICES**

### **68.1 Notice to Contractor**

All certificates, notices or instruction to be given to the Contractor by the Employer or the Engineer under the terms of the Contract shall be sent by Registered post, cable, telex or facsimile transmission to, or left at, the Contractor's principal place of business or such other address as the Contractor shall nominate for that purpose.

### **68.2 Notice to Employer and Engineer**

Any notice to be given to the Employer or to the Engineer under the terms of the Contract shall be sent by Registered post, cable, telex or facsimile transmission to, or left at, the respective addresses nominated for that purpose in the Special Conditions of Contract.

### **68.3 Change in Address**

Either party may change a nominated address to another address in the Country where the Works are being executed by prior notice to the other party, with a copy to the Engineer, or the Engineer may do so by prior notice to both parties.

#### **68.4 Changes in the Constitution of Entity to be notified**

In the case by partners, any change, prior to reconstitution notified by the Contractor to the Engineer for his information well in advance. In that event, the parties shall decide how to continue the contract.

### **DEFAULT OF EMPLOYER**

#### **69.1 Deleted**

#### **69.2 Deleted**

### **CHANGES IN COST AND LEGISLATION**

#### **70.1 Price Adjustment**

Not Applicable

### **CURRENCY AND RATES OF EXCHANGE**

#### **71.1 Currency Restrictions** (Not applicable for this Contract)

#### **72.1 Rates of Exchange** (Not applicable for this Contract)

#### **72.2 Currency Proportions** (Not applicable for this Contract)

#### **72.3 Currencies of Payment for Provisional Sums** (Not applicable for this Contract)

### **TAXATION**

#### **73.1 Foreign Taxation**

The prices bid by the Contractor shall include all taxes, duties and other charges imposed outside the Employer's country on the production, manufacture, sale and transport of the Contractor's Equipment, Plant, materials and supplies to be on or furnished under the Contract, and on the services performed under the Contract.

#### **73.2 Local Taxation**

The prices bid by the Contractor shall include all applicable taxes, levies, duties and cess

#### **73.3 Income Taxes on Staff**

The Contractor's staff, personnel and labour will be liable to pay personal income tax in India in respect of such of their salaries and wages as are chargeable under the laws and regulations for the time being in force, and the Contractor shall perform such duties in regard to such deductions thereof as may be imposed on him by such laws and regulations in India.

#### **74.1 Clause Deleted**

#### **75.1 Termination of Contract for Employer's Convenience**

The Employer shall be entitled to terminate this Contract at any time for the Employer's convenience after giving 56 days prior notice to the Contractor, with a copy to the Engineer. In the event of such termination, the Contractor

- (a) shall proceed as provided in Sub-Clause 65.7, and
- (b) shall be paid by the Employer as provided in Sub-Clause 65.8

#### **76.1 Restriction on Eligibility**

Deleted

#### **77.1 Joint and Several Liability**

If the Contractor is a Consortium, all the partners shall be jointly and severally bound to the Employer for the fulfilment of the terms of the Contract and shall designate one of the members to act as a leader with authority to bind the Consortium. The composition or the constitution of the Consortium shall not be altered during the execution of Contract without the prior consent of the Employer. If the constitution of the Consortium is altered before the award of contract; the bid is liable to be rejected.

#### **78.1 Details to be Confidential**

The Contractor shall treat the details of the Contract as private and confidential, save insofar as may be necessary for the purposes thereof, and shall not publish or disclose the same or any particulars thereof in any trade or technical paper or elsewhere without the previous consent in writing of the Employer or the Engineer. If any dispute arises as to the necessity of any publication or disclosure for the purpose of the Contract the same shall be referred to the decision of the Employer whose award shall be final.

#### **79.1 Contractor's Temporary Moorings**

Deleted

#### **80.1 Life-Saving Appliances and First-Aid Equipment**

The Contractor shall provide and maintain upon the Works sufficient, proper and efficient life saving appliances and first aid equipment to the approval of the Engineer and in accordance with the requirements of ILO Convention 62. The appliances and equipment shall be available for use at all time.

