



**TENUGHAT VIDYUT NIGAM LIMITED,
LALPANIA, JHARKHAND
COMMERCIAL SPECIFICATION FOR
ASH WATER RECIRCULATION SYSTEM**



**TENUGHAT VIDYUT NIGAM LIMITED
LALPANIA JHARKHAND**

COMMERCIAL VOLUME

FOR

ASH WATER RECIRCULATION SYSTEM



**MECON LIMITED
RANCHI – 834002**

NIT No-10/New Project/W/TVNL/RAN/23-24

(RFx no- 1000009271)



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COMMERCIAL VOLUME FOR
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INVITATION FOR BIDS (IFB)

FOR

ASH WATER RECIRCULATION SYSTEM (AWRS)

SALIENT FEATURES OF THE BID

A.	TENDER NOTICE NO.	NIT No-10/New Project/W/TVNL/RAN/23-24
B.	SCOPE OF WORK	Ash Water recirculation System (AWRS): Water from ash pond is to be collected and to be pumped to the existing Ash pond pump house. New pumps shall be installed in a pump house with sump of cap. 2640 m ³ . DI/MS piping of approx. 4 km is to be laid from new pump house to ash water PH (Existing) Detailed Scope of work is defined in enclosed Technical specification no. MEC/11/40/TS/Q7GR/01 – R 02, December 2023
C	TENDER TYPE	Indigenous Open Tender
D	SOLE/CONSORTIUM BID	Consortium bidding is not allowed. The Bidder must be a sole legal business entity.
E	ESTIMATED COST OF WORK	Rs.13,30,00,000.00 (India Rupees thirteen crore thirty lakh) only plus GST as applicable.
F	DUE DATE & TIME OF SUBMISSION	03.01.2024 by 14.00 Hrs “Indian Standard Time (IST)”.
G	PLACE OF BID SUBMISSION	Office of :- The Electrical Superintending Engineer (C&M) TENUGHAT VIDYUT NIGAM LTD. HINOO, RANCHI-834002 JHARKHAND Mobile - 9835346525
H	DATE AND TIME OF OPENING OF PART-I : Cost of Bidding Document and Earnest money Deposit or MSE certificate (if applicable) and Part-II :ELIGIBILITY DOCUMENTS- TECHNICAL AND COMMERCIAL PART & UNPRICED COPY OF PRICE	03.01.2024 at 16.00 Hrs “Indian Standard Time” (IST). At first, Part-I of Bids will be opened. Subsequently, Part-II of Bids of only those bidders shall be opened who would have furnished Cost of Bidding Document, Earnest money Deposit (EMD) or NSIC/SSI/MSE certificate in lieu of EMD (if applicable) and found technically and commercially suitable as



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	BID	per stipulations of the IFB.
I	EARNEST MONEY DEPOSIT (BID SECURITY)	Rs. 26,60,000.00 (Indian Rupees twenty six lakh sixty thousand only)
J	COMPLETION SCHEDULE	Time for Completion is Ten (10) months from the Effective Date of the Contract. Effective Date of the Contract shall be the date of signing of contract or 30 days from the date of issue of Letter of Acceptance (LOA)/WO, whichever is earlier.
K	VALIDITY OF TENDER	180 (One Hundred Eighty) days from the date of opening of PART-I i.e. opening of Techno-commercial Part.
L	COST OF BIDDING DOCUMENT INCLUDING GST (NON-REFUNDABLE)	Rs. 17,700.00 (Indian Rupees fifteen thousand only) including GST.
M	DOWNLOADING OF BIDDING DOCUMENTS	Start: (Downloading from Web-Site): 13.12.2023
N	AMOUNT OF PERFORMANCE SECURITY (PERFORMANCE BANK GUARANTEE)	Ten percent (10%) of the Total Contract Price in Indian Rupees only as specified in the Bidding Documents. The Performance Bank Guarantee other than Indian Rupees currency shall not be accepted.
O	PRE- BID CONFERENCE	No Pre-bid conferences. Interested bidders shall send their queries through e-mail at tvnnext.project@gmail.com at least 07(seven) days before due date of submission of tender.
P	Bid Currency	Indian Rupees only

1.0 Tenughat Vidyut Nigam Limited (TVNL), hereinafter referred to as "Employer", invites online bids from eligible domestic bidders for design, engineering, manufacture/ fabrication, supply, transportation, unloading, storage, transportation to site, erection, testing and commissioning of Ash water recirculation system of Tenughat Thermal Power Station (TTPS) at Lalpania along with auxiliaries on Turnkey Contract basis for the complete scope of work as detailed in enclosed Technical Specification no. MEC/11/40/ TS/ Q7GR/01 – R 02, December 2023.



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2.0 QUALIFYING REQUIREMENT (OR)

The bidders should meet following technical and financial eligibility criteria:

2.1 Technical Eligibility Criteria

The bidder having credentials of complying with the minimum eligibility as stipulated herein below in totality would be considered eligible for further evaluation of their bids.

(A) Technical Eligibility Requirement

Experience of having completed similar work during last 09 (nine) years ending last day of the month previous to the one in which NIT is invited and the same should be in operation for a minimum period of 06 (six) months during last 09 (nine) years ending last day of the month previous to the one in which NIT is invited in the following manner:

- (i) One (01) similar completed work costing not less than Rs.6.65 Crores
- OR**
- (ii) Two (02) similar completed works each costing not less than Rs.5.32 Crores
- OR**
- (iii) Three (03) similar completed works each cost not less than Rs.3.99 Crores.

Definition of “**Similar work**”– “Execution comprising of civil, mechanical and electrical works. Mechanical work should include execution of pipe and pumping system”.

Note:-

1. The value of work for evaluation of above shall be arrived at by the value mentioned in the Contract Agreement/Work order/Purchase order/LOI/LOA.
2. The completion of the work (A) must have occurred within the span of **09(Nine)** years ending last day of the month previous to the one in which NIT is invited.
3. The above (Clause A) shall be supported by relevant self-attested documentary evidences such as work order/contract agreement/Purchase order/LOI/LOA, completion certificate/ performance certificate/commissioning certificate of works executed by them and six months of operation of the work executed. All the certificates shall be from the owner/client.
4. Value of work to be considered for credentials shall be deemed present value of the said work. The deemed present value shall be worked out by escalating the value as per work order at 5% per annum beyond the work order date, escalation being applied on pro rata monthly basis, with compounding at annual rate.
5. For the works executed outside India, the Tenderers shall submit certificates verified by Chamber of Commerce of that country or by Embassy of India in that Country duly authenticated and attested by the notary public in India.
6. Consortium bidding is not allowed.



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2.2 Financial Eligibility Criteria

- a) The average annual financial turnover of the Bidder during last three consecutive financial years ending 31.03.2023 i.e. during financial year 2020-21, 2021-22 & 2022-23 shall not be less than Rs.3,99,00,000/- (Rupees three crore ninety nine lakh only).
- b) Net Worth of the bidder should be Positive for the financial year 2022-23.

Note:

- i) 'Revenue from Operations/Turnover' shall be considered for the purpose of determining the turnover.

- ii) Documents required:

Bidder shall submit signed copy of Audited Annual Financial Reports for last 3 (three) consecutive financial years ending 31st March' 2023 (Balance Sheet and Profit & Loss Account). The signed Balance Sheet and Profit & Loss Account furnished by Bidders for financial eligibility should clearly indicate the details of the Membership No. & Firm No. of the Chartered Accountant & UDIN, if required, as per guideline of ICAI. In case of non-availability of Audited Annual Reports, the Bidder shall furnish a certificate from a Chartered Accountant stating annual turnover for the last three consecutive financial years ending 31st March 2023.

In case bidder is not a Company and is not able to submit the above, Chartered Accountant's Certificate may be submitted to substantiate the financial eligibility. The Chartered Accountant's Certificate should clearly indicate the details of the Membership No. & Firm No. of the Chartered Accountant and UDIN.

- iii) Net Worth means the sum total of the paid up share capital and free reserves.

Free reserve means all reserves credited out of the profits and share premium account but does not include reserves credited out of the revaluation of the assets, write back of depreciation provisions and amalgamation. Further any debit balance of Profit and Loss account and miscellaneous expenses to the extent not adjusted or written off, if any, shall be reduced from reserves and surplus.

- 3.0 The Employer, at its discretion, may ask the bidder to furnish any other documents for its scrutiny during examination/evaluation of bidder's bid.
- 4.0 The copies of all documents as per checklist but not limited to this and as required in support of Eligibility Criteria shall be submitted duly self attested.
- 5.0 Even if a Bidder meets all the Eligibility Criteria and other requirements, he is liable to be disqualified, without prejudice to Employer's rights to take legal actions as per



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applicable law, if he has made untrue or false representations in the forms, statements, translations and enclosures submitted in proof of eligibility and qualification requirements, and/or made any misrepresentation of facts in order to influence the tendering process and its outcome.

6.0 Interested Bidders may obtain further information from the office of the:

Electrical Superintending Engineer (C&M)

TVNL, Hinoo, Ranchi

Telephone No.0651-2252160/62

Email: tvnnext.project@gmail.com

Mr Rajesh Ranjan (M) -9835346525

Mr. Ganga Ravidas (M) -9835352492

7.0 **Cost of bidding Document**

The Cost of Bidding Document shall be Rs.17,700/- (Indian Rupees seventeen thousand seven hundred only) including GST.

The stipulated cost of Bidding Document shall be paid online.

Cost of Bidding Documents is **Non-Refundable, Not Transferable.**

Bidding Documents are not transferable.

Entire Bidding Documents along with detailed IFB (Invitation For Bid) are available in the Employer's website i.e. www.tvnl.in. A prospective bidder can download the documents for the purpose of preparation & submission of its Bid.

Bidder shall submit fee towards cost of the bidding document as mentioned above along with its Bid (Part-I), as per details given in Bidding Document.

9.0 **EARNEST MONEY DEPOSIT (EMD)**

9.1 EMD is not required for the following cases:-

- i) For NSIC/SSI registered parties/MSEs local registered parties (with all statutory licenses/ certificates as per MSME act.)
- ii) No-MSE units of Jharkhand will get 50% concession in EMD.

9.2 The Bidder must deposit Earnest Money in the form of a Demand draft/BG drawn on any Nationalised/ Schedule Indian Bank, other than a Co-operative or Gramin Bank, drawn in favour of "**TENUGHAT VIDYUT NIGAM LIMITED**" and payable at "**Ranchi**". Offer not accompanied with Earnest Money shall be liable to be rejected unless exempted as per tender stipulations.



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- 9.3 On acceptance of the Tender (but not earlier than the expiry date of validity of tender), the Earnest Money Deposit will be returned to the unsuccessful bidder upon request.
- 9.4 Should an Invitation For Bid be withdrawn or cancelled by TVNL, which it shall have the right to do at any time, the Earnest Money & Cost of Tender will be returned to the Bidder.
- 9.5 Earnest Money shall be returned to the successful Bidder after the Performance Security Deposit has been furnished to TVNL as per provisions of the Order.
- 9.6 No cash will be accepted as Earnest Money. No interest will be paid on any Earnest Money or any other guarantee.
- 9.7 EMD is liable to be forfeited if:
- a. The tenderer changes the terms and conditions or prices or withdraw his quotation subsequent to the date of opening of techno commercial bid.
 - b. The tenderer fails to accept the Order when placed or fails to commence supplies/works after accepting the Order.
 - c. In case bidder submits false/fabricated documents.
 - d. If the Tenderer after submitting his Tender resiles from his offer.
- 9.7 Encashment of EMD is liable to GST at applicable rate.
- 10.0 It shall be the responsibility of a prospective bidder to ensure that its Bid is submitted in the formats and as per the terms and conditions prescribed in the Bidding Documents and no change is made therein.

The documents placed in website along with this detailed Invitation for Bids (IFB) form the complete bidding document. All the documents along with detailed IFB as placed in the website are final. On verification, at any time, whether the Bidder is successful or not, if any of the documents submitted by the bidder including the documents downloaded from Employer's above mentioned website / issued are found tampered/ altered / incomplete, they are liable for rejection, cancellation & termination of the Contract, debarring, etc. as per the rules of the Employer.

It will be presumed that the Bidder has gone through the entire Bidding Documents and has understood the scope of the contract and all other stipulations therein, which shall be binding on the Bidder.

The Bidder shall download the "Bidding Documents" available in the web site in totality and submit its bid online and also the hard copy of the same duly signed and stamped on each page with each copy of Part-II of their bids. In case any Addendum



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is subsequently uploaded on the web-site in respect of the Invitation for Bids, copy of the same also shall be submitted duly signed and stamped on each page.

Bidders are also advised to keep visiting the Employer's web-site i.e. www.tvnl.in from time to time (till the deadline for bid submission) for any updates in respect of the Invitation for Bids including those on Bidding Documents, if any. Failure to do so shall not absolve the Bidder of his liabilities to submit its Bid complete in all respect and in accordance with Bidding Documents including updates thereof, if any. An incomplete Bid may be liable for rejection.

11.0 The Bid submitted by a Bidder shall consist of two parts as stipulated herein below:

11.1 **Part-I: Cost of Bidding Document and Earnest money Deposit or MSE certificate (if applicable) and Qualifying Requirement**

Part-I of Bid shall contain Cost of Bidding Document and Earnest money Deposit or NSIC/SSI/MSE certificate (if applicable) in the form and manner as specified in Bidding Documents.

Part-I of Bid shall not contain any information / data in respect of Bidder's Price Bid.

The Bid received without Cost of Bidding Document and Earnest money Deposit or NSIC/SSI/ MSE certificate (if applicable) in the form and manner as specified in Bidding Documents shall be liable for rejection.

11.2 **Qualifying Requirements - Technical Part & Commercial Part and Un-priced copy of Price Bid**

Bid shall consists of all documents and details, which the bidder considers it prudent, w.r.t bidder's meeting the stipulated Qualifying requirement and Technical and Commercial offer in terms of requirements set forth in bidding documents and an un-priced copy of the Price Bid with the word "QUOTED" in place of price data furnished in the Price Bid. Bidders shall quote against relevant items in different Price Schedules Tables applicable for this package.

The Employer, may at its discretion, request a bidder for submission of any document for its scrutiny not submitted but considered necessary for evaluation of bidder's fulfilment of qualifying requirements and evaluation of its techno-commercial part of offer in terms of bidding documents. The same will have to be submitted by the bidder within a sufficient time period, as would be notified by the Employer, from the date of intimation, failing which their offer may be liable for rejection as being non-responsive.

11.3 **Part- II: Price Bid**

Part- II of Bid shall consist of applicable Price Schedules to be filled in online in SRM only and shall contain prices only without any terms & conditions.



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- 12.0 On the tender opening date, at first Part-I of bids will be opened. Subsequently, Bids of only those bidders shall be opened who would have furnished Cost of Bidding Documents and Earnest money Deposit **or NSIC/SSI/MSE certificate (if applicable)** as per the stipulations of the IFB. At the time of opening of Part-I of the bids, Part II- “Price Bid” shall not be opened by the Employer and same shall be kept by the Employer unopened at this stage.

Price bid shall be opened only for the Techno-Commercially qualified bidders.

Please note that neither Price should be given in Blanked Price Format nor price bid should be put in Part I of bids nor any other mode & manner which leads to price received in open condition. In case this condition is not complied, the bid shall be summarily rejected.

- 13.0 Employer reserves the right to accept or reject any bid either in part or in full or to annul the bidding process and reject all bids at any time prior to award of the Contract without assigning any reason whatsoever and without thereby incurring any liability whatsoever to the affected Bidder(s). Mere downloading of Bidding Documents and submission of Bids shall not mean fulfilment of qualifying requirements of the Bidder(s).
- 14.0 Any suo-moto change in the bid and in particularly in Quoted prices and in Guaranteed values are not permitted.
- 15.0 There shall be no post Tender Price Negotiation except with L-1 (i.e. the lowest evaluated responsive Bid), if required.
- 16.0 Employer takes no responsibility for delay, loss or non-receipt of documents sent by post/ courier at any time either way. No financial obligation shall accrue to TVNL in such an event.
- 17.0 Building and other Construction workers (BOCW) “(Regulation of Employment and Condition of Service) Act.1996”, “Building and other Construction workers” Welfare Cess Act 1996” and Rules 1998 shall be applicable for this project as per the statutory provisions and shall be included in the Contract price.