#### **81.1 Drawings and Photographs of the Works**

The Contractor shall not disclose details of drawings furnished to him and works on which he is engaged without the prior approval of the Engineer in writing. No photograph of the Works or any part thereof or Plant employed thereon shall be taken or permitted by the Contractor to be taken by any of his employees or any employees of his Subcontractors without the prior approval of the Engineer in writing, and no such

photographs shall be published or otherwise circulated without approval of the Engineer in writing. Provided however, that the provisions of this Clause will not prevent the Contractor from taking such photograph as are necessary or desirable for maintaining proper records of the work progress and site conditions, and provided further that the approval of the Engineer shall not unreasonably be withheld.

### **82.1 The Apprentices Act 1961**

The Contractor shall duly comply with the provisions of the Apprentices Act 1961 (III of 1961), the rules made there under and the orders that may be issued from time to time under the said Act and the said Rules and on his failure or neglect to do so he shall be subject to all liabilities and penalties provided by the said Act and said Rules.

### **83.1 Currency of Payment**

All payments under the Contract shall be made in Indian Rupees.

## **ADDITIONAL CLAUSES**

### **84.1 Employer Acceptance**

84.1.1 Prior to handing over of the Facilities or part thereof to Employer at the expiry of period for Operation & Maintenance (O&M) Services as specified in the Contract, Contractor shall conduct Employer Acceptance test at site as per provisions specified in the Technical Specification.

84.1.2 Upon successful completion of the tests and expiry of period for O&M services as specified above, the Engineer in Consultation with the Employer shall issue to the Contractor Employer Acceptance Certificate (format provided in Section 6) as a proof of final acceptance of Facilities. Such certificate shall not be unreasonably withheld nor will the Employer delay the issuance thereof on account of minor omissions or defect. Such certificate shall not construe to be a waiver of any condition of the contract and shall not relieve the Contractor of his obligations which otherwise survive, by the terms and conditions of the Contract after issuance of such certificate.

84.1.3 If the Contract specifies that Operation & Maintenance (O&M) services shall be carried out in respect of part of the Facilities, the provisions relating to Operation & Maintenance (O&M) services and the tests required to be carried out prior to handing over shall apply to each such part of the Facilities then subject to the approval of the Employer, the Employer Acceptance Certificate may be issued accordingly for each such part of the Facilities.

### **85.1 Erection Completion**

85.1.1 As soon as the Facilities or any part thereof has, in the opinion of the Contractor, been completed in all respects (mechanically, structurally etc.) and put in a tight and clean condition, as specified in the Technical Specifications, save for minor items not materially affecting the operation or safety of the Facilities, the Contractor shall so notify the Employer in writing.

85.1.2 After checking for correction and completeness of the Facilities or any part thereof jointly by Engineer and Contractor, the Contractor shall commence Precommissioning of the Facilities or the relevant part thereof in preparation for commissioning. No operating personnel shall be provided by the Employer during Precommissioning activities. However, these activities shall be carried out by Contractor in association of Engineer.

85.1.3 As soon as works in respect of Precommissioning are completed and in the opinion the Contractor, the Facilities or any part thereof is ready for Commissioning, the Contractor shall so notify the Engineer in writing.

85.1.4 The Commissioning procedure shall be submitted by the Contractor for services and acceptance by the Engineer in consultation with employer. The Contractor's commissioning engineers, specially identified as far as possible, shall be responsible for carrying out all the Precommissioning tests.

## **86.1 Commissioning, Operational Acceptance, Guarantee test Acceptance, O&M services and Employer Acceptance**

### **86.1.1 Commissioning**

86.1.1.1 Commissioning of the Facilities or any part thereof shall be the responsibility of the Contractor and shall be commenced by the Contractor immediately after Completion. For this purpose, on completion of inspection, checking and after the Pre-commissioning tests are satisfactorily over, the complete equipment shall be made ready for commissioning or placed on Initial Operation during which period the complete equipment shall be operated integral with sub-systems and supporting equipment as a complete Plant.

The Plant shall be on Trial Operation during which period all necessary adjustments shall be made to enable the plant to be made ready for the Performance and Guarantee Tests.

86.1.1.2 No operating personnel shall be provided by the Employer for commissioning activities. However, the Contractor shall carry out commissioning with the association of Project Manager.

86.1.1.3 The duration, the minimum performance levels and the criteria for successful completion of Trial Operation of the complete equipment shall be as detailed in the Technical Specification elsewhere.

### **86.1.2 Operational Acceptance**

86.1.2.1 Upon the Contractor successfully completing the commissioning and signing the necessary protocol (specified for such purpose) with the Engineer, the Contractor shall give a notice to the Engineer requesting the issue of an Operational Acceptance Certificate in respect of the Facilities or the part thereof specified in such notice as at the date of such notice.

- 86.1.2.2 The Engineer shall, after due consultation with the Employer, and within fifteen (15) days after receipt of the Contractor's notice, issue such Operational Acceptance Certificate.
- 86.1.2.3 If within fifteen (15) days after receipt of the Contractor's notice, the Engineer fails to issue the Operational Acceptance Certificate or fails to inform the Contractor in writing of the justifiable reasons why the Engineer has not issued the Operational Acceptance Certificate, the Facilities or the relevant part thereof shall be deemed to have achieved Operational Acceptance as at the date of the Contractor's said notice.
- 86.1.2.4 If the Contract specifies that Completion, Commissioning, Guarantee tests shall be carried out in respect of parts of the facilities, the provisions relating to Completion, Commissioning, Guarantee Test shall apply to each such part of the Facilities individually and the Operational Acceptance Certificate. Guarantee test Acceptance Certificate will be issued accordingly for each such part of the facilities.

#### 86.1.3 Guarantee Test Acceptance

- 86.1.3.1 The Guarantees tests shall be conducted at site by the Contractor as per detailed provisions in the Technical Specification. Such sets will be commenced, within a period of three (3) months after successful completion of commissioning. Any extension of time beyond the above three (3) months shall be mutually agreed upon.
- 86.1.3.2 Upon successful completion of all the Guaranteed tests as specified to be performed at site on equipment furnished and erected by the Contractor, the Project Manager in consultation with the Employer shall issue to the Contractor a Guarantee test Acceptance Certificate. Such certificate shall not unreasonably be withheld nor will the Employer delay the issuance thereof on account of minor omissions or defects which do not affect the commercial operation and or cause any serious risk to the equipment. Such certificate shall not relieve the Contractor of any of his obligations which otherwise survive, by the terms and conditions of the Contract after issuance of such certificate.

#### 87.1 Defect Liability

The Contractor warrants that the Facilities or any part thereof shall be free from defects in design, engineering, materials and the workmanship of the Plant and Equipment supplied and also free from defects in the installations work executed.

#### 88.1 Operation & Maintenance (O&M) Services

- 88.1.1 Contractor shall carry out Operation & Maintenance (O&M) of Facilities as per the detailed provisions specified in the Technical Specification for the period as specified in Contract.

88.1.2 Contractor shall deploy Operation & Maintenance (O&M) personnel during the Defect Liability period as per the Contract. These O&M personnel shall be multidiscipline to cover all aspects of the work covered under the Scope as per the detailed provision in the technical specification.

88.1.3 All inputs required for proper and efficient O&M of the Facilities in strict adherence with the Technical Specification such as O&M personnel, Contractor's equipment required for all types of maintenances, temporary works, all lubricants, servo fluids and Chemicals, Consumables, spare etc., shall be provided by the Contractor, may issue required spares from the spares supplied by the Contractor as mandatory and recommended spares on replenishment basis. Such spares shall be replenished at no cost to the Owner. Prior to Employer Acceptance pursuant to GCC 48.2, Contractor shall ensure that all the spares issued by Employer have been completely replenished.