Sd/-
Electrical Superintending Engineer (C&M)



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2. INSTRUCTIONS TO BIDDERS (ITB)



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INSTRUCTIONS TO BIDDERS (ITB)

A. INTRODUCTION

1. Eligible Bidders

1.1 This Invitation for Bids, issued by the Employer, is open for Domestic Bidders (i.e., Indian Bidders only) meeting the Qualifying Requirements stipulated in IFB.

2. Facilities - Plant, Equipment & Services

2.1 For the purposes of these Bidding Documents, the word “Facilities” means the plant and equipment to be designed, manufactured, supplied and installed as per scope of Bidding Document (enclosed Technical Specification), under the Contract. The words “plant & equipment,” etc., shall be construed in accordance with the respective definitions given to them in the General Conditions of Contract.

3. Cost of Bidding

3.1 The Bidder shall bear all costs associated with the preparation and submission of its bid, and the Employer will in no case be responsible or liable for these costs, regardless of the conduct or outcome of the bidding process.

B. THE BIDDING DOCUMENT

4. Content of Bidding Documents

4.1 The Facilities required, bidding procedures, Contract terms and technical requirements are prescribed in the Bidding Documents. The Bidding Documents include the following sections:

- 1) Invitation for Bids (IFB)
- 2) Instructions to Bidders (ITB) and Annexure 1-4
 - Annexure-1: Bid Form
 - Annexure-2: Compliance of Rule 144 (xi) of the General Financial Rules (GFRs) 2017
 - Annexure-3: Check list for submission of Bid
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5) Technical Specifications

- 4.2 The Bidder is expected to examine all instructions, forms, terms, specifications and other information in the Bidding Documents. Failure to furnish all information required by the Bidding Documents or submission of a bid not substantially responsive to the Bidding Documents in every respect will be at the Bidder's risk and may result in rejection of its bid.

5. Clarification of Bidding Documents

- 5.1 The Bidder is required to carefully examine the Bidding Documents, terms & conditions of Form of Agreement, drawings and other details relating to work given in the Bidding Documents and fully acquaint himself as to all conditions and matters which may in any way affect the work or the cost thereof. Bidder is deemed to have known the scope, nature and magnitude of the work and the requirements of materials, labour involved, site conditions etc.
- 5.2 A prospective Bidder requiring any clarification of the Bidding Documents may notify the Employer in writing or by telefax or e-mail at the Employer's mailing address indicated in the **Invitation for Bids (IFB)**. In particular, if a Bidder desires to seek any clarification on the documents including those listed in **ITB Sub-Clause 20.3**, such a clarification should be raised at this stage. The Employer will respond in writing to any request for clarification or modification of the Bidding Documents that it receives no later than 7 (seven) days prior to the deadline for submission of bids prescribed by the Employer.

Any clarification issued prior to submission of Bids would be put on the Employer's web site. All prospective Bidders would be presumed to have examined all clarifications on the website & have submitted their bids accordingly. In case any queries remain un-replied, it shall be construed that in



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respect of those queries, the respective stipulations of the Bidding Documents shall continue to apply and/or no new stipulations are made with respect to those queries.

- 5.3 The prospective Bidder and any of its authorized personnel or representative will be granted permission by the Employer to enter upon its premises and lands for the purpose of inspection, but only upon the condition that the prospective Bidder, its personnel and representative will release and indemnify the Employer and its representatives from and against all liability in respect thereof and will be responsible for death or personal injury, loss of or damage to property and any other loss, damage, costs and expenses incurred as a result of the inspection.
- 5.4 The Bidder shall be deemed to have acquainted itself of local/ Government taxes, duties, laws, statute, regulations, levies and other charges relating to supplies to be made, services to be rendered and works to be done at site as applicable at the work site.
- 5.5 Any neglect or omission or failure on the part of the Bidder in obtaining necessary and reliable information or on any other matter affecting the Bidder, shall not relieve the Bidder from any risk or liability or the entire responsibility for completion of the work in accordance with the Bidding Documents.

6. Amendment of Bidding Documents

- 6.1 At any time, but latest 10 (ten) days prior to the deadline for submission of bids, the Employer may, for any reason, whether at its own initiative, or in response to a clarification requested by a prospective Bidder, amend the Bidding Documents.
- 6.2 Any amendment issued prior to submission of Bids would be put on the Employer's web site. All prospective Bidders would be presumed to have examined all amendments on the website & have submitted their bids accordingly.
- 6.3 In order to afford prospective Bidders reasonable time to take the amendment into account in preparing their bid, the Employer may, at its discretion, extend the deadline for the submission of bids. Notification of extension, if any, of the deadline for submission of bids, shall be put on the Employer's web-site.

C. PREPARATION OF BID

7. Language of Bid

- 7.1 The bid prepared by the Bidder and all correspondence & documents related to the bid exchanged by the Bidder and the Employer, shall be written in the



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English language. Bid submitted in any other language is liable to be rejected. In case any printed literature furnished by the Bidder, is written in another language, it must be accompanied by a translation of its pertinent passages in the English language and for the purposes of interpretation of the bid, such translation shall govern.

8. Documents Comprising the Bid

8.1 The bid duly completed and signed by the Bidder together with Attachments identified in **ITB Sub-Clause 8.2** hereof, should be submitted and shall comprise the following documents:

Part-I: This part shall be marked as Part-I “Cost of Bidding Documents and Earnest Money Deposit or NSIC/SSI/MSE certificate (if applicable)” and shall contain technical and commercial component only for Qualifying Requirement fulfilment.

However, an un-priced copy of the Price Bid shall be attached with Commercial Part with the word “QUOTED” in place of price data furnished in the Price Bid.

Part- II: This part shall contain prices only without any terms and conditions and to be filled in SRM only.

Note: Any footnotes, remarks etc. made in the Price Bid must also appear in the Un-priced copy thereof to be submitted with Part I of the Bid. In case of any discrepancy between the footnotes, remarks etc. made in the Un-priced copy of Price Bid and those in the Priced, Price Bid, the stipulations made in the Un-priced copy of Price Bid shall prevail for the purpose of price bid evaluation. Footnotes, remarks etc. made only in the Price Bid and not featuring in the Un-priced copy shall not be taken into cognizance and shall be ignored.

8.2 Attachments to the Bid

Each Bidder shall submit with its bid the following attachments:

(a) Attachment 1: Power of Attorney

** to be attached with Part I(Commercial Part)*

A latest Power of Attorney, duly authenticated by a **Notary Public**, indicating that the person(s) signing the bid have the authority to sign the bid and thus that the bid is binding upon the bidder during the full period of its validity, in accordance with ITB Clause 12.



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In case the bidder is a limited company, a copy of resolution passed by the Board of Directors of that company authorizing that person to file the bid on behalf of the company. The copy of the said resolution should have the common seal of the company and be attested either by the company secretary or its Director.

(b) Attachment 2: Bidder's Qualifying Requirements

** to be attached with Part I*

Documentary evidence established in accordance with **Invitation for Bids** that the Bidder is eligible to bid and is qualified to perform the Contract if its bid is accepted.

(c) Attachment 3: Eligibility and Conformity of the Facilities

** to be attached with part I technical part*

Documentary evidence established in accordance with ITB **Clause 1** that the Facilities offered by the bidder in its bid are eligible & conform to Bidding Documents.

The documentary evidence of the conformity of the Facilities to the Bidding Documents may be in the form of literature, drawings and data, and the Bidder shall furnish:

- (i) a detailed description of the essential technical and performance characteristics of the Facilities,
- (ii) a list giving full particulars, including available sources, of all spare parts, special tools, etc., necessary for the proper and continuing functioning of the Facilities for the period of two (2) years, following Completion of Facilities in accordance with the provisions of the Contract,
- (iii) Commentary on the Employer's Technical Specifications and adequate evidence demonstrating the substantial responsiveness of the Facilities to those specifications. Bidders shall note that the standards for workmanship, materials and equipment designated by the Employer in the Bidding Documents are intended to be descriptive (establishing standards of quality and performance) only and not restrictive.

The Bidder may substitute alternative standards, brand names and / or catalogue numbers in its bid, provided that it demonstrates to the Employer's satisfaction that the substitutions are substantially equivalent or superior to the standards designated in the Technical Specifications.



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(d) Attachment 4: Vendors Proposed by the Bidder

The Bidder shall choose its Vendors from the approved list of Vendors as provided in Appendix-6 to the form of contract Agreement, bidding Documents, for all major items of supply or services. However, the Bidder shall indicate details of all such major items of supply or services that it proposes to purchase or sublet, and shall give details of the name of the Vendors for each of these items. Bidders are free to list more than one Vendor against each item of the Facilities.

The Bidder may propose names of additional Vendors for any items of supply or services.

The Employer reserves the right to reject or accept any or all the Vendors proposed by the Bidder, prior to award of Contract and after discussions with the bidder during the clarification meeting between the Employer & the Bidder pursuant to ITB **Clause 23**. Accordingly Appendix-6 to the form of contract Agreement shall be amended to include additional Vendors for any item, if accepted by the Employer.

(e) Attachment 5 : Deviations

**** to be attached with part I Technical part & commercial part***

Bidders are required to quote strictly as per Bidding Documents. However, if they strongly feel that some minor deviation will improve their bids, such deviations, if any, from the terms & conditions or Technical Specifications shall be listed in Attachment 5 (Technical & Commercial Deviation to be given separately) to the Bid only and no where else. The Bidder shall also provide the additional price, if any, for withdrawal of the deviations pursuant to ITB **Sub-Clause 10.2**.

Bidders shall give details of deviations, objections or reservations, other than alternative bids, from the requirements of the Bidding Documents, that they would like the Employer to consider during the clarification meeting with the Bidder, pursuant to ITB **Clause 23**.

However, the attention of the Bidders is drawn to the provisions of ITB **Sub-Clause 20.2** regarding the rejection of bids that are not substantially responsive to the requirements of the Bidding Documents.

(f) Attachment 6 : Alternative Bid

Alternative bid is not acceptable.



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(g) Bidder to submit the following document along with the bid duly signed and stamped:

- (i) Photocopy of Permanent Account Number (PAN) issued by IT department, GST Registration No. (GSTIN) and copy of P.F. Registration Certificate indicating P.F. code number allotted by any Regional Provident Fund Commissioner. Copy of Latest P.F Challan or documentary evidence in support of remittances made towards P.F shall also be submitted.

In case the bidder does not possess valid PF code number, then the bidder has to give an undertaking on a non-judicial stamp paper of value not less than Rs. 100/- stating that within one month from the date of work order of Contract he shall obtain PF Code number.

- (ii) Provide Bank Account details in order to facilitate payments through e-payment mode.
- (iii) Declaration by the tenderer in his letter head that the firm is not blacklisted by any PSU/Govt body. On verification if it is found that the tenderer has given misleading/false information, then his tender will be summarily rejected.
- (iv) Bidder to submit the Compliance of Rule 144 (xi) of the General Financial Rules (GFRs) 2017 along with Certificate duly signed & stamped as per **Annexure 2** of ITB.

9. Bid Form and Price Schedules

9.1 The Bidder shall complete the Bid Forms (**Annexure-I**) and appropriate Price Schedules furnished in the Bidding Documents in the manner and detail indicated therein and submit the same with its bid.

10. Bid Prices

10.1 Bidders shall quote for the entire facilities on a “single responsibility” basis such that the total bid price covers all the Contractor’s obligations mentioned in or to be reasonably inferred from the bidding documents in respect of the design, manufacture, including procurement and sub-contracting (if any), delivery, construction, installation and completion of the facilities. This includes all requirements under the Contractor’s responsibilities for testing, pre-commissioning and commissioning of the facilities and, where so required



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by the bidding documents, the acquisition of all permits, approvals and licenses, etc.; the operation, maintenance and training services, if any and such other items and services as may be specified in the bidding documents.

- 10.2 Bidders are required to quote the price for the commercial and technical obligations outlined in the bidding documents. If a Bidder wishes to make a deviation, such deviation shall be listed in Attachment 5 of its bid. The bidder shall also provide in the Price Bid the additional price, if any, for withdrawal of the deviations pursuant to **ITB Sub-Clause 8.2 (e)**.
- 10.3 Bidders shall give a break-up of the prices, as may be applicable to their bids, in the manner and detail called for in the Summary Price Schedule and Tables furnished in **Appendix-1** to the Form of Contract Agreement. For taxes and duties reference may be made to **Clause 14 of GCC**.

Bidders are required to quote the price in Indian Currency only.

Bidder must clearly mention their GST Registration No. (GSTIN), Income Tax Permanent Account Number (PAN) and Bank Account Number in the offer.

- 10.4 In the Schedules, Bidders shall give the required details and a breakup of their prices considering the following:
- Supplies & Services quoted in Indian Rupee shall be quoted on “at-Employer’s site” basis and shall be inclusive of all costs as well as all taxes, duties, Levies & Charges paid or payable in India as on Base Date.
- 10.5 Bidder shall submit their Price bid strictly as per the Price Format provided along-with the tender document in SRM only. Price submitted by Bidder in any other format shall render their offer invalid and shall not be considered for evaluation.

11. Earnest Money Deposit (EMD) or Bid Security

- 11.1 The Bidder shall furnish, as part of its bid, an **Earnest Money Deposit** as per details mentioned in IFB.

12. Period of Validity of Bid

- 12.1 Bids shall remain valid for the period indicated in the **Invitation for Bids (IFB)**. A bid valid for a shorter period shall be rejected by the Employer as being non-responsive unless extended.



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- 12.2 The Employer may solicit the Bidders' consent to an extension of the bid validity period. The request and responses thereto shall be made in writing. A Bidder accepting such request shall not modify its bid on its own.

13. Format and Signing of Bid

- 13.1 The Bidder shall prepare 2 sets of softcopies in Pen drive of Part-I of bid to submit separately.
Part-II shall be submitted online in SRM only.
- 13.2 The all copies of the bid, each consisting of the documents listed in ITB **Clause 8**, shall be typed or written in indelible ink and shall be signed by the Bidder or a person or persons duly authorised to bind the bidder to the Contract. The letter of authorisation shall be through power of attorney accompanying the Bid and submitted as Attachment 1 to the Bid under ITB **Sub-Clause 8.2 (a)**. All pages of the bid shall be signed and stamped by the person or persons signing the bid.
- 13.3 Any alteration, omission, addition, interlineations, erasures or overwriting shall only be valid if they are initialed by the person or persons signing the bid.

D. SUBMISSION OF BIDS

15. Deadline for Submission of Bids

- 15.1 Bids must be submitted not later than the time and date (deadline) stated in the tender.
- 15.2 The Employer may, at its discretion, extend this deadline for submission of bids by amending the bidding documents in accordance with ITB **Sub-Clause 6.3**, in which case all rights and obligations of Employer and Bidders will thereafter be subject to such extended deadline.

16. Late Bids

- 16.1 late submission of bid is not allowed as SRM will not allow this.

17. Modification and Withdrawal of Bids

- 17.1 The Bidder may modify or withdraw its bid after submission but before bid submission deadline, provided that written notice of the modification or withdrawal is received by the Employer prior to the deadline prescribed for bid submission.



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- 17.2 A Bidder wishing to withdraw its bid shall notify the Employer in writing prior to the deadline prescribed for bid submission.
- 17.3 No bid shall be withdrawn in the interval between the bid submission deadline and the expiration of the bid validity period specified in ITB **Clause 12**. Withdrawal of a bid during this interval may result in the banning of bidder as per Employer's procedure.

Forfeiture of Performance Bank Guarantee is liable to GST at applicable rate.

- 17.4 Bids together with any modification specified under the clause shall be considered as 'final' bid at the time of opening of the bid.

E. OPENING AND EVALUATION OF BIDS

18. Opening of Bids by Employer

- 18.1 The Employer may open both Part I and Part II, in the presence of bidder's designated representatives who choose to attend on the date and the time and at the venue as stipulated in the Bidding Documents.
- 18.2 Bidders' names, bids received, the presence of any alternative bids, the presence or absence of bid securing declaration and other such details as the Employer, at its discretion, may consider appropriate, will be announced at the opening. No bid will be rejected at bid opening except for bids not accompanied with Cost of Bidding Document, Earnest Money Deposit or submission of NSIC/SSI/MSE certificate (if applicable) and late bids, which will not be opened.