88.1.4 Contractor shall be responsible for training and familiarisation of O&M personnel during this period as per Contract. The general topics of the training will encompass all information necessary for efficient and proper operation & maintenance of the Facilities. Contractor shall submit a detailed training procedure and schedule to the Employer for approval. This will be provided within contract price.

## **89.1 Employer's Use of Contractor's Documents**

89.1.1 As between the Parties, the Contractor shall retain the copyright and other intellectual property rights in the Contractor's Documents and other design documents made by (or on behalf of) the Contractor,

89.1.2 The Contractor shall be deemed (by signing the Contract) to give to the Employer a non-terminable transferable non-exclusive royalty-free licence to copy, use and communicate the Contractor's Documents, including making and using modifications of them. This licence shall:

- a) apply throughout the actual or intended working life (whichever is longer) of the relevant part of the Works;
- b) entitle any person in proper possession of the relevant part of the Works to copy, use and communicate the Contractor's Documents for the purposes of completing, operating, maintaining, altering, adjusting, repairing and demolishing the Works;
- c) in the case of Contractor's Documents which are in the form of computer programs and other software, permit their use on any computer on the Site and other places as envisaged by the Contract, including replacements of any computers supplied by the Contractor; and
- d) enable the Employer to relet the Contract as provided for under Sub-Clause 63.1 [Default of Contractor].

89.1.3 The Contractor's Documents and other design documents made by (or on behalf of) the Contractor shall not, without the Contractor's consent, be used, copied or



communicated to a third party by (or on behalf of) the Employer for purposes other than those permitted under this Sub-Clause.

## **89.2 Contractor's Use of Employer's Documents**

89.2.1 As between the Parties, the Employer shall retain the copyright and other intellectual property rights in the Employer's Requirements and other documents made by (or on behalf of) the Employer. The Contractor may, at his cost, copy, use, and obtain communication of these documents for the purposes of the Contract. They shall not, without the Employer's consent, be copied, used, or communicated to a third party by the Contractor, except as necessary for the purposes of the Contract.

## **DESIGN –BUILD**

### **89.3 Commencement of Design-Build**

89.3.1 The Contractor shall commence the design and execution of the Works as soon as reasonably possible but not later than as mentioned in Special conditions of contract, and shall then proceed with the Design-Build with due expedition and without delay.

### **89.4 Completion of Design Build**

89.4.1 The Design-Build shall not be considered as complete until all of the following are achieved:

- a) the Works have been fully designed and executed in accordance with the Employer's Requirements and other relevant provisions of the Contract;
- b) the Works have passed the Tests on Completion of Design-Build in accordance with Sub-Clause 37.2 [Inspection and Testing];
- c) Contractor's Documents in accordance with Sub-Clause 6.5 [As-Built Documents] have been supplied and approved by the Employer's Representative; and
- d) the Completion Certificate required under Sub-Clause 43.1 [Time for Completion] has been issued stating the date upon which the Design-Build has been completed and the Operation Service shall commence.

### **89.5 Failure to Complete**

89.5.1 Should the Contractor fail to complete the Design-Build prior to the Schedule Completion date, the Employer may, at his sole option, either:

- a. permit the Contractor to continue the Design-Build for a further named period, with an absolute right to re-apply this Sub-Clause in the event that the Contractor fails to complete the Design-Build within the extended period; or
- b. terminate the Contract in accordance with Sub-Clause 63.1 [Default of Contractor] and, if he so chooses, complete the work and subsequently execute the Operation Service himself or by engaging others.

89.5.2 In either case, the Employer will be entitled to recover from the Contractor any direct loss incurred, including any loss resulting from the delayed operation of the Works,

Subject to the limitations contained in Sub-Clause 47.1 [Liquidated Damages for Delay].

## OPERATION AND MAINTENANCE SERVICES

### 90. Operation and Maintenance Service

#### 90.1 General

90.1.1 During the Operation and Maintenance Period, the Contractor shall operate and maintain the Project in accordance with the Contract and if required, modify, repair or otherwise make improvements to the Project to comply with the provisions of the Contract and Applicable Laws and conform to the Technical Specifications, the Maintenance Manual and Good Industry Practice. The obligations of the Contractor shall include:

- (a) Operations of all the equipments installed and commissioned by the Contractor
- (b) Ensuring smooth running operations of all the equipments installed and commissioned by the Contractor
- (c) permitting and providing a safe, smooth and uninterrupted use of the Project;
- (d) undertaking routine maintenance of the Project including prompt repairs as may be required;
- (e) preventing, with the assistance of concerned law enforcement agencies, any unauthorized use of the Project;
- (f) preventing, with the assistance of the concerned law enforcement agencies, any encroachments on the Project;
- (g) quarterly preventive check-up and maintenance

90.1.2 The Contractor shall remove promptly from the Project all surplus construction machinery and materials, waste materials (including Hazardous Materials and waste water), rubbish and other debris and keep the Project in a clean, tidy and orderly condition, and in conformity with the Applicable Laws and Good Industry Practice.

#### 90.2 Operation and Maintenance Requirements

The Contractor shall procure at all times during the Operation and Maintenance Period that the Project conforms to the operation and maintenance requirements set forth in Vol-II. The Contractor agrees and acknowledges that it shall not sub-contract full or any part of its Maintenance Services obligations including technical support and know how during the Term of the Contract, unless otherwise expressly mentioned in the Contract.

#### 90.3 Maintenance Manual

No later than 180 (one hundred and eighty) days prior to Completion Date, the Contractor shall, in consultation with the Authority and PMC, evolve an operation, upkeep, repair and maintenance manual (the "Maintenance Manual") for the regular and preventive maintenance of the Project in conformity with Technical Specifications, maintenance requirements, safety requirements and Good Industry Practice, and shall provide 5 (five) copies, thereof to the Authority and 2 (two) copies to PMC. Similarly, on completion of the 5 year O&M period the Contractor should

resubmit an updated O&M Manual to the Authority.

#### **90.4 Restoration of loss or damage to Project**

Save and except as otherwise expressly provided in the Contract, in the event that the Project or any part thereof suffers any loss or damage during the Term from any cause whatsoever, the Contractor shall, at its cost and expense, rectify and remedy such loss or damage forthwith so that the Project conforms to the provisions of the Contract.

#### **90.5 Authority's right to take remedial measures**

In the event the Contractor fails to maintain and/or repair the Project or any part thereof in conformity with the maintenance requirements or the Maintenance Manual as the case may be, and fails to commence remedial works within 15 (fifteen) days of receipt of notice from the Authority, the Authority shall without prejudice to its rights under the Contract including Termination thereof, be entitled to undertake such remedial measures at the risk and cost of the Contractor, and to recover its costs from the Contractor. In addition to recovery of the aforesaid cost, a sum equal to 20 % (twenty percent) of such cost shall be paid by the Contractor to the Authority as Damages. For the avoidance of doubt, the right of the Authority under this Clause shall be without prejudice to its rights and remedies provided under Clause 90.4

#### **90.6 Operation and Maintenance Services fee during the Maintenance Period**

Contractor has to note all the requirement & responsibilities mentioned in volume –II under the scope of the Contractor during the 5 years O&M period & quote his yearly price accordingly in the Price Bid. The Contractors quoted price shall be inclusive of all & no extra payment shall be made over and above the quoted price while performing his duty to meet the employer's requirement. The payment shall be payable in accordance with and subject to terms decided during the award of contract, in equated monthly installements. Payment to commence from Completion Date and be made through the maintenance period.