19. Clarification of Bids

- 19.1 During bid evaluation, the Employer may, at its discretion, ask the bidder for a clarification of its bid. The request for clarification and the response shall be in writing. While responding no change in the price or substance of the bid shall be sought, offered or permitted unless asked by Employer after completion of evaluation of bids.

Correspondences made through E-mail by the Bidder with the Employer shall be followed preferably by Post Copy.

20. Preliminary Examination of Bids

- 20.1 The Employer will examine the bids to determine whether they are complete, whether the documents have been properly signed and whether the bids are generally in order. Any bids found to be non-responsive for any reason or not meeting the minimum levels of the performance or other criteria specified in



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the Bidding Documents will be rejected by the Employer and not included for further consideration.

20.2 Prior to the detailed evaluation, the Employer will determine whether each bid is of acceptable quality, is complete and is substantially responsive to the bidding documents. For purposes of this determination, a substantially responsive bid is one that conforms to all the terms, conditions and specifications of the bidding documents without material deviations, objections, conditionalities or reservations. A material deviation, objection, conditionality or reservation is one:

- (i) that affects in any substantial way the scope, quality or performance of the Contract;
- (ii) that limits in any substantial way, inconsistent with the bidding documents, the Employer's rights or the successful Bidder's obligations under the Contract; or
- (iii) whose rectification would unfairly affect the competitive position of other Bidders who are presenting substantially responsive bids.

20.3 In general, bids with deviations from, objections to or reservations about critical provisions such as those concerning Bid Security (**ITB Clause 11**), Governing Law (**GCC Clause 5**), Arbitration (**GCC Sub-clause 6.2**), Taxes and Duties (**GCC Clause 14**), Performance Guarantees Test (**GCC Clause 27**), Defect Liability (**GCC Clause 30**), Patent Indemnity (**GCC Clause 31**) or Limitation of Liability (**GCC Clause 32**), are not acceptable to the Employer. However if the Bidder is not prepared to withdraw deviations, objections or reservations which are not acceptable to the Employer may render the bid as non-responsive. The Employer's determination of a bid's responsiveness will be based on the contents of the bid itself without recourse to extrinsic evidence.

21. Techno-Commercial Evaluation of Bid

21.1 The Employer will carry out a detailed evaluation of the bids previously determined during preliminary examination of bids, to be substantially responsive, in order to determine whether the technical & commercial aspects are in accordance with the requirements set forth in the Bidding Documents. In order to reach such a determination, the Employer will examine and compare the technical and commercial aspects of the bids on the basis of the information supplied by the Bidders, pursuant to **ITB Clause 8**, and other requirements in the Bidding Documents.

22. Qualification



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- 22.1 The Employer will ascertain to its satisfaction whether Bidders determined as having submitted responsive bids are qualified to satisfactorily perform the Contract.
- 22.2 The determination will take into account the Bidder's financial, technical and production capabilities, in particular its Contract, work in hand, future commitments, current litigation, if any, and past performance. It will be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, as well as such other information as the Employer deems necessary and appropriate.
- 22.3 Determination of eligibility (Qualifying Requirement) may be done simultaneously with techno-commercial discussions/ clarifications. However, affirmative determination of eligibility shall be pre-requisite for opening of price bid.
- 22.4 The capabilities of the Sub-Contractor or Vendors proposed in Attachment 4 (as per ITB sub-clause 8.2(d)) to the bid will also be evaluated for acceptability. Their participation should be confirmed with a letter of intent between the parties, as needed. Should a Sub-Contractor or Vendor be determined to be unacceptable, the bid will not be rejected, but the Bidder will be required to substitute an acceptable Sub-Contractor/Vendor without any change to bid price.

F. CLARIFICATION MEETING

23. Clarification of Bids and Review of Bidders' Proposed Deviations & Alternative Solutions

- 23.1 The Employer may conduct clarification meetings with each or any Bidder to clarify any aspects of its bid that require explanation at this stage of the evaluation. During these meetings, the Employer may bring to the attention of the Bidder any matters, technical or otherwise, where for whatever reason, it requires clarification / details about the bid, to be provided to the bid. All such amendments or changes required by the Employer will be listed in the "Record Notes of Discussions".
- 23.2 The Record Notes of Discussion will contain the exceptions or deviations in the bid that are unacceptable and that are to be withdrawn and of such exceptions or deviations that the Employer finds acceptable. In case any queries/deviations remain un-replied by the Employer, it shall be construed that in respect of those queries, the respective stipulations of the Bidding Documents shall continue to apply and/or no new stipulations are made with respect to those queries/deviations.



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- 23.3 The Bidder shall submit the balance clarifications, confirmations, documentations etc as recorded in the Record Notes of Discussion within the time stipulated in the Record Notes of Discussion.
- 23.4 Taking into consideration, the Record Notes of Discussion and the clarifications submitted by Bidder pursuant to **clause 23.3** above, the Employer will carry out further evaluation of the technical and commercial bid in the manner outlined in **clause 21** hereof.

24. Updated Technical, Commercial and Price Bid

- 24.1 In the event, the Employer invites updated bid, the updated Technical, Commercial and Price bid shall be signed and submitted in the same manner specified for original bids.
- 24.2 The deadline for submission of updated bids and the required validity thereof shall be specified.
- 24.3 The Employer will carry out the technical and commercial evaluation of the updated bid in the manner outlined in **Clause 21** hereof.

25. Price Bid Evaluation

- 25.1 The Employer shall inform and communicate the date, time and venue of opening of price bids, to the Bidders whose offers are found to be techno-commercially acceptable and eligible.
- 25.2 The Employer shall open the price bid of the Bidders, in the presence of designated representatives of the Bidders who choose to attend, at a date, time and venue communicated to the Bidders by the Employer.
- 25.3 The Price bid evaluation shall be done based on the Summary price table i.e. Table No.-1. L-1 bidder shall be required to submit detailed price tables within ten (10) days of request from the employer.

The Price bid evaluation will be done on the basis of the total contract price including all taxes & duties as per the scope of work mentioned in Technical Specification.

In case of a discrepancy between words and figures and/ or arithmetic error in totaling, corrected arithmetic total will be considered.

If the Bidder does not accept the correction of errors, his bid will be rejected.

The comparison shall be “at Employer’s site” price of the facilities. The Employer’s evaluation will also include the costs resulting from application of the evaluation procedures described in ITB **Sub-Clause 25.4**.



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If any discrepancy is found in furnishing any Remarks/Footnotes/Comments between Un-priced bids and Priced bids, Remarks/Footnotes/Comments furnished in Un-priced bids will prevail.

25.4 The following criteria will also be used in the evaluation of bid prices indicated in **Appendix-1** in the manner stated and to the extent indicated herein:

- Contract Price of Bidder shall include Taxes, Duties, Cess, Levies etc. at applicable rates prevailing 7 (seven) days before date of submission of Original Price Bids or Updated Price Bid, whichever is later.
- Price evaluation shall be done for the complete scope as per Technical specification.
- Prices for two years operational spares shall not be taken for evaluation.
- Any other relevant factors listed in the NIT or in the invitation for the updated bid, or factors that the Employer deems necessary or prudent to consider.

25.5 The Employer at its own discretion shall have the right to open the initial original price bid submitted by the Bidder.

25.6 Any adjustments in price that result from the above procedures shall be added, for the purposes of comparative evaluation only, to arrive at the “Evaluated Bid Price.” Bid prices quoted by Bidders shall remain unaltered.

26. Contacting the Employer

26.1 Any effort by a Bidder to influence the Employer in the Employer’s bid evaluation, bid comparison or Contract award decisions may result in rejection of the Bidder’s bid.

G. AWARD OF CONTRACT

27. Changes in Qualification Status

27.1 Prior to proceeding with the award of Contract, if circumstances (in case of receipt of any particular adverse report from other units of Employer) have arisen that would change the Employer’s opinion as to whether the Bidder is still qualified to satisfactorily perform the Contract, then Employer may reject the bid.

28. Award Criteria



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28.1 Subject to ITB **Clause 27 & 29**, the Employer will award the Contract to the successful Bidder whose bid has been determined to be substantially responsive and to be the lowest evaluated bid.

29. Employer's Right to accept Any Bid and to reject any or All Bids

29.1 The Employer reserves the right to accept or reject any First (Original) or Updated bid, and to annul the bidding process and reject all bids at any time prior to award of Contract, without thereby incurring any liability to the affected Bidder or Bidders or any obligation to inform the affected Bidder or Bidders of grounds for the Employer's such action.

30. Notification of Award

30.1 Prior to the expiration of the period of Updated bid validity, the Employer will notify the successful Bidder to be confirmed by the Bidder that its Updated bid has been accepted. If the award is without qualification / condition the notification of award will constitute the formation of the Contract. If the award is made with some qualification / condition, then upon the Bidder's acceptance of such qualification / condition the Contract will be constituted.

31. Signing of Contract Agreement

31.1 After the Employer notifies the successful Bidder that its bid has been accepted, the Employer to facilitate signing of contract within 30 days of Letter of Acceptance (LOA)/WO shall provide the draft Contract Agreement within 15 days of issue of LOA/WO.

31.2 After receipt of the draft Contract Agreement by the Contractor, the contractor shall submit contract agreement on non-judicial stamp paper value of Rs.100/- for signing of Contract Agreement.

31.3 The Effective Date of Contract shall be the date of signing of Contract Agreement or 30 days from date of issue of Letter of Acceptance (LOA)/WO, whichever is earlier.

32. Performance Security (Performance Bank Guarantee)

Within 30 (thirty) days after the Effective Date of Contract as specified in Article-3 of Contract Agreement, the successful Bidder shall furnish the Performance Security (Performance Bank Guarantee) of **10 (ten) % of Contract price** and in the form provided in **Annexure-I of GCC** of the Bidding Documents.

33. Risk Purchase Action

33.1 Failure of the successful Bidder to comply with the requirements of **ITB Clause 31 or Clause 32** shall constitute sufficient grounds for the annulment



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of the award, banning of bidder as per Employer's procedure and execution of facilities at the risk and cost of the successful bidder.

Forfeiture of Performance bank guarantee is liable to GST at applicable rate.

34. Transfer of Bid Document

34.1 Bidder who has purchased the Bidding Documents is not permitted to transfer the Bidding Documents to any other party for submitting bids on its behalf. Similarly transfer of bids submitted by one Bidder to another Bidder is not permissible.

35. General

35.1 The Employer may conduct price negotiations, if required, with L-1 (i.e. lowest evaluated) bidder only.

35.2 If at any point of time, it was found by the Employer that the bidder has furnished false information, the employer may reject the bid.

35.3 The bidder may download the bidding document from website mentioned in IFB.

36. Compliance with Company Law

36.1 The Bidder must declare whether the proprietor/ partner of the firm/ Director of the limited company has any relation with any employee working in the Plants/Units concerned or director of TVNL including its subsidiaries and if so, the details or the relation thereof must be furnished.



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ANNEXURE-1

**BID FORM
(ITB CLAUSE - 9)**

Bidder's Ref. No. _____

Date: _____

To:

[Name and address of Employer]

[Name of Facilities]

Ref.: Your Tender no. _____

Dear Sir,

Having examined the bidding documents, including Addenda, the receipt of which is hereby acknowledged, we, the undersigned, offer the above-named Facilities in full conformity with the said bidding documents for the sum as mentioned in Price Bid or such other sums as may be determined in accordance with the terms and conditions of the Contract.

We further undertake, if invited to do so by you, and at our own cost, to attend a clarification meeting at a place of your choice, for the purpose of reviewing our Bid and duly noting all amendments and additions thereto, and noting omissions there from that you may require.

We undertake, if our bid is accepted, to commence execution of work of the Facilities and to achieve completion within the respective times stated in the bidding documents / quoted by us in our bid.

If our bid is accepted, we undertake to provide a Performance Bank Guarantee in the form, in the amount, and within the time specified in the bidding documents.

We agree to abide by this bid, which consists of this letter and Attachments hereto, for a period of 180 (One hundred & eighty) days from the date fixed for submission of bids as stipulated in the bidding documents, and it shall remain binding upon us and may be accepted by you at any time before the expiration of that period.



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Until a formal Contract is prepared and executed between us, this bid, together with your written acceptance thereof and your notification of award shall constitute a binding Contract between us.

We understand that you are not bound to accept the lowest or any bid you may receive and in-turn we will not have any rights to raise any claim, whatsoever it may be, due to or arising out of rejection of our bids.

Dated this _____ day of, 2022. _____ *[signature]*

In the capacity of _____ *[position]*

Duly authorised to sign this bid for and on behalf of _____ *[name of bidder]*



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ANNEXURE-2

[All bidders shall comply with Rule 144 (xi) of the General Financial Rules (GFRs) 2017]

- I. Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority. The Competent Authority for the purpose of registration shall be the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade {DPIIT}, Government of India.
- II. Bidder (including the term 'tenderer', 'consultant' or 'service provider' in certain contexts) means any person or firm or company, every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in a procurement process.
- III. "Bidder from a country which shares a land border with India" for the purpose of this Order means: -
 - a. An entity incorporated, established or registered in such a country; or
 - b. A subsidiary of an entity incorporated, established or registered in such a country; or
 - c. An entity substantially controlled through entities incorporated, established or registered in such a country; or
 - d. An entity whose beneficial owner is situated in such a country; or
 - e. An Indian (or other) agent of such an entity; or
 - f. A natural person who is a citizen of such a country;
- IV. The beneficial owner for the purpose of (iii) above will be as under:
 1. In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has a controlling ownership interest or who exercises control through other means.

Explanation—

 - a. "Controlling ownership interest" means ownership of or entitlement to more than twenty-five per cent. of shares or capital or profits of the company;
 - b. "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;
 2. In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen



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percent of capital or profits of the partnership;

3. In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;
4. Where no natural person is identified under (1) or (2) or (3) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
5. In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.

V An Agent is a person employed to do any act for another, or to represent another in dealings with third person.

VI. The successful bidder shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority.

Note:

- No registration is required for bidders from those countries [even if sharing a land border with India] to which the Government of India has extended the lines of credit or in which Government of India is engaged in development projects.
- Updated lists of countries to which lines of credit have been extended or in which development projects are undertaken are given in the website of the Ministry of External Affairs, Government of India.

Bidders have to submit Compliance declaration as per Certificate given below:



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CERTIFICATE REGARDING COMPLIANCE

Dear Sirs,

We hereby certify that:

a) We have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India; we hereby certify that our company is not from such a country or, if from such a country, has been registered with the Competent Authority. We hereby certify that we fulfill all requirements in this regard and is eligible to be considered. [Copy of valid registration by the Competent Authority shall be attached.]

b) We have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India and on sub-contracting to contractors from such countries; We hereby certify that our company is not from such a country or, if from such a country, has been registered with the Competent Authority and will not sub-contract any work to a contractor from such countries unless such contractor is registered with the Competent Authority. We hereby certify that we fulfill all the requirements in this regard and is eligible to be considered. [Copy of valid registration by the Competent Authority shall be attached.]

Yours truly,

Date

Signature.....

Place

Name.....

Designation

Name of Bidder

Seal.....



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COMMERCIAL VOLUME FOR
ASH WATER RECIRCULATION SYSTEM**



ANNEXURE-3

CHECK LIST FOR SUBMISSION OF BID

Tender No.:

Bidder's Name and Address:

Name of Facilities: Installation of Ash water Recirculation System (AWRS) at TTPS
Lalpania, Bokaro

Sl. No.	Details of document.	Details to be furnished by the Bidder (Enclosed separate sheets if required) (Attached/ Not attached) If not attached, reasons
1	Name and Address of the Bidder with Telephone, Fax and E-mail (Enclose covering letter on letter head of firm)	
2	Nature of Firm i.e. Proprietorship/ Partnership/Pvt. Ltd./Public Sector (attach Proof)	
3	Name of the Proprietor/head of the Firm and its key personnel	
4	Permanent Account Number (PAN)	
5	GST Registration Number (GSTIN)	
	Part-I	
6	Cost of Tender document (<i>Online payment details</i>)	
7	Earnest Money Deposit (<i>BG/DD No. & Date and Value</i>)	
8	Bid Form	
9	<i>Attachment-1</i> – Power of Attorney. (Name & Designation of Authorised Signatory)	
10	<i>Attachment-2</i> – Bidders Qualifying requirement.	