The Water & Electric Charges during the 5 year maintenance shall be borne by GSCL; however, the payment to the concerned utility authority shall be made by the Contractor & shall reimburse the same in the subsequent RA bill by producing original invoices. Payment shall be made at actual & this payment shall be over & above the quoted price by the Contractor for each year of O&M services.

**Request for Proposal**  
For  
Design, Construction, Commissioning and Handing over  
Along with Facility Management and  
5 years Operation and Maintenance of  
Integrated Command and Control Centre Building  
At Panjabari near Vipanan Kendra  
In Guwahati, Assam  
On  
DESIGN, BUILD AND OPERATE BASIS

**Volume III: Special Conditions of Contract (SCC)**



July 2020



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## **SPECIAL CONDITIONS OF CONTRACT**

### **1.0 General**

- 1.1 Special Conditions of Contract shall be read in conjunction with the General Conditions of Contract, Schedule of Quantities, specifications of work, drawings and any other documents forming part of this contract wherever the context so requires. The order of precedence of the above documents shall be interpreted as per General Conditions of Contract.
- 1.2 Notwithstanding the sub-division of the document into these separate sections and volumes, every part of each shall be deemed to be supplementary of every other part and shall be read with and into the contract so far as it may be practicable to do so.
- 1.3 Excavated good earth declared surplus or otherwise shall be disposed of at designated locations as per the directions of GSCL, which shall be different from the disposal site for disintegrated rock etc.
- 1.4 For soil required for re-filling, if sufficient space is not available for stacking at site of excavation, the Contractor shall make his own arrangements for transporting and stacking the earth elsewhere and then bring it back for re-filling. Nothing extra shall be paid on this account for to and fro carriage.
- 1.5 Disposal of surplus excavated earth including mud, liquid mud, dismantled RCC, dismantled brick work etc. shall be made only in the dumping yard approved by local authority. It will be the responsibility of the contractor to get the permission for dumping yard from local authority as required. If any royalty /fees is payable to local authority, such royalty / fees shall also be borne by the contractor. Disposal shall be carried out strictly as per the regulations of local authority. However, the above materials shall not be removed out of owner's premises without prior written authorization of GSCL.
- 1.6 Since this is a Design Build Tender, the Contractor shall have to supply designs and shop drawings and all charges including charges for vetting by IIT/NIT or any other reputable agency approved by GSCL of the structural design etc. shall be deemed to have been included in the quoted rates.
- 1.7 The Contractor shall, at his own expense and without extra charges, make provision for all pumping, dewatering, dredging or bailing out water, if necessary, irrespective of the source of water. The water so pumped out shall be discharged as per local byelaws and as approved by the Engineer-in-charge. The Contractor shall also take all necessary precautions in diverting channels and in discharging the drained water as not to cause damage to the works, crops or any other property within/outside the plot. Excavated area for the basement/ foundation trenches shall be kept free from water while all the works below Ground level are in progress. Nothing extra shall be paid on this account in terms of time and cost.
- 1.8 Further contractor shall take all necessary precautions to protect and safe guard the foundation of the adjacent building / Structure / Overhead/Underground utilities. Nothing extra shall be payable on this account.

### **2.0 Construction Power, Water and other facilities**

- 2.1 Contractor shall be exclusively responsible to make his own arrangements for supply of power for his use including area illumination, construction activities, fabrication, without any extra cost to Client.
- 2.2 Contractor shall be exclusively responsible to make his own arrangements for water required for Construction and for Contractors personnel for drinking.
- 2.3 The Contractor shall remove all temporary buildings / facilities etc. before leaving the site after completion of works in all respect. In the event that Contractor fails to clear the site within 3 weeks after receiving intimation from GSCL to do so, GSCL shall be free to engage the services of any third party to clear the site at Contractors risk and cost. All expenses incurred on this account shall be recovered from the Contractor.
- 2.4 If GSCL provides water and electricity, the cost for such facility will be borne by the contractor at the prevailing rates of local Government bodies as per actuals.