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11	<i>Attachment-3 –</i> Eligibility and conformity of the Facility.	
12	<i>Attachment-4 –</i> Vendors proposed by the Bidder	
13	<i>Attachment-5 –</i> Deviations, if any, along with softcopy in MS word format in a CD.	
14	<i>Attachment-6 –</i> Alternative Bid (If any)	Not Acceptable
15	Whether the bidder is registered as Micro, Small or Medium Enterprise under MSMED Act, 2006	YES/NO (Please tick)
A	If, YES – Please indicate Whether Micro/Small/Medium	Micro/Small/Medium (Please tick)
B	If, MICRO/ SMALL, please submit/attach copy of Registration Certificate / UDYOG AADHAAR Certificate/ Udyam Registration Certificate	
16	Whether the bidder is Class I Local Supplier as per stipulations of this tender.	YES/NO (Please tick)
A	If, no then, please indicate Whether Class II Local Supplier/ Non-Local Supplier	Class II/ Non-Local (Please tick)
B	Kindly indicate percentage of Local Content of the items offered by you against the tender.	
17	Un-priced copy of price bid with the word 'Quoted' where price is to be quoted.	
18	Bar Chart	
19	3-yrs. Audited Balance Sheet (s) and profit and loss account statement i.e for financial years 2020-21, 2021-22 & 2022-23.	
20	IT returns for last 3 (Three) Years	
21	Bank details- Name & Branch Address of Bank, Account No. , IFSC Code	
22	Others, if any	
	Part-II	
23	Price Bid	



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Signature:
Name:
Designation:
Company Seal



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FORM OF CONTRACT AGREEMENT

(To be executed on Non-Judicial Stamp Paper of appropriate value)

THIS CONTRACT NO. _____ made this _____ Day of _____, Two Thousand Twenty Three at _____.

BETWEEN

TENUGHAT VIDYUT NIGAM LIMITED (TVNL), a Company incorporated under the Companies Act, 1956 and having its registered office at ----- India, having _____ (hereinafter referred to as the "**Employer**") which term or expression unless excluded by or repugnant to the context or the meaning thereof, shall be deemed to include its successors and permitted assigns, **OF THE ONE PART**,

AND

M/s. _____, a Company organised and existing under the laws of _____ (*Name of the Country*) and having its Registered Office at _____ (hereinafter referred to as "**Contractor**"), which term or expression unless excluded by or repugnant to the context or meaning thereof, shall be deemed to include its successors and permitted assigns, **OF THE OTHER PART**

AND WHEREAS

- a) The Employer has decided to **Install Ash Water Recirculation System** (*Name of the Facilities*) at _____ (hereinafter referred to as the "**Facilities**"), and
- b) The Contractor has declared that the Contractor has valuable and specialized knowledge and expertise for providing and executing the above Facilities and
- c) The Contractor has declared that the Contractor is in a position to disclose, impart, deliver and transfer the requisite engineering data, drawings and documents of those items which are in the scope of the Contractor in this Contract, to the Employer for the engineering of the Facilities and for erection, start-up and commissioning of the Facilities with the aim to manufacture product as specified in the Contract, and
- d) The Contractor has obtained clarifications on technical and commercial aspects, inspected the site and surroundings of Facilities and has examined and considered all other matters, conditions and things, probable contingencies and generally all matters incidental thereto and ancillary thereof, affecting the execution and completion of the Facilities, and



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- e) The Contractor has agreed to undertake design & engineering, civil engineering work, dismantling of buildings, structures & equipment, fabrication & supply of steel structures, manufacture & supply of plant and equipment, intermediate storage, insurance & handling, erection work, testing, pre-commissioning, start-up & commissioning and demonstration & establishment of performance guarantee parameters of the Facilities.

NOW IT IS HEREBY AGREED as follows:

Article 1 Contract Documents

1.1 **Definitions** (Reference GCC Clause 1)

1.2 **Contract Documents** (Reference GCC Clause 2)

The following documents shall constitute the Contract between the Employer and the Contractor, and each shall be read and construed as an integral part of the Contract:

- (a) This Contract Agreement and Appendices hereto
- (b) General Conditions of Contract and Annexure hereto
- (c) Technical Specifications (Volume-II)
- (d) Any other documents shall be added here

1.3 **Order of Precedence** (Reference GCC Clause 2)

In the event of any ambiguity or conflict between the Contract Documents listed above, the order of precedence shall be the order in which the Contract Documents are listed in Article 1.2 (Contract Documents) above.

Article 2 Contract Price and Terms of Payment

2.1 **Contract Price** (Reference GCC Clause 11 & Appendix-1)

The Employer hereby agrees to pay to the Contractor the Contract Price in consideration of the performance by the Contractor of its obligations hereunder. The Contract Price shall be [*amount of currency in words*], [*amount in figures*], or such other sums as may be determined in accordance with the terms and conditions of the Contract.

2.2 **Terms of Payment** (Reference Appendix-3)

The terms of payment are given in Appendix-3.

2.3 **Price Adjustment due to Variation in Price Indices**



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Price Adjustment due to variation in price indices shall be applicable only when the contractual “Time for Completion” exceeds ten (10) months and the delay is on account of TVNL. The same shall be dealt in accordance with Appendix 4.

Article 3 **Effective Date**

3.1 The Effective Date of Contract shall be *(The date of signing of Contract agreement or 30 days from date of issue of Letter of Acceptance (LOA)/WO whichever is earlier).*

Article 4 **Scope of Facilities** (Reference GCC Clause 7 & Technical Specifications)

4.1 The Contract is for the execution of Scope of Facilities as specified in the GCC Clause 7 and Technical Specifications, on turnkey basis. The quantities/ weights of any item are indicative only for the purpose of making progress payments on pro-rata basis as per Sub-Clause 2.3 of Appendix-3.

4.2 Should the actual quantities/ weights differ from the indicated ones, neither the Contractor shall be entitled to get any additional price from the Employer nor is the Employer entitled to deduct any amount from the Contract Price due to variation in physical quantities / weight.

Article 5 **Time for Completion** (Reference GCC Clause 8 & Appendix-2)

5.1 The Facilities will be commissioned in **Ten (10)** months from the Effective Date of the Contract. The Facilities shall be considered as commissioned on the date of commissioning indicated in the Commissioning certificate issued by the Employer.

The Performance bank Guarantee (BG) shall be submitted by the Contractor within 30 days of issuance of LOA/WO and before execution of contract agreement.

Article 6 **Consultant**

6.1 Not applicable.

Article 7 **Subcontracting** (Reference GCC Clause 19)

7.1 This shall be as per GCC Clause 19.

Article 8 **Liquidated Damages** (Reference GCC Clause 27 & 29)

8.1 **Liquidated Damages due to Delay in Completion of Facilities** (Reference GCC Sub-Clause 29.2)

If the Contractor fails to attain “Completion of the Facilities” within the Time for Completion or any extension thereof under Clause 42 (Extension of Time for



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Completion) of GCC due to reasons attributable to the Contractor, the Employer shall recover the amount of Liquidated Damages, but not by way of penalty, by making deductions from the Contractor's account or by encashment of Contractor's Bank Guarantees (as per Sub-Clause 13.1.2 of GCC), at the rate of 0.5% of the Contract Price plus escalation, if any, paid or payable to the Contractor, excluding taxes and duties per complete week of delay up to a maximum of 5% of the Contract Price plus escalation, if any, paid or payable to the Contractor excluding taxes and duties, as specified in the Clause 29.2 of GCC.

Liquidated damages in the form of Encashment of Bank Guarantee or any other way recovered from the contractor is liable to GST at the applicable rate. Contractor shall pay GST in addition to the LD charged as per this clause.

8.2 Liquidated Damages for Non-fulfilment of Performance Guarantee Parameters of Facilities (Reference GCC Clause 27)

If, for reasons attributable to the Contractor, the performance guarantee parameters specified in **Appendix-5** are not met either in whole or in part, the Contractor shall at its cost and expense make such changes, modifications and/or additions to the Facilities or any part thereof as may be necessary to meet performance guarantee parameters. The Contractor shall notify the Employer upon completion of the necessary changes, modifications and/ or additions and the Contractor shall be allowed by the Employer to repeat the performance guarantee tests twice after first campaign of guarantee test and the Contractor must establish the performance guarantee parameters during second or third test.

In case the Contractor expresses its inability to achieve the performance guarantee parameters but attains above the minimum acceptance level of performance guarantee parameters, as specified in **Appendix-5**, either in whole or in part, the Employer shall recover the amount of Liquidated Damages, but not by way of penalty, by making deductions from the Contractor's account or as a last resort by encashment of Contractor's Bank Guarantees, at the rates specified in the **Appendix-5** for respective items, subject to a maximum of 5% of the Contract Price plus escalations, if any, paid or payable to the Contractor excluding taxes and duties, in respect of the failure to meet the minimum level of Performance Guarantees in accordance with the provisions in **Appendix-5**.

In case, even after all possible repairs and replacements the Contractor fails to attain the minimum level of performance guarantee parameters in third test conducted, the Employer may at its option reject the Facilities and recover the entire cost paid to the Contractor or alternatively the Employer may proceed for commercial settlement with the Contractor for acceptance of the Facilities at the negotiated Price.

The Employer shall not reject the plant & equipment after commissioning and achievement of minimum acceptance level of PG parameters. After successful commissioning and achievement of the minimum acceptance level of PG parameters, the total liability of the Contractor on account of delay and demonstration of PG parameters will not be more than LD.



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Liquidated damages in the form of Encashment of Bank Guarantee or any other way recovered from the contractor is liable to GST at the applicable rate. Contractor shall pay GST in addition to the LD charged as per this clause.

- 8.3 The Overall limit of Liquidated Damages with respect to Articles 8.1 & 8.2 shall be 10% of the Contract Price plus escalation, if any, excluding taxes and duties. However, individual ceiling for delay in completion and non-fulfilment of the PG parameters shall be 5% and 5% respectively.
- 8.4 Any Recovery of Liquidated Damages shall be affected from the amount payable to the Contractor against Commissioning, Performance Guarantee Test, Final Acceptance Certificate and Performance Bank Guarantee. LD will not be recovered from the running bills prior to above payments.

Article 9 **Conciliation and Arbitration** (Reference GCC Clause 6)

- 9.1 Any disputes, differences, whatsoever, arising between the parties out of or relating to the construction, meaning, scope, operation or effect of this Contract shall be settled between the Employer and the Contractor amicably. If however, the Employer and the Contractor are not able to resolve their disputes / differences amicably as aforesaid the said disputes / differences shall be settled by Conciliation, failing which, through Arbitration.

Conciliation shall be resorted to prior to invoking Arbitration. The Arbitration Clause is to be invoked by the parties to the Contract only on failure of conciliation proceedings to amicably settle the disputes.

- 9.2 The arbitration shall be governed in accordance with The Arbitration and Conciliation Act 1996 (hereinafter referred to as the “Act”) of India. The language of Arbitration shall be English.

Subject to the stipulations made hereinabove, Arbitration shall be conducted as per forum specified below:

Arbitration of contracts shall be governed by the Rules of Indian Council of Arbitration (ICA)/ “SCOPE Forum of Conciliation and Arbitration” (SCFA)/ Delhi High Court Arbitration Centre (DAC), as agreed by the party. The venue shall be Ranchi, Jharkhand.

During the pendency of the Conciliation or Arbitration proceedings both the parties (i.e. the Contractor and the Employer) shall continue to perform their contractual obligations.

The arbitral tribunal shall give reasons for its award. The tribunal shall apportion the cost of arbitration between the parties, the award rendered in any arbitration hereunder shall be final and binding upon the parties. The parties agree that neither party shall have any right to commence or maintain any suit or legal proceeding concerning any dispute under this agreement until the dispute has been determined in accordance with



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the arbitration proceeding provided for herein and then only to enforce or facilitate the execution of an award rendered in such arbitration.

Article 10 Liability of Govt. of India

10.1 It is expressly understood and agreed between the Contractor and the Employer that the Employer is entering into this Contract solely on its own behalf and not on behalf of any other person or entity. In particular, it is expressly understood and agreed that the Govt. of India is not a party to this Contract and has no liabilities, obligations or rights hereunder. It is expressly understood and agreed that the Employer is an independent legal entity with power and authority to enter into Contracts solely on its own behalf under the applicable laws of India and general principles of Contract Law. The Contractor expressly agrees, acknowledges and understands that the Employer is not an agent, representative or delegate of the Govt. of India. It is further understood and agreed that the Govt. of India is not and shall not be liable for any acts, omissions, commissions, breaches or other wrongs arising out of the Contract. Accordingly, the Contractor hereby, expressly waives, releases and foregoes any and all actions or claims, including cross claims, impleader claims or counter claims against the Govt. of India arising out of this Contract and covenants not to sue the Govt. of India as to any manner, claim, cause of action or thing whatsoever arising of or under this Contract.

Article 11 Appendix

11.1 The following Appendices shall be deemed to form an integral part of this Contract Agreement. Reference in the Contract to any Appendix shall mean the Appendices attached hereto, and the Contract shall be read and construed accordingly.

- 1 Price Schedule
- 2 Time Schedule
- 3 Terms of Payment
- 4 Price Adjustment due to Variation in Price Indices
- 5 Performance Guarantees
- 6 List of Approved Vendors

Article 12.

No modifications of this Contract including Appendices hereto, shall be valid unless the same is agreed to in writing by the parties and specifically mentioned as an amendment to the Contract.

IN WITNESS WHEREOF the Employer and the Contractor have caused this Agreement to be duly executed by their duly authorised representatives the day and year first above written.

Signed by for and on behalf of the

Signed by for and on behalf of the



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Contractor

Employer

[Signature]

[Signature]

[Designation]

[Designation]

In the presence of _____

In the presence of _____

1) _____
[Signature]

1) _____
[Signature]

[Designation]

[Designation]

2) _____
[Signature]

2) _____
[Signature]

[Designation]

[Designation]



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APPENDIX - 1

PRICE SCHEDULE

1. Contract Price

- 1.1 The Contract Price for the entire Scope of Facilities including all the contractual obligations of the contractor together with its sub-contractor/ Vendors, is indicated in the GCC Clause -11 & Appendix-1

2. Contract Price Break-up

- 2.1 The break-up of the Contract Price is indicated in the Summary Price Schedule and detailed break-up of summary price is given in the following table, hereafter.

1. Summary Price Schedule

- 1.1 Price Schedule for Indigenous Design & Engineering
1.2 Price Schedule for supply of Plant & Equipment and Technological Structures (Indigenous Supplies)
1.3 Price Schedule For Civil Engineering Works Including All Supplies
1.4 Price Schedule for Storage, Handling, Erection of Plant & Equipments, Building Steel Structures including Supervision, Commissioning and PG Tests of the Facilities



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APPENDIX - 2

TIME SCHEDULE

1.0 Time Schedule for Completion of the Facilities

1.1 The Facilities will be commissioned within **10 (Ten)** months from the effective date of the Contract as per **Article-5** of the Contract Agreement.

The overall time schedule for completion of the Facilities is given below.

S. No.	Items of Work	Commencement (No. of Month from Effective Date)	Completion (No. of Month from Effective Date)
1.	Basic Engineering		
2.	Detailed Design Engineering		
3.	Civil Work		
4.	Supply / Delivery of:		
i)	Building Steel Structures & Sheeting		
ii)	Mechanical Plant & Equipment including Technological Structures		
	a) Indigenous		
iii)	Electrical Plant & Equipment:		
	a) Indigenous		
5.	Erection of Building Steel Structures & Sheeting:		
6.	Erection:		
i)	Mechanical Plant & Equipment		
ii)	Electrical Plant & Equipment		
7.	Preliminary Acceptance		
8.	Commissioning		

The Time schedule for completion of the Facilities indicated in the Bar Chart given in the Contract Technical Specifications and shall be binding on the Contractor.



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2.0 Time Schedule for Feed back Data, Drawings and Documents

2.1 Within Two weeks from the Effective Date of Contract, the Contractor shall submit to the Engineer-In-Charge / Consultant preliminary list of all drawings and documents by title using the approved numbering system and indicating the schedule of submission of drawings in conformity with the time schedule given in **Clause 2.2** and **2.3** hereof. This list shall be updated and submitted by the Contractor at the end of every quarter of the year.

2.2 Drawing / Documents for Approval

2.2.1 The Contractor shall submit the drawings and documents to the Engineer-In-Charge / Consultant for approval, as per the schedule given in the Technical Specifications.

2.2.2 After approval by the Employer / Consultant, the Contractor shall submit approved drawings and documents in number of copies as specified in the Technical Specifications to the Employer.

2.3 Drawings / Documents for Information / Review

2.3.1 The Contractor shall submit to the Engineer-In-Charge / Consultant for information / review of the drawings and documents as per the Schedule given in the Technical Specifications.

2.3.2 After "no comment" clearance by the Engineer-In-Charge / Consultant, the Contractor shall submit the final drawings and documents in number of copies as specified in the Technical Specifications, to the Employer.

2.4 As-Built Drawings and Documents

2.4.1 The Contractor shall submit As-built drawings & documents before issue of Final Acceptance Certificate as per Clause 28 of GCC, as per the Schedule and in number of copies as specified in the Technical Specifications.

2.5 Equipment drawings and Erection Instructions drawings for the Plant and Equipment shall be supplied by the Contractor at least one month before the shipment / despatch of the Plant & Equipment.



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APPENDIX - 3

TERMS OF PAYMENT

1. General

1.1 In accordance with the provisions of **Clause 12** of GCC (Terms of Payment), the Employer shall pay the Contractor for the Scope of Facilities detailed under **Clause 7** of GCC & Technical Specifications, on the basis of the price break-up given in the Price Schedule (**Appendix-1**) and Billing Schedule as per **Sub-Clause 11.7.1** of GCC.

1.2 The Contractor shall submit complete and correct separate invoices and relevant documents for supplies and services.

1.3 The Contractor shall reimburse the Employer all costs, charges, damages or expenses which the Employer may have paid or incurred, if and to the extent to which the Contractor is liable under this Contract to pay upon written request of the Engineer-In-Charge, failing which such costs, charges, damages or expenses shall be deducted by the Employer from any money due or becoming due by the Employer to the Contractor under this Contract or any other Contract failing which such amounts shall be considered as debt from the Contractor to the Employer and shall be recoverable accordingly.

1.4 RECOVERY OF INCOME TAX & GST TDS

a) Any Indian Income Tax which Employer may be required to deduct by law or statute, shall be deducted at the source under relevant Chapter of Income Tax Act and the same shall be paid to Income Tax Authorities on account of the Contractor. Employer shall provide the Contractor a certificate for such deduction of Tax. The Contractor shall indicate their Permanent Account Number with the relevant Income Tax Authority to Employer. Contractors shall maintain books of account and shall get the account audited as per relevant Section of Income Tax Act.

If the Contractor is exempted from the deduction /recovery of Income Tax, no such recovery shall be made by Employer. Contractor shall furnish valid exemption Certificate issued by Income Tax Department to this effect.

b) Applicable TDS under GST Act will be deducted as and when notified.

c) TDS under section 194Q and compliance of section 206AB of the Income Tax Act, 1961:

As per section 194Q of the Income Tax Act, 1961, any person, being a buyer whose aggregate turnover during the preceding financial year exceeds Rs. 10 crores and is responsible for paying any sum to any resident (hereafter in this



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section referred to as the seller) for purchase of any goods of the value or aggregate of such value exceeding fifty lakh rupees in any previous year, shall, at the time of credit of such sum to the account of the seller or at the time of payment thereof by any mode, whichever is earlier, deduct an amount equal to 0.1 percent of such sum excluding GST exceeding fifty lakh rupees as income –tax. Accordingly, Employer will deduct TDS u/s 194Q from 01.07.2021 in respect of purchase of goods. Thus for this cases vendors are advised not to charge TCS under section 206C (1H) since Employer will not reimburse the same. In addition to above, as per section 206AB of the Income tax Act, 1961, where tax is required to be deducted at source under the provisions of Chapter XVIIB other than section 192, 192A, 194B, 194BB, 194LBC or 194N, the provision for TDS rate shall be, where the payee have not filed their Income Tax Return for the preceding two financial year on or before the due date and their aggregate TDS & TCS amounts are more than Rupees 50,000/- in each of these two previous years then in such case TDS rate shall be twice the applicable rate of TDS or 5% whichever is higher.

- 1.5 Taxes and Duties, Cess shall be paid to the Contractor as per invoice. The Invoice shall separately indicate the Taxes and duties & Cess claimed by the Contractor along with their relevant GSTIN Registration Number obtained by the Contractor.
- 1.6 The payment to the Contractor shall be released within thirty (30) days from the date of receipt of the complete and correct invoices & relevant documents along with price adjustment statement, if any.

2. **Terms of Payment**

- 2.1 Five percent (5%) of the Basic price specified in Appendix-1 shall be released as given herein below:
 - On Submission of General layout drawing of the plant & equipment
 - On Submission of L-2 Network.
 - On Submission of P&IDs of Ash Water recirculation system.
 - On Submission of Single Line Diagram (SLD).
- 2.2 Five percent (5%) of the Basic price specified in Appendix-1 shall be released as given herein below:
 - On Approval of General layout drawing of the plant & equipment.
 - On Approval of L-2 Network.
 - On Approval of P&IDs of Ash Water recirculation system.
 - On Approval of Single Line Diagram (SLD).



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- 2.3 Seventy percent (70%) of the Basic Price specified in the **Appendix-1** along with 100% Goods and Service Tax (GST) & applicable cess, if any and 100% Any other charges, taxes & Levies other than GST (if any, as per price schedule), shall be released towards progress payments on submission of documentary evidence along with release of progress payment of 70% as per **Sub-Clause 3.**
- 2.4 Two and a half percent (2.5%) of the Basic Price specified in the **Appendix-1**, shall be released upon issue of the Preliminary Acceptance Certificate.
- 2.5 Two and a half percent (2.5%) of the Basic Price specified in the **Appendix-1**, shall be released upon issue of the Commissioning Certificate.
- 2.6 Ten percent (10%) of the Basic Price specified in the **Appendix -1**, shall be released after establishment of Performance Guarantee parameters and issue of Performance guarantee certificate.
- 2.7 Five (5%) of the Basic Price specified in the **Appendix-1**, shall be released upon issue of the Final Acceptance Certificate.
- 2.8 All interim / progress payments shall be regarded as payments by way of advance against the final payment only and not as payment for work completed and shall not preclude defective / imperfect / incomplete Facilities to be removed. It will not be considered as an admission by the Employer of the due performance of the Contract, or any part thereof by the Contractor nor shall it preclude, determine or affect in any way the powers of the Employer under these conditions or in any way vary or affect the Contract.
3. **Progress Payments [Seventy percent (70%) of Price]**
- 3.1 **Design & Engineering**
- 3.1.1 Seventy percent (70%) of the Price specified in the **Appendix-1** shall be released on pro-rata basis and as per progress of submission & approval of design & engineering in accordance with the approved Billing Schedule.
- 3.2 **Supply of Plant & Equipment including Technological Structures and Supply of Building Steel Structure including Sheeting & Glazing**
- 3.2.1 Seventy percent (70%) of the Price specified in the **Appendix-1** shall be released on pro-rata basis on receipt of steel structures and plant & equipment at Site, in full and good condition.
- 3.3 **Civil Engineering work including all related supplies**



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3.3.1 Seventy percent (70%) of the Price specified in the **Appendix-1** shall be released on monthly pro-rata basis subject to satisfactory progress of work as per the approved Billing Schedule.

3.4 Erection of Building Steel Structures including Sheeting

3.4.1 Seventy percent (70%) of the Price specified in the **Appendix-1**, shall be released on pro-rata basis upon satisfactory progress of work as per approved billing schedule.

4. Erection of Mechanical & Electrical Plant & Equipment including Technological Steel Structures, Supervision, Testing, Commissioning & Performance Guarantee Tests of Facilities

4.1 Fifteen percent (15%) of the Price specified in the **Appendix-1**, shall be released on pro-rata basis when the plant & equipment are placed on the foundation/in position.

4.2 Forty percent (40%) of the Price specified in the **Appendix-1**, shall be released on pro-rata basis when the plant & equipment are completely erected, aligned, welded/grouted & checked and connected with all the auxiliaries and utilities.

4.3 Fifteen percent (15%) of the Price specified in the **Appendix-1** shall be released on pro-rata basis after trial runs of the individual plant & equipment/unit.

5.0 Comprehensive/ Transit, Storage Cum erection insurance

Seventy percent (70%) of the Price specified in the Appendix-1, shall be released for Comprehensive /Transit, Storage Cum erection insurance on pro-rata progress of delivery of indigenous equipment & erection.



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APPENDIX - 4

PRICE ADJUSTMENT DUE TO VARIATION IN PRICE INDICES

[Price Adjustment due to variation in price indices shall be applicable only when the contractual “Time for Completion” exceeds ten (10) months and the delay is on account of TVNL.]

- 1.0 Applicability of price adjustment shall be governed by clause-11.3, 11.4 & 11.5 of GCC.
- 2.0 The Base Date of the Contract Price is _____. [*Base date of the Contract for the purpose of price adjustment shall be the date seven(7) days before last date of submission of price bid/ updated price bid*]
- 2.1 The ‘Original Price’ as on Base Date shall be referred to as “Po” and the ‘Revised Price’ after price adjustment, if any, shall be referred to as “P” in the formulae given hereunder. “Po” and “P” are exclusive of taxes & duties. If, price adjustment becomes applicable in terms of the Contract, “P” minus “Po” shall be the net price adjustment to be made.
- 2.2 The terms LTR and LTO have been defined below under the different heads, wherever applicable. The values for LTR & LTO shall be taken based on either Gazette Notification or Tripartite Agreement. In no case LTR for Gazette Notification and LTO for Tripartite Agreement or vice-versa shall be taken. This shall be applicable for calculating the price adjustment under clause 2.5 to 2.8 hereunder.
- 2.3 **For Supply of Indigenous Mechanical Plant & Equipment including Technological Structures**
- Unless otherwise specified, the Price for supply of indigenous mechanical plant & equipment including Technological Structures shall be subject to adjustment as per the following formula:
- $$P = Po [0.20 + 0.80 RBI_i / RBI_o]$$
- Where :
- P = Revised price after adjustment.
- Po = Original Price for Supply of Indigenous Mechanical Plant & Equipment including Technological Structures as on Base Date.
- RBI_i = RBI Index for **MANUFACTURE OF MACHINERY AND EQUIPMENT :COMMODITY NOS. 1.3.18.3 & 1.3.18.6 OF TABLE NO. 21** of Index Number of wholesale price in India, prevailing one month prior to actual month of delivery or one month prior to end scheduled completion month of delivery, whichever is lower.



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RBIo = RBI Index for **MANUFACTURE OF MACHINERY AND EQUIPMENT :COMMODITY NOS. 1.3.18.3 & 1.3.18.6 OF TABLE NO. 21** of Index Number of wholesale price in India, prevailing on Base Date.

2.4 For Supply of Indigenous Electrical Plant & Equipment including Instrumentation & Telecommunication

Unless otherwise specified, the Price for supply of indigenous electrical plant & equipment including Instrumentation & Telecommunication shall be subject to adjustment as per the formula of Indian Electrical and Electronic Manufacturers' Association (IEEMA) including base date **given in IEEMA formula.**

For items of Facilities for which IEEMA formulae do not exist, the formula given under Sub-Clause 2.3 hereof, shall be applicable for the purpose of calculation of the Price Adjustment. However instead of **COMMODITY NOS. 1.3.18.3 & 1.3.18.6; COMMODITY NOS. 1.3.17.1, 1.3.17.2, 1.3.17.4, 1.3.17.5 for MANUFACTURE OF ELECTRICAL EQUIPMENT OF TABLE NO. 21** of Index Number of wholesale price in India will be applicable.

The Price Adjustment as above will be calculated based on IEEMA index prevailing one month prior to the actual date of dispatch or one month prior to end scheduled completion month of delivery, whichever is earlier.

2.5 For Erection of Mechanical and Electrical Plant & Equipment

The prices for erection of mechanical and electrical plant & equipment shall be subject to adjustment as per the following formula :

$$P = P_o \left[\frac{LTR}{LTO} \right]$$

Where :

P = Revised price after adjustment.

Po = Original Price for Erection of Mechanical and Electrical Plant & Equipment as on Base Date.

LTR = Minimum wage payable to the minimum rated unskilled worker within the Plant premises (as per the Gazette Notification for minimum wages issued by the State Government) on actual date of erection or scheduled date of erection, whichever is earlier.

or The revised Labour Rate of minimum rated worker applicable as per Tripartite agreement covering the payment of the Contractor's workers within the plant premises on actual date of erection or schedule date of erection, which ever is earlier.



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LTO = Minimum wage payable to the minimum rated unskilled worker within the Plant premises (as per the Gazette Notification for minimum wages issued by the State Government) on the base date.

or The original Labour Rate of minimum rated worker as applicable on the Base Date as per Tripartite agreement covering the payment of the Contractor's workers within the plant premises.

The Price Adjustment towards the labour component, shall be payable for the quantities on pro-rata basis as per the agreed bar chart or actual quantity executed, whichever is less.

2.6 For Supply of Building Steel Structures and Sheeting

Unless otherwise specified, the Price for supply of building steel structures and sheeting shall be subject to adjustment in accordance with the following formulae :

2.6.1 In case Steel is given by the Employer on cost recovery basis at rates prevailing on Base Date

$$P = \frac{Po [0.7 + 0.3 \frac{[LTR]}{[LTO]}}{[LTO]}$$

Where :

P = Revised price after adjustment.

Po = Original Price for Supply of Steel Structures and Sheeting as on Base Date.

The details of LTR and LTO are given at **Sub-Clause 2.6.3**

2.6.2 For steel is procured by the Contractor under the scope of work.

$$P = \frac{Po [0.3 + 0.4 \frac{RBI_i}{RBI_o} + 0.3 \frac{LTR}{LTO}]}{[RBI_o]}$$

Where :

P = Revised price after adjustment.

Po = Original Price for Supply of Steel Structures & Sheeting as on Base Date.

RBI_i = Wholesale price Index for iron & steel Mild steel- Long products- **MANUFACTURE OF BASIC METALS: COMMODITY NOS. 1.3.14.4 OF TABLE NO. 21** as per RBI Bulletin prevailing one month prior to actual month of delivery or one month prior to end scheduled completion month of delivery, whichever is lower.

RBI_o = Wholesale price Index for iron & steel Mild steel- Long products - **MANUFACTURE OF BASIC METALS: COMMODITY NOS. 1.3.14.4 OF TABLE NO. 21** as per RBI Bulletin prevailing on Base Date.

The details of LTR and LTO are given at **Sub-Clause 2.6.3**

2.6.3 For Building Steel Structures Fabricated inside Employer's Plant Premises:



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- LTR = Minimum wage payable to the minimum rated unskilled worker within the Plant premises (as per the Gazette Notification for minimum wages issued by the State Government) on actual date of supply or scheduled date of supply, whichever is earlier.
- or The revised Labour Rate of minimum rated worker applicable as per Tripartite agreement covering the payment of the Contractor's workers within the plant premises on actual date of supply or schedule date of supply, which ever is earlier.
- LTO = Minimum wage payable to the minimum rated unskilled worker within the Plant premises (as per the Gazette Notification for minimum wages issued by the State Government) on the base date.
- or The original Labour Rate of minimum rated worker as applicable on the Base Date as per Tripartite agreement covering the payment of the Contractor's workers within the plant premises.

2.6.4 For Building Steel Structures Fabricated outside Employer's Plant Premises:

- LTR = Minimum wage payable to the minimum rated unskilled worker within the Plant premises (as per the Gazette Notification for minimum wages issued by the State Government) on actual date of supply or scheduled date of supply, whichever is earlier.
- or The revised Labour Rate of minimum rated worker applicable as per Tripartite agreement covering the payment of the Contractor's workers within the plant premises on actual date of supply or schedule date of supply, which ever is earlier.
- LTO = Minimum wage payable to the minimum rated unskilled worker within the Plant premises (as per the Gazette Notification for minimum wages issued by the State Government) on the base date.
- or The original Labour Rate of minimum rated worker as applicable on the Base Date as per Tripartite agreement covering the payment of the Contractor's workers within the plant premises.

2.7 For Erection of Building Steel Structures and Sheeting

Unless otherwise specified, the Price for erection and installation of building steel structures and sheeting including final painting shall be subject to adjustment in accordance with the formula given hereunder:

$$P = P_o \left[0.60 + 0.40 \frac{LTR}{LTO} \right]$$

Where :

P = Revised price after adjustment.

P_o = Original Price for Erection of Steel Structures and Sheeting as on Base Date.



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LTR = Minimum wage payable to the minimum rated unskilled worker within the Plant premises (as per the Gazette Notification for minimum wages issued by the State Government) on actual date of erection or scheduled date of erection, whichever is earlier.

or The revised Labour Rate of minimum rated worker applicable as per Tripartite agreement covering the payment of the Contractor's workers within the plant premises on actual date of erection or schedule date of erection, which ever is earlier.

LTO = Minimum wage payable to the minimum rated unskilled worker within the Plant premises (as per the Gazette Notification for minimum wages issued by the State Government) on the base date.

or The original Labour Rate of minimum rated worker as applicable on the Base Date as per Tripartite agreement covering the payment of the Contractor's workers within the plant premises.

2.8 For Civil Engineering Works including all necessary Supplies*

Unless otherwise specified, the Price for the Civil Engineering works including all necessary supplies shall be subject to adjustment in accordance with the following formulae :

$$P = P_o \left[0.35 + 0.25 \frac{RBI_i(\text{cement})}{RBI_o(\text{cement})} + 0.10 \frac{RBI_i(\text{steel})}{RBI_o(\text{steel})} + 0.3 \frac{LTR}{LTO} \right]$$

Where :

P = Revised price after adjustment.

P_o = Original Price for Civil Engineering works as on Base Date.

RBI_i(cement) = Wholesale price Index for cement, lime and plaster - **MANUFACTURE OF OTHER NON-METALLIC MINERAL PRODUCTS: COMMODITY NO. 1.3.13.5 OF TABLE NO. 21** as per RBI Bulletin prevailing one month prior to actual month of execution or one month prior to end scheduled completion month , whichever is lower.

RBI_o(cement) = Wholesale price Index for cement, lime and plaster - **MANUFACTURE OF OTHER NON-METALLIC MINERAL PRODUCTS: COMMODITY NO. 1.3.13.5 OF TABLE NO. 21** as per RBI Bulletin prevailing on Base Date.

LTR = Minimum wage payable to the minimum rated unskilled worker within the Plant premises (as per the Gazette Notification for minimum wages issued by the State Government) on actual date of execution or scheduled date of completion, whichever is earlier.

or The revised Labour Rate of minimum rated worker applicable as per Tripartite agreement covering the payment of the Contractor's workers within the plant premises on actual date of execution or schedule date of completion, which ever is earlier.



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LTO = Minimum wage payable to the minimum rated unskilled worker within the Plant premises (as per the Gazette Notification for minimum wages issued by the State Government) on the base date.

or The original Labour Rate of minimum rated worker as applicable on the Base Date as per Tripartite agreement covering the payment of the Contractor's workers within the plant premises.

The Price Adjustment towards the labour component shall be payable for the quantities on pro-rata basis as per the agreed Bar Chart or actual quantity executed, whichever is less.

RBI(steel) = Wholesale price Index for Mild steel- Long products, **MANUFACTURE OF BASIC METALS: COMMODITY NOs. 1.3.14.4 OF TABLE NO. 21** as per RBI Bulletin prevailing one month prior to actual month of execution or one month prior to end scheduled completion month, whichever is lower.

RBIo(steel) = Wholesale price Index for Mild steel- Long products, **MANUFACTURE OF BASIC METALS: COMMODITY NOs. 1.3.14.4 OF TABLE NO. 21** as per RBI Bulletin prevailing on Base Date.



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APPENDIX - 5

PERFORMANCE GUARANTEES

- 1.0 This Appendix sets out
- (a) the performance guarantees referred to in **Clause 27** of GCC (Performance Guarantee Tests).
 - (b) the preconditions to the validity of the performance guarantees, either in production and/or consumption, set forth below.
 - (c) the minimum level of the performance guarantees.
 - (d) the procedure for conducting the performance guarantee tests, recording of measurements / results and calculation for deriving the test results.
 - (e) formula for calculation of liquidated damages for failure to attain the performance guarantees.

2.0 **Preconditions**

The Contractor gives the performance guarantees (specified herein) for the Facilities, subject to the preconditions set forth in Technical Specifications being fully satisfied.

3.0 **Performance Guarantee Parameters (Refer Technical specification)**

4.0 **Failure in Guarantees and Liquidated Damages**

- 4.1 If the performance guarantee parameter(s) of the facilities attained in the performance guarantee test, pursuant to **Clause 27** of GCC, is worse than the guaranteed figure(s) specified under clause 3.0 above, but the parameters attained in the performance guarantee test is not worse than the minimum level of performance guarantee parameter(s) specified under clause 3.0 above, and the Contractor elects to pay liquidated damages to the Employer in lieu of making changes, modifications and / or additions to the facilities, pursuant to **Sub-Clause 27.4** of GCC, then the Contractor shall pay liquidated damages at the rate(s) as specified under the clause 13.05 of Technical Specifications.

4.2 **Minimum Levels of Performance Guarantee Parameters**

Notwithstanding the provisions of this paragraph, if as a result of the performance guarantee test(s), the minimum levels of performance guarantee parameters as specified in Technical Specifications are not attained by the Contractor within a period of six months from the date of Commissioning mentioned in the Commissioning Certificate, pursuant to **Sub-Clause 27.4** of GCC, the Employer



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shall have the right to reject the Facilities and recover the entire cost paid to the Contractor or alternatively the Employer may proceed for commercial settlement with the Contractor for acceptance of the Facilities at the negotiated price.

4.3 Limitation of Liability

- 4.3.1 The Contractor's aggregate liability to pay liquidated damages for failure to attain the performance guarantees parameters above the minimum levels of performance guarantee parameters specified in **Sub-Clause 4.3** hereof, shall not exceed Five percent (5%) of the Contract Price plus escalations, if any, excluding taxes and duties.
- 4.3.2 However, in case the Contractor expresses its inability to achieve a maximum level of performance guarantee parameters as per Technical Specification, the Employer shall not reject the plant and equipment after commissioning and achievement of minimum Performance Guarantee parameters. After successful commissioning and achievement of minimum Performance Guarantee parameters, the total liability of the Contractor on account of non-achievement of maximum PG parameters will not be more than LD.
- 4.3.3 In case, even after all possible repairs and replacements the Facilities fail to attain the minimum level of performance guarantee parameters, the Employer may reject the Facility and recover the entire cost paid to the Contractor or alternatively the Employer may proceed for commercial settlement with the Contractor for acceptance of the Facilities at the negotiated Price.



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APPENDIX - 6

**LIST OF APPROVED VENDORS/PREFERRED MAKE LIST
(Refer Technical Specification)**

- 1.0 The preferred make list are approved vendor for carrying out the item of the Facilities indicated against each of them. Where more than one Vendor is listed, the Contractor is free to choose between them, but it must notify the Employer of its choice well in advance time prior to appointing any selected Vendor. In accordance with the Sub-Clause 19.1 of GCC, the Contractor is free to submit proposals for Vendor for additional items from time to time. No Vendors shall be placed with any such Vendors for additional items until the Vendors have been approved in writing by the Employer and their name have been added to this list of approved Vendors.

(Preferred make list refer Technical Specification)



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4. GENERAL CONDITIONS OF CONTRACT (GCC)



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GENERAL CONDITIONS OF CONTRACT

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GENERAL CONDITIONS OF CONTRACT (GCC)

A. CONTRACT & INTERPRETATION

1. Definitions

1.1 The following words and expressions shall have the meanings hereby assigned to them:

“**Contract**” means the Contract Agreement entered into between the Employer and the Contractor, together with the Contract Documents referred to therein; they shall constitute the Contract, and the term “the Contract” shall in all such documents be construed accordingly.

“**Contract Documents**” means the documents listed in Article 1.2 (Contract Documents) of the Contract Agreement (including any amendments thereto).

“**GCC**” means the General Conditions of Contract hereof.

“**Technical Specifications/ Contract Technical Specifications**” mean the technical specifications, schedules, detailed designs, statements of technical data, performance characteristics value and all other technical particulars of the Contract.

“**Day**” means calendar day of the Gregorian Calendar.

“**Month**” means calendar month of the Gregorian Calendar.

“**Employer**” means TVNL and includes the legal successors or permitted assigns of the Employer.

“**Engineer-In-Charge**” means the person appointed by the Employer in the manner provided in **Sub-Clause 17.1** (Engineer-In-Charge) hereof and to perform the duties delegated by the Employer.

“**Contractor**” means the person(s) whose bid to perform the Contract has been accepted by the Employer and is named as such in the Contract Agreement, and includes the legal successors or permitted assigns of the Contractor.

“**Contractor’s Representative**” means any person nominated by the Contractor and approved by the Employer in the manner provided in **Sub-Clause 17.2** (Contractor’s Representative) hereof to perform the duties delegated by the Contractor. For site work Contractor’s Representative shall also mean the representative of Sub-Contractors and Sub-Contractor’s Sub-Contractors.

“**Sub-Contractor**”, including vendors, means any person to whom execution of any part of the Facilities, including preparation of any design or supply of any Plant and Equipment, is sub-Contracted directly or indirectly by the Contractor, and includes its legal successors or permitted assigns.



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“**Contract Price**” means the sum specified in **Appendix-1 Article 2.1** (Contract Price) of the Contract Agreement, subject to such additions and adjustments thereto or deductions there from, as may be made pursuant to the Contract.

“**Base Date**” means the date given in **Sub-Clause 2.0** of **Appendix-4** of Contract Agreement which shall be considered in price variation formulae as given in **Sub-Clause 2.3 to 2.8** of **Appendix-4** of Contract Agreement.

“**Facilities**” mean the work specified in **Clause 7** hereof, Technical Specification and all supply & services to be carried out by the Contractor under the Contract.

“**Plant and Equipment**” means permanent plant, equipment, machinery and things of all kinds to be provided and incorporated in the Facilities by the Contractor under the Contract but does not include Contractor’s Equipment.

“**Installation Services**” or “**Services**” means all those services ancillary to the supply of the Plant and Equipment for the Facilities, to be provided by the Contractor under the Contract; e.g., design & engineering, supervision work, loading & unloading, dismantling & modification, intermediate storage, transportation and provision of marine or other similar insurance, inspection, expediting, site preparation works (including the provision and use of Contractor’s Equipment and the supply of all construction materials required), installation, testing, pre-commissioning, commissioning, demonstration of performance guarantee tests, the provision of operations and maintenance manuals, training, etc.

“**Contractor’s Equipment**” means all plant, equipment, machinery, tools, apparatus, appliances or things of every kind required in or for installation completion and maintenance of Facilities that are to be provided by the Contractor, but does not include Plant & Equipment, or other things intended to form or forming part of the Facilities.

“**Site**” means the land and other places upon which the Facilities are to be installed, and such other land or places as may be specified in the Contract as forming part of the Site.

“**Effective Date of Contract**” means date of signing of contract or 30 days from the date of issue of Letter of Acceptance (LOA)/WO, whichever is earlier.

“**Time for Completion**” means the time specified in **Appendix-2** within which Completion of the Facilities as a whole is to be attained in accordance with the stipulations made in the Contract and the relevant provisions of the Contract.

“**Inspector**” / “**Inspecting Engineer**” shall mean any person or firm nominated by or on behalf of the Employer or his duly authorised agent to inspect equipment, materials, supplies or work under the Contract.

“**Pre-commissioning**” means the checking, testing including conducting of integrated trial runs (cold integrated trial runs in case of Facilities involving operation at high temperature) and meeting other requirements specified in the Technical Specifications that are to be carried out by the Contractor in preparation for Commissioning as provided in **Clause 24** (Preliminary Acceptance) hereof.



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“**Preliminary Acceptance**” of the Facilities means that the Facilities have been completed operationally and structurally and put in a tight and clean condition, and that all work in respect of Pre-commissioning of the Facilities have been completed; in other words, that the Facilities are fit for Start-up & Commissioning and Preliminary Acceptance Certificate has been issued as provided in **Clause 24** (Preliminary Acceptance) hereof.

“**Program of Performance**” shall mean the program submitted by the Contractor in accordance with **clause 18**

“**Preliminary Acceptance Certificate**” means the Certificate to be issued by the Employer on successful completion of Preliminary Acceptance Tests.

“**Commissioning**” means operation of the Facilities by the Contractor to a level of output as provided in **Clause 25** (Commissioning) hereof.

“**Commissioning Certificate**” is the Certificate to be issued by the Employer as per **Sub-Clause 25.3** hereof.

“**Completion of the Facilities**” means the Facilities have been commissioned as per Clause 25 (Commissioning).

“**Taking Over**” means, on commissioning, the Employer shall be responsible for the care & custody of the Facilities together with the risk of loss or damage thereto, and shall thereafter take-over the Facilities.

“**Performance Guarantee Test**” means the test(s) specified in the Technical Specifications to be carried out to ascertain whether the Facilities are able to attain the Performance Guarantees specified in the Contract as per **Clause 27** hereof.

“**Performance Guarantee Certificate**” means the Certificate to be issued by the Employer upon successful establishment of Performance Guarantees Parameter

“**Final Acceptance**” means the acceptance by the Employer of the Facilities which certifies the Contractor’s fulfillment of the Contract in respect of Performance Guarantees of the Facilities in accordance with the provisions of **Clause 27** hereof and completion of Defects Liability Period.

“**Final Acceptance Certificate**” is the Certificate to be issued by the Employer as per **Clause 28** hereof.

“**Defect Liability Period**” means the period of validity of the warranties given by the Contractor commencing from the date of Commissioning of the Facilities, during which the Contractor is responsible for defects with respect to the Facilities as provided in **Clause 30** (Defect Liability) hereof.

2. Contract Documents

2.1 Subject to Order of Precedence of the Contract Agreement, All documents forming part of the Contract (and parts thereof) are intended to be correlative, complementary and mutually explanatory. The Contract shall be read as a whole.



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- 2.2 The Contractor shall be required to provide at least **2 (Two)** copies of signed Contract Agreement for Employer's use.

3. Interpretation

3.1 Language

- 3.1.1 All correspondence and communications to be given and all other documentation to be prepared and supplied under the Contract shall be written in English, and the Contract shall be construed and interpreted in accordance with English language.

3.2 Singular and Plural

- 3.2.1 The singular shall include the plural and the plural the singular, except where the context otherwise requires.

3.3 Headings

- 3.3.1 The headings and marginal notes in the General Conditions of Contract are included for ease of reference, and shall neither constitute a part of the Contract nor affect its interpretation.

3.4 Persons

- 3.4.1 Words importing persons or parties shall include firms, Corporations, Companies and Government entities.

3.5 Incoterms

- 3.5.1 Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed *by Incoterms 2010 with amendments if any.*

Incoterms means international rules for interpreting trade terms published by the International Chamber of Commerce (latest edition), 38 Course Albert 1er, 75008 Paris, France.

3.6 Entire Agreement

- 3.6.1 The Contract constitutes the entire agreement between the Employer and Contractor with respect to the subject matter of Contract and supersedes all communications, negotiations and agreements (whether written or oral) of parties with respect thereto made prior to the date of Contract.

3.7 Amendment

- 3.7.1 No amendment or other variation of the Contract shall be effective unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorised representative of each party hereto.



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3.8 Contractor

3.8.1 The Contractor shall be an independent Entity performing the Contract. The Contract does not create any agency, partnership, joint venture or other joint relationship between the parties hereto.

3.8.2 Subject to the provisions of the Contract, the Contractor shall be solely responsible for the manner in which the Contract is performed.