### 3.0 TAXES, DUTIES, ROYALTY, PRICES

#### 3.1 Royalty

- 3.1.1 All royalties etc., as may be required for any Borrow Areas, including right of way etc. to be arranged by Contractor shall be deemed to have been included in the quoted prices.
- 3.1.2 Contractor's quoted rates should include the royalty on different applicable items as per the prevailing State Government rates.

### 4.0 Underground and overhead structures

- 4.1 The Contractor will familiarise himself with and obtain information and details from GSCL in respect of all existing structures, overhead lines, existing pipelines and utilities existing at the job site before commencing work. The Contractor shall execute the work in such a manner that the said structures, utilities, pipelines etc. are not disturbed or damaged, and shall indemnify and keep indemnified GSCL from and against any destruction thereof or damages thereto.

### 5.0 Electrical Contractor's License

- 5.1 The CONTRACTOR or its nominated Sub-Contractor(s), as the case may be, shall have a valid electrical contractor's license for working in the State in which the job site is located. The CONTRACTOR shall furnish a copy of the same to Engineer-in-charge before commencement of any electrical work or work pertaining to Electrical System.

### 6.0 Project Review Meetings

- 6.1 The contractor, immediately on award of work shall submit details of his key personnel to be engaged for the work at site. In addition, he shall furnish the Engineer-in-Charge detailed organogram of his staff involved with the work.
- 6.2 The Contractor shall present the programme and status at various review meetings as required.
- 6.3 Weekly Review Meetings: Shall be attended by Local Team headed by Project -in-Charge.

Agenda	a) Weekly programme v/s actual achieved in the past week and programme for next week. b) Remedial Actions and hold up analysis. c) Client query approval.
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- 6.4 Monthly Review Meetings: Shall be attended by Project-in-Charge and the Management Representative who can take independent decisions

Agenda	a) Progress Status/Statistics. b) Completion Outlook. c) Major hold ups / slippages. d) Assistance required. e) Critical issues. f) Client query/approval. g) Anticipated cash flow requirement for next two months
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### 7.0 PROJECT OFFICE ACCOMMODATION

- 7.1 The contractor shall provide, erect and maintain at his own cost separate temporary water tight, Puff insulated air-conditioned office accommodation in the form of one (1) No. Porta Cabins each of size 20' X 10' at designated locations for the use by GSCL with the following minimum facilities in each cabin. These shall be available till handing over of the project.
  - 7.1.1 Toilet facility - 1 No. portable for each cabin
  - 7.1.2 Modular Work Stations - 3 Nos. in each cabin
  - 7.1.3 Executive Chairs - 3 Nos. shoulder rest
  - 7.1.4 Visitors Chairs - 6 Nos.
  - 7.1.5 Overhead Storage Racks - All along the walls

- 7.1.6 Adequate Number of Power plugs –
  - 7.1.7 White Board with Markers - 1 No. in each cabin
  - 7.1.8 Pin-Up Display board of size as required
  - 7.1.9 Free Drinking water, stabilised power and lighting as required for the duration of the Project.
  - 7.1.10 Janitorial and Housekeeping services
- 7.2 The contractor has to relocate the Porta Cabins if required as per the exigencies of the work and as directed by GSCL without any extra cost. After completion of the Project the Contractor shall take away this material and the site shall be cleaned free from all construction debris.

## **8.0 RECOMMENDED MAKES OF MATERIALS.**

- 8.1 A list of recommended makes of materials is placed at Volume II-Technical specifications
- 8.2 The order of preference amongst the various products/materials shall be as follows:
- 8.2.1 The products / materials shall be as per the Brand specified
  - 8.2.2 If the Brand is not specified then the products/material shall be ISI marked and the same shall be got approved by the Engineer-in-Charge before execution.
  - 8.2.3 If ISI marked product/material is not available, the same shall be as approved by the Engineer-in-Charge before execution.
- 8.3 In case of natural products such as Kota stone, Marble, Granite etc.,
- 8.3.1 the stones used shall be of **premium** grade and they shall be homogenous in colour with consistency in pattern, texture, tone, marking and colour. No discolouration, spots, fissures or cracks and pocked surfaces shall be allowed.
  - 8.3.2 Where it is difficult to guarantee uniformity in colour and other properties, contractor shall make all efforts to match the colour, shade, texture of the product with the approved sample. If in the opinion of the GSCL there is significant variation in properties, GSCL shall direct the contractor to remove the same from the site immediately and replace with products matching with the approved sample within reasonable period. The decision of GSCL shall be final and binding.