3.8.3 All employees, representatives or Sub-Contractors engaged by the Contractor in connection with the performance of the Contract shall be under the complete control & supervision of the Contractor and shall not be deemed to be employees of the Employer, and nothing contained in the Contract or in any Sub-Contract awarded by the Contractor shall be construed to create any Contractual relationship between any such employees, representatives or Sub-Contractors and the Employer.

3.9 Waiver

3.9.1 Subject to **Sub-Clause 3.9.2** below, no relaxation, forbearance, delay or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect or restrict the rights of that party under the Contract, nor shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

3.9.2 Any waiver of a party's rights, powers or remedies under the Contract must be in writing, must be dated and signed by an authorised representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

3.10 Severability

3.10.1 If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

4. Notices

4.1 Unless otherwise stated in the Contract, all notices to be given under the Contract shall be in writing, and shall be sent by personal delivery, post / airmail post, special courier, telefax, email to the address of the relevant party set out in the Sub-Clause 4.3 hereof, with the following provisions.



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- 4.1.1 Any notice sent by telefax, email shall be confirmed within two (2) days after dispatch by notice sent by airmail post or special courier, except as otherwise specified in the Contract.
- 4.1.2 Any notice sent by airmail post or special courier shall be deemed (in the absence of evidence of earlier receipt) to have been delivered ten (10) days after dispatch. In proving the fact of dispatch, it shall be sufficient to show that the envelope containing such notice was properly addressed, stamped and conveyed to the postal authorities or courier service for transmission by airmail or special courier.
- 4.1.3 Any notice delivered personally or sent by facsimile, email shall be deemed to have been delivered on date of its dispatch.
- 4.1.4 Either party may change its postal, telefax, email address or addressee for receipt of such notices by 10 (ten) days' notice to the other party in writing.
- 4.2 Notices shall be deemed to include any approvals, consents, instructions, orders and certificates to be given under the Contract.
- 4.3 Addresses for Notice purposes:

Employer's Address

Telephone No. -----

Fax No. -----

Contractor's Address

M/s. _____

[Name and address]

Telephone No. _____

Facsimile No. _____

E-mail: _____

5. Governing Law



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5.1 The Contract including the Arbitration proceedings shall be governed by and interpreted in accordance with laws of India.

6. Settlement of Disputes

6.1 Conciliation

Any disputes, differences, whatsoever, arising between the parties out of or relating to the construction, meaning, scope, operation or effect of this Contract shall be settled between the Employer and the Contractor amicably. If however, the Employer and the Contractor are not able to resolve their disputes/ differences amicably as aforesaid the said disputes / differences shall be settled by Conciliation, failing which, through Arbitration.

Conciliation shall be resorted to prior to invoking Arbitration. The Arbitration Clause is to be invoked by the parties to the Contract only on failure of conciliation proceedings to amicably settle the disputes.

6.2 Arbitration

The arbitration shall be governed in accordance with The Arbitration and Conciliation Act 1996 (hereinafter referred to as the “Act”) of India. The language of Arbitration shall be English.

Subject to the stipulations made hereinabove, Arbitration shall be conducted as per forum specified below:

Arbitration of contracts shall be governed by the Rules of Indian Council of Arbitration (ICA)/ “SCOPE Forum of Conciliation and Arbitration” (SCFA)/ Delhi High Court Arbitration Centre (DAC), as agreed by the party. The venue shall be Ranchi, Jharkhand.

During the pendency of the Conciliation or Arbitration proceedings both the parties (i.e. the Contractor and the Employer) shall continue to perform their contractual obligations.

The arbitral tribunal shall give reasons for its award. The tribunal shall apportion the cost of arbitration between the parties, the award rendered in any arbitration hereunder shall be final and binding upon the parties. The parties agree that neither party shall have any right to commence or maintain any suit or legal proceeding concerning any dispute under this agreement until the dispute has been determined in accordance with the arbitration proceeding provided for herein and then only to enforce or facilitate the execution of an award rendered in such arbitration.

B. SUBJECT MATTER OF CONTRACT

7. Scope of Facilities



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- 7.1 **Scope of Supplies and Services** (Refer Technical Specification enclosed along with this document)
- 7.2 The Contractor shall, unless specifically excluded in the Contract, perform all such work and / or supply all such items and materials not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining Completion of the Facilities (within the Battery limits as defined in the Technical Specification) as if such work and / or items and materials were expressly mentioned in the Contract without any extra cost to Employer.

8. Time for Completion

The Contractor shall attain Completion of the Facilities within the time stated in the Appendix-2 or within such extended time to which the Contractor shall be entitled under Clause 42 (Extension of Time for Completion) hereof.

9. Contractor's Responsibilities

The provisions of this Clause and its Sub-Clauses shall be applicable to the extent relevant as per scope specified in the Technical Specifications.

- 9.1 The Contractor shall carry out Scope of Facilities as specified in Technical specification including design & engineering; civil engineering work; dismantling, if any, of existing building, structures & equipment; modification / diversion, if any, of utility/ services; fabrication & supply of steel structures; manufacture (including associated purchases and / or sub-contracting) & supply of plant & equipment transportation; intermediate storage; insurance & handling; erection work; testing; pre-commissioning; start-up & commissioning and demonstration & establishment of performance guarantee parameters of the Facilities with due care and diligence in accordance with the Contract.
- 9.2 The Contractor shall be deemed to have entered into this Contract on the basis of a proper examination of the data relating to the Facilities (including any data as to boring tests) provided by the Employer, and on the basis of information that the Contractor could have obtained from a visual inspection of the Site (if access thereto was available) and of other data readily available to it relating to the Facilities prior to bid submission. The Contractor acknowledges that any failure to acquaint itself with all such data and information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing the Facilities. The Contractor shall satisfy himself regarding the accessibility to site by existing roads, feasibility of taking materials / equipment to site and availability of Labour and local conditions.



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- 9.3 The Contractor shall at its own expenses obtain all permits and licences from Indian and Foreign Government required for the performance of work under this Contract and the Contractor shall bear any fee payable to the Government or local licensing authority for obtaining permits and licences at their own cost (except where the Employer is statutorily required as per Indian laws, rules, statutory notifications to pay the fees and/or file applications for the permits/licences in which case the Contractor shall render assistance to the Employer). The Contractor shall perform the work in accordance with the conditions of all applicable permits and licence. The Contractor shall provide evidence of licence granted and any restriction contained therein.

The necessary Statutory Fees for such permits, approvals and / or licences payable by the Contractor, are included in the Contract Price.

- 9.4 The Contractor shall comply with the Indian Laws that may be in vogue as on Base Date of the Contract or may come into force during currency of the Contract, that binds upon the Contractor. The Contractor shall indemnify and hold harmless the Employer from and against any and all liabilities, damages, claims, fines, penalties and expenses of whatever nature arising or resulting from the violation of such laws by the Contractor or its personnel, including the Sub-Contractors and their personnel.

10. Employer's Responsibilities

- 10.1 The Employer shall ensure the accuracy of information and / or data to be supplied by the Employer, except when otherwise expressly stated in the Contract.
- 10.2 The Employer shall be responsible for acquiring and providing legal and physical possession of the Site and access thereto, and for providing possession of and access to all other areas reasonably required for the proper execution of the Contract, including all requisite rights of way. The Employer shall give full possession of and accord all rights of access thereto on or before the mutually agreed date(s).
- 10.3 If requested by the Contractor, the Employer shall use its best endeavors to assist the Contractor in obtaining in a timely and expeditious manner all permits, approvals and / or licenses necessary for the execution of the Contract from State or Central Government Authorities.
- 10.4 To the extent specified in the Contract or agreed upon by the Employer and the Contractor, the Employer shall provide to the Contractor sufficient, properly qualified operating & maintenance personnel; shall supply & make available all raw materials, & utilities, and shall perform all work and services of whatsoever nature, for properly carrying out pre-



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commissioning, commissioning and performance guarantee tests by the Contractor at or before the time specified in the Program of Performance hereof and in the manner thereupon specified or as otherwise agreed upon by the Employer and the Contractor.

10.5 The Employer shall be responsible for the continued operation of the Facilities after Commissioning and shall facilitate the Contractor in performing the Performance Guarantee Test(s) for the Facilities.

10.6 All costs and expenses involved in the performance of the obligations under this **Clause 10** hereof, shall be the responsibility of the Employer, save those to be incurred by the Contractor with respect to the performance of Performance Guarantee Tests.

C. PAYMENT

11. Contract Price

11.1 The Contract Price as specified in **Appendix-1** (Contract Price) shall be for the entire Scope of the Facilities including spares, oils, grease, lubricants, flushing liquor, chemicals for pickling etc required during Start up and Commissioning and scrap in any form generated inside the plant premises. The break-up of the Contract Price is given in the **Appendix-1** to the Contract Agreement.

11.1.1 The total price in respect of the scope of supplies and services for the entire works covered by and in accordance with all terms, conditions, stipulations, specifications, requirements and other conditions of the Contract and incorporated in the Price Schedule, shall be treated as the Contract Price.

11.1.2 The Contract Price shall be deemed interalia to include and cover the cost of deployment of construction equipment, temporary works, establishment of labour camp, all materials and supplies, labour, insurance, fuel, stores, appliances, security arrangements, safety and fire fighting arrangements (including those required during dismantling, construction, storage and erection) to be supplied/used by the Contractor and all such other materials and services and actions that may be necessary or derived or statutorily required in connection with the execution of the works as per the Contract or any portion thereof complete in every respect and maintained as detailed in the contract documents or as may be required in terms of the Contract.

11.1.3 The Contract Price shall be deemed to include and cover the cost of all royalty and fees for all articles, and processes, protected by letters, patent or otherwise incorporated in or used in connection with the work, also all royalties, rents and other payments in connection with obtaining all materials for the work and the Contractor shall indemnify and keep



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indemnified the Employer, which indemnity, the Contractor hereby gives against all actions, proceedings, claims, damages, costs and expenses arising from the incorporation in or use of work of any such articles, processes or supplies.

11.1.4 All the payments for supplies shall be payable in Rupees on F.O.R, TTPS, Lalpania basis.

11.2 PRICE BASIS

11.2.1 If some imported equipment/components are required at the Indian Sub-Contractor's works for further processing, the Contractor shall take the responsibility of identifying and packing them separately, clear such equipment/components from Indian port and customs after their arrival at Indian port and the Contractor shall arrange to despatch them to their Indian manufacturer's works through Road Transport preferably accompanied by an escort. However Contractor shall comply the Rules & regulations of Government of India issued time to time regarding imported equipment/component.

The Contractor shall furnish a Custody-cum-Indemnity Bond for the landed cost of imported components to indemnify the Employer.

11.2.2 In respect of equipment and steel structures and other supplies supplied by the Contractor from Indian sources, the prices mentioned hereinabove are for delivery on F.O.R, TTPS Lalpania basis, suitably and securely packed for handling and movement by road and rail.

11.2.3 The Contract price stated above shall include supply of mandatory spares for operations & maintenance, Tools & Tackles, instruments, appliances for erection, operation and maintenance, consumables including oils, lubricants till the completion of Performance Guarantee Tests.

11.2.4 The Contract price shall include the cost of all foundation bolts, anchoring parts, floor plates, hand railings, cross overs, safety guards etc

11.2.5 The Contract price shall also include cost of painting, packing, forwarding, loading, freight, insurance, unloading, handling, clearing, port charges, storing, conservation and re-conservation, fees and all expenses in connection with the execution of the Contract.

The Contract price indicated above shall be inclusive of all taxes and duties, BOCW, GST and applicable cess, if any, as indicated in the Contract.

11.3 Firm Contract Price



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11.3.1 The Price for items in the Contract, except as provided in the **Sub-Clause 11.3.2** hereof, shall be firm, not subject to any escalation except in the event of a change in the scope of work or specification or as otherwise provided in the Contract. However, scope of work in pursuance of **sub-clause 7.2**, hereof, shall not be taken as change in the scope of work or specification.

11.3.2 Where the contractual “Time for Completion” exceeds Twelve (12) months, unless otherwise specifically indicated in the Contract, the Price for the following heads shall be subject to price adjustment due to variation in price indices as per **Appendix-4** (Price Adjustment due to variation in Price Indices):

- Supply of Indigenous Mechanical Plant & Equipment including Technological Structures.
- Supply of Indigenous Electrical Plant & Equipment including Instrumentation & Telecommunication
- Erection of Mechanical & Electrical Plant & Equipment including Technological Structures
- Supply of Building Steel Structures & Sheeting.
- Erection of Building Steel Structures & Sheeting.
- Civil Engineering works including all necessary supplies.

11.4 Ceiling of Price Variation

11.4.1 The Price Variation (plus or minus) as per **Appendix-4** shall be subject to a ceiling amount of 10% (ten) of Price (excluding taxes and duties, levies, etc.) for respective heads indicated in **Sub-Clause 11.3.2**.

11.4.2 For the purpose of calculation of ceiling on Price variation, the taxes & duties included in the Contract Price as on Base Date, the advance payments as per **Appendix-3** and price for raw steel items if supplied by the Employer on cost recovery basis shall be deducted from the Contract Price.

11.4.3 The statutory variation in Taxes, Duties being reimbursed at actuals as per **Sub-Clause 14.4** hereof, shall not be included in ten percent (10%) ceiling on Price Adjustment.

11.5 Validity of Price Variation

11.5.1 No price variation is applicable for contracts with contractual “Time for Completion” up to twelve (12) months.

11.5.2 When contractual “Time for Completion” of the Contract is up to twelve (12) months and if completion of Facilities is delayed beyond scheduled “Time for Completion” due to reasons attributable to the Employer and extension to the “Time for



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Completion” is granted, the extent of price adjustment, if any, shall be allowed in the Contract Price, for the variations arising between the scheduled “Time for Completion” and actual date of completion of the respective item of work within the “Extended Time for Completion” of the Contract.

11.5.3 When contractual "Time for Completion" of the Contract is for more than twelve (12) months, price adjustment shall be allowed in the Contract Price for the variations, as follows:

11.5.3.1 Price adjustment, if any, shall be allowed only for that part of the Facilities, which are executed within the scheduled “Time for Completion” and the price adjustment will be limited to the price adjustment arising from the Base date of the Contract to the scheduled completion as indicated in **Appendix-2** of Contract Agreement or actual completion period of the respective items of work whichever is lower.

11.5.3.2 If completion of facilities is achieved within the scheduled ‘Time for Completion’ (as per sub-clause 1.1) but beyond scheduled period of completion as indicated in Appendix-2 of Contract Agreement, the price adjustment shall be calculated on the basis of the lower of the following two RBI Indices:

- 1) RBI Index as on the scheduled date of completion;
or
- 2) RBI Index as on the Actual date of completion.

11.5.3.3 If completion of the Facilities is delayed beyond scheduled “Time for Completion”, due to the reasons not attributable to the Employer, notwithstanding the extension to the “Time for Completion” is granted, no price adjustment shall be allowed in the Contract Price for the portion of work executed beyond scheduled “Time for Completion”. However, in case the RBI indices during the extended completion time are lower, the same will be applicable for calculating the price adjustment payable.

11.5.3.4 If completion of Facilities is delayed beyond scheduled “Time for Completion” due to reasons attributable to the Employer and extension to the “Time for Completion” is granted, price adjustment, if any, shall be paid in the Contract Price, for the variations arising between the base date and actual date of completion of the respective item of work within the “Extended Time for Completion” of the Contract.



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However, if the completion of facilities is delayed beyond scheduled date of the “Time for Completion” due to reasons attributable to both the parties, then the period for delay attributable to the Employer will be considered as initial delay and the price adjustment shall be applicable during this period as well.

11.5.4 The Contractor shall submit its statements for Price Adjustment, if any, after commissioning with all break-up and supporting documents to justify price adjustment.

11.6 Adjustment of Price for Weights and Physical Quantities of Work

11.6.1 The Contract is for Turnkey Completion of Scope of Facilities as specified in the **Clause 7** hereof & Technical Specifications. The physical quantities and weights as given in the contract/ billing schedule, are indicative only for the purpose of making progress payments on prorata basis as per **Appendix-3** of Contract Agreement. Neither the Contractor shall be entitled to get any additional price from the Employer nor the Employer is entitled to deduct any amount from the Contract Price due to variation in physical quantities and weights.

11.7 Billing and Despatch Schedule

11.7.1 The Contractor within 30 (Thirty) days of the Effective Date of the Contract shall submit detailed Billing Schedules (breakup of the Price Schedule contained in the **Appendix-1**) for the purpose of giving the value of Po for the consideration of Price Adjustment, if applicable, in accordance to the **Appendix-4** and release of progress payments in accordance to **Appendix-3**, which will be scrutinised and approved by the Employer. The detailed Billing Schedules shall be based on Time Schedule included in **Appendix-2** (Time Schedule) and Overall bar chart schedule as per **Sub-Clause 18.1.1** hereof, for respective progress payment terms in accordance with **Clause 2.3** of **Appendix-3**.

11.7.2 Within 1 (One) month from the Effective Date of Contract, a detailed shipping schedule matching to billing schedule & *time schedule*, shall be submitted by the Contractor, indicating the break-up of the complete Plant & Equipment, structures into shipment units with approximate weights and dimensions and the respective dates upon which such units will be dispatched from the Contractor’s and / or its Sub-Contractor’s works. The Contractor shall arrange for supplies of the Plant & Equipment, structures in the logical sequence required for erection at site within the overall Time for Completion of the Facilities unless otherwise agreed to by the Employer. The Contractor shall promptly give written notice to the Employer of any anticipated delay in maintaining



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such schedule stating reasons and remedial measures, thereof. This shall not, however, in any way absolve the Contractor from his responsibility of timely delivery of plant & equipment as per Contractual time schedule.

12. Terms of Payment

12.1 General

- 12.1.1 No advance will be provided to the Contractor.
- 12.1.2 All payments shall be made as specified in **Appendix-3** (Terms of Payment), directly by the Employer to the Contractor unless otherwise provided in the Contract or agreed between the Parties.
- 12.1.3 If as per provisions of Contract any payment is made directly by the Employer to the Sub-Contractors, such payments shall constitute a proper discharge of Employer's obligations for such payments to the Contractor.
- 12.1.4 The payments will be made in the currencies quoted by the Contractor and included in the Contract unless otherwise agreed to between the Parties.
- 12.1.5 The Contractor shall furnish the detailed Billing Schedule as per **Sub-Clause 11.7.1** hereof, for each item under the scope of work of the Contract, for the approval of Employer, which after the approval only, will be the basis for submission of invoices for progress payments.
- 12.1.6 The Employer shall release the payment to the Contractor within thirty (30) days from the date of receipt of the complete and correct invoices & relevant documents.
- 12.1.7 All interim / progress payments shall be regarded as payments by way of advance against the final payment only and not as payment for work completed and shall not preclude defective / imperfect / incomplete Facilities to be removed. It will not be considered as an admission by the Employer of the due performance of the Contract, or any part thereof by the Contractor nor shall it preclude, determine or affect in any way the powers of the Employer under these conditions or in any way vary or affect the Contract.

13. Securities

13.1 Issuance of Securities (Bank Guarantees)



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- 13.1.1 The Contractor shall provide the Securities in the form of Bank Guarantees specified below in favour of the Employer at the times, and in the amount, manner and form specified below.
- 13.1.2 The Bank Guarantee shall be in the form provided in the **Annexure I to II** hereof or in another form acceptable to the Employer.
- 13.1.3 The Bank Guarantee for payments shall be issued and be payable/operable by State Bank of India (SBI) or an Scheduled Commercial Bank in India at the place where designated Power Plant is located or any other location acceptable to the employer.
- 13.1.4 In case the project gets delayed then the BG shall be extended by the contractor for such delayed period.

13.2 Performance Bank Guarantee

- 13.2.1 Within 30 (thirty) days after the Effective Date of Contract as specified in Article-3 Contract Agreement, the successful Bidder shall furnish the Performance Security (Performance Bank Guarantee) for the due performance of the contract in the amount equivalent to 10 (**ten**) percent of the contract price (including taxes & duties as included in the price schedule) and in the form provided in Annexure-I to GCC of the Bidding Documents.

The Performance Bank Guarantee should be valid up to Defect Liability period.

If the Contractor fails to provide the Performance Bank Guarantee, the Employer shall have the right to take risk purchase action including forfeiting the bid security, and get the Facilities executed by any other party at the risk and cost of the Contractor, after expiry of the notice for terminating the Contract for such default by the Contractor. Forfeiture of the bid security is liable to GST at applicable rate.

- 13.2.2 The Bank Guarantee shall automatically become null and void after twelve (12) months after issue of Commissioning Certificate, provided, however, that if the Defects Liability Period has been extended on any part of the Facilities pursuant to Sub-Clause 30 hereof, the Contractor shall issue an additional Bank Guarantee in an amount proportionate to the Price of that part. The Bank Guarantee shall be returned to the Contractor immediately after its expiration, provided, however, that if the Contractor, pursuant to Sub-Clause 30.5 hereof, is liable for an extended warranty obligation, the performance Bank Guarantee shall be extended for the period of 12 months from date of its restoration and up to the amount equal to 10% value of the component / part / equipment.

13.3 Bank Guarantee for release of payments towards Commissioning



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13.3.1 The Contractor shall provide Bank Guarantee (as per **Annexure-II** hereof) to the Employer for an amount equivalent to the payment under **Sub-Clause 25.4** hereof, in the same currency or currencies valid for a period of 12 months.

13.3.2 The Bank Guarantee shall be returned to the Contractor as soon as Commissioning Certificate has been issued, at the latest, however, on the expiry of 12 months from the date of release of payment against Bank Guarantee.

13.4 Bank Guarantee for release of payments towards Performance Guarantee Certificate

13.4.1 The Contractor shall provide Bank Guarantee (as per **Annexure-II** hereof) to the Employer for an amount equivalent to the payment under **Clause 27** hereof, in the same currency or currencies for a period of 12 months.

13.4.2 The Bank Guarantee shall be returned to the Contractor as soon as the Performance Guarantee Test is successfully completed and the guaranteed output and other parameters are met, at the latest, however, on expiry of 12 months from the date of release of payment against Commissioning Certificate.

13.5 Bank Guarantee for release of payments towards Final Acceptance Certificate

13.5.1 The Contractor shall provide Bank Guarantee (as per **Annexure-II** hereof) to the Employer for an amount equivalent to the payment under **Clause 28** hereof, in the same currency or currencies valid for a period of 12 months.

13.6 Claims under Security (Bank Guarantee)

If the Employer considers itself entitled to any claim under any Bank Guarantee, it shall so notify the Contractor, specifying the default of the Contractor upon which it bases its claim, and it shall require the Contractor to remedy the same. If the Contractor fails to remedy or to take steps to remedy the same within fourteen days of receipt of such notice, then the Employer shall be entitled to call Security.

The actual expenditure incurred by the Contractor for extension of BG/Additional Insurance Premium shall be reimbursed to the Contractor in case delay in completion of project is not attributable to the Contractor.

14. Taxes & Duties

14.1 Except as otherwise specifically provided in the Contract, the Contractor shall bear and pay all taxes, duties, levies and charges assessed on the Contractor, its



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Sub-Contractors or their employees by Municipal, State or Central Government Authorities.

However, subject to stipulations of the Contract, the payment of duties, taxes, levies, etc., will be reimbursed (on actual) against documentary evidence to be produced by the Contractor, subject to a ceiling indicated in price schedule(s) of the Contract. In no case the reimbursement towards duties and taxes, etc., shall exceed the amount indicated in price schedule(s) of the Contract towards duties, taxes, levies, etc. except on account of statutory variation in Taxes & Duties and / or imposition of new taxes and duties.

All taxes & duties payable outside India in respect of performance of the Contract shall be borne & paid by the Contractor. The Employer shall have no liability whatsoever on this account.

The payment of applicable GST will be made against documentary evidence to be produced by the Contractor. The amount of GST payable shall be as indicated in the Contract price or as per GST Invoice whichever is less except on account of statutory variation in GST Rates and / or imposition of new taxes and duties when compared to the GST Rates applicable on Base Date.

The GST TDS, if any, required by Employer to be made under GST Act or rules made thereunder shall be deducted at such rate as may be specified with effect from such date as notified from the invoice of the contractor.

The Contractor shall bear and pay all the liabilities in respect of non-observance of all legal formalities as per various statutory provisions.

14.2 The Contractor shall bear and pay Customs Duty, Cess, and IGST on imported plant & equipment and it shall be included in the Basic Price.

14.3 **Input Tax Credit**

14.3.1 The Contractor shall submit all Documents required by the Employer to avail the GST Input Tax credit. In case, the Contractor fails to submit the required document for availing the GST Input tax credit by the Employer in respect of supplies, the amount of Goods and Service tax on such indigenous plant & equipment and Integrated Goods and Services Tax (IGST) on imported plant & equipment may be recovered by the Employer from the Contractor unless the Contractor furnishes proper justification.

In case of indigenous plant & equipment, Contractor is responsible for uploading his outward supplies data with GSTN in the month of supply and any demand of interest for failure of the contractor to upload the invoice details or to accept purchase data filed by Employer in inward supplies return (GSTR-2) shall be to the account of Contractor. For supply of all imported plant & equipment, the Contractor shall furnish all required Documents including bill of entry in original etc. to enable the Employer to avail the Input GST Credit.



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14.3.2 E-way bills / Transit passes / Road Permits, if required for materials etc., bought into the project site is to be arranged by the Contractor only. The Employer will issue e-waybills as required for dispatch of materials to the Contractor on request who is not registered under GST Act. Advance intimation in this regard is to be given by the Contractor to the Employer.

The Contractor shall comply with the requirement of relevant Goods and Service Tax Act and rules made thereunder regarding utilization of the E-waybills and submission of the counter foils to the employer. In case of failure to do so, the Contractor will be responsible for all consequential actions and penalties, if any.

14.4 Variations in Taxes & Duties

14.4.1 For taxes and duties which are eligible for Input Tax Credit, the adjustment in the Contract Price towards variations in taxes, imposition of new taxes or abrogation of existing taxes shall be applicable.

For other taxes & duties, the variations in the taxes, enactment of new taxes or abrogation of existing taxes, which takes place within the scheduled Contractual delivery / execution period shall be applicable.

Whereas the variations in the taxes, enactment of new taxes or abrogation of existing taxes, which takes place during the extended period shall be applicable only if the reasons for delay is attributable to employer.

However, Base Date for statutory Variation & imposition of new taxes and duties shall be the date seven (7) days before last date of submission of price bid / updated price bid as per Appendix-4 Clause 2.0.

14.4.2 GST for which input credit is available, the adjustment in the Contract Price towards variations in GST, imposition of new taxes under GST or abrogation of existing taxes under GST shall be applicable.

Other taxes & duties, for which input credit is not available, the variations in the taxes & duties, enactment of new taxes or abrogation of existing taxes, which takes place within the scheduled Contractual delivery / execution period shall be applicable. Whereas the variations in the taxes, enactment of new taxes or abrogation of existing taxes, which takes place during the extended period shall be applicable only if the reasons for delay is attributable to employer.

14.4.3 The adjustment in the Contract Price towards variation in the taxes shall be made by the Employer on production of the documentary evidences by the Contractor.

14.4.4 The Contract Price shall be adjusted towards variations in taxes in respect of only finished equipment supplied by the Contractor to the Employer. No adjustment in the Contract price shall be made for variations in the taxes on raw-materials, parts, component / intermediate components, assemblies / sub-assemblies, etc.



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- 14.4.5 For the purpose of adjustment in the Contract Price towards variation in taxes, the Contract Price shall be the price including price adjustment due to variation in price indices, as payable in accordance with **Appendix-4**.
- 14.4.6 In case any steel structure is fabricated at Employer's site after approval of the Employer as specified in the **Sub-Clause 21.1.1**, hereof, beyond the items and quantities indicated in the **Table-1.3** of the **Appendix-1** and there is saving in payment of duties, taxes, levies, etc. on this account then such saving will be recovered by the Employer from the Contractor's bills.

14.5 **Goods and Services Tax**

- 14.5.1 Goods and Services Tax shall be applicable as per prevalent rules.

Invoices for all Taxable Input Services shall be made to "TVNL" for availing Input Tax credit of Goods and Service Tax under relevant Rules and shall be furnished by the Contractor to the Employer for availing Input Tax credit of Goods and Service Tax.

The Invoice for the supply of goods and services shall separately indicate the Goods and Service Tax claimed by the Contractor along with their relevant Goods and Service Tax Identification Number obtained by the Contractor.

- 14.5.2 The Contractor shall submit all other Documents required by the Employer to avail the Input Tax credit of Goods and Service Tax. In case, the Contractor fails to submit the required document for availing the Input Tax credit of Goods and Service Tax by the Employer in respect of Input Services, the same may be recovered by the Employer from the Contractor unless the Contractor furnishes proper justification.

14.6 **Income Tax**

Any Indian Income Tax which Employer may be required to deduct by law or statute, shall be deducted at the source under Indian Income Tax Act on account of the Contractor. Employer shall provide the Contractor a certificate for such deduction of Tax. The Contractor shall indicate their Permanent Account Number with the relevant Income Tax Authority to Employer.

D. CONFIDENTIAL INFORMATION

15. Copyright

- 15.1 The copyrights in all drawings, documents and other materials containing data and information including drawings/ordering specifications / catalogues for fast wearing parts furnished by the Contractor to the Employer shall remain vested in the Contractor; however the Employer shall have the right to use all such drawings, documents and other material, data and information for execution of the Contract and operation and maintenance of the Facilities being subject of the Contract.



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16. Confidential Information

- 16.1 The Employer and the Contractor shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any document, data or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following termination of the Contract. Notwithstanding the above, the Contractor may furnish to its Sub-Contractor(s) such documents, data & other information it receives from the Employer to the extent required for Sub-Contractor(s) to perform its work under the Contract, in which event the Contractor shall obtain from such Sub-Contractor(s) an undertaking of confidentiality similar to that imposed on the Contractor under this clause.
- 16.2 The Employer shall not use such documents, data and other information received from the Contractor for any purpose other than the operation and maintenance of the Facilities. Similarly, the Contractor shall not use such documents, data and other information received from the Employer for any purpose other than the design, procurement of Plant and Equipment, construction or such other work and services as are required for the performance of the Contract.
- 16.3 The obligation of a party under **Sub-Clauses 16.1 and 16.2** hereof, however, shall not apply to that information which
- a) now or hereafter enters the public domain through no fault of that party.
 - b) can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party hereto.
 - c) otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.
- 16.4 The above provisions of this clause (**Clause 16** hereof) shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Facilities or any part thereof.
- 16.5 The provisions of this clause (**Clause 16** hereof) shall survive termination, for whatever reason, of the Contract.

E. WORK EXECUTION

17. Representatives

17.1 Engineer-In-Charge



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17.1.1 If the Engineer-In-Charge is not named in the Contract, then within fourteen (14) days of the Effective Date, the Employer shall notify the Contractor in writing the name of the Engineer-In-Charge. The Employer may from time to time appoint some other person as the Engineer-In-Charge in place of the person previously so appointed. 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 under the Contract shall be given by the Engineer-In-Charge, except as herein otherwise provided.

17.2 Contractor's Representative

17.2.1 If the Contractor's Representative is not named in the Contract, then within fourteen (14) days of the Effective Date, the Contractor shall appoint the Contractor's Representative with the consent of Employer.

17.2.2 The Contractor shall not revoke the appointment of the Contractor's Representative without the Employer's prior written consent.

17.2.3 The Contractor's Representative shall represent and act for the Contractor at all times during the currency of the Contract and shall give to the Engineer-In-Charge all the Contractor's notices, instructions, information and all other communications under the Contract. All notices, instructions, information and all other communications given by the Employer or the Engineer-In-Charge to the Contractor under the Contract shall be given to the Contractor's Representative or, in its absence, its deputy, except as herein otherwise provided.

All notices, instructions, information and other communications given by the Contractor to the Employer under the Contract shall be given to the Engineer-In-Charge, except as herein otherwise provided.

17.2.4 The Employer may by notice to the Contractor object to any representative or person employed by the Contractor in the execution of the Contract who, in the reasonable opinion of the Employer, may behave inappropriately, may be incompetent or negligent, or may commit a serious breach of the Site regulations provided under **Sub-Clause 22.3** hereof. The Contractor on receipt of such notice, shall remove