## **9.0 COMPLETION CERTIFICATES/ NOC FROM LOCAL STATUTORY BODIES**

- 9.1 Contractor has to arrange at his own cost building/ work completion certificates or NOCs if required to be obtained, from the local statutory bodies of central and state govt. or any other statutory approval such as electrical, safety, Fire authority, Chief Controller of Explosives (CCOE) etc. Any fees required for obtaining such NOCs shall be paid by GSCL on production of relevant depository challans/ receipts from such Govt. authorities.
- 9.2 The application on behalf of GSCL for submission to relevant authorities along with copies of required certificates complete in all respects shall be prepared and submitted by the Contractor well ahead of time so that the actual construction / commissioning of the work is not delayed for want of the approval / inspection by concerned authorities.
- 9.3 The inspection of the works by the authorities shall be arranged by the Contractor and necessary co-ordination and liaison work in this respect shall be the responsibility of the Contractor.

## **10.0 TOOLS, PLANTS AND MACHINERY**

- 10.1 The Contractor shall provide and install at site adequate T&P for construction of the Project Works. The deployment of T&P shall be planned as per work requirement to suit the nature, quantum and speed of the work for lifting/hoisting construction materials/equipment etc.
- 10.2 The T&P shall be maintained in good working condition throughout the progress of work.



**10.3** All adequate precaution regarding formal upkeep of valid Statutory/Safety credentials of major construction equipment as directed by GSCL, their installation, operation, maintenance, materials etc., shall be taken care of.

**10.4** The operating staff to be deployed shall be properly qualified and adequately trained and experienced. All safety precautions shall be taken during the project duration, against possible accident. The Contractor shall deploy his representative to effectively enforce the safety rules and regulations in this regard.

#### **16.0 CENTRING AND SHUTTERING FOR R.C.C WORK:-**

**16.1** The work is to be completed within 18 months, hence the contractor shall adopt a suitable system complying with BIS standards regarding stripping time, with requisite number of sets of centring and shuttering. The slab cycle for each of the structures has to be designed for completing the construction within the stipulated completion time of the respective building, and the same shall be got approved by GSCL.

#### **17.0 INTERFERENCE WITH TRAFFIC AND ADJOINING PROPERTIES/ BUILDINGS**

**17.1** In case any operation connected with the Works requires temporary diversion of the traffic, or obstruction or closure of any road, or any other 'right of way', the approval of GSCL and the respective competent authorities shall be obtained at least one week in advance.

**17.2** The Contractor shall at all times during execution of the Works, ensure an uninterrupted flow of traffic around the plot so as not to cause any nuisance to the general public.

**17.3** If in order to avoid undue interference with the traffic and adjoining properties, GSCL instructs the Contractor to take special precautions or work within restricted time periods; the Contractor shall carry out the Works during such time and in such manner as directed by GSCL.

#### **18.0 LIGHTING & WATCH AND WARD:**

**18.1** The contractor shall at his own cost take all precautions to ensure safety of life and property by providing necessary barriers, area lighting at the construction site and approaches, watchmen, necessary watch towers etc. during progress of work at all hours including night hours, if required, as directed by the Engineer-in-charge.

**18.2** The Contractor shall be responsible for the watch and ward of the all construction premises and buildings, safety of all fittings and fixtures including sanitary and water supply fittings and fixtures provided by him against pilferage and breakage during the period of installation till handing over of all the works to GSCL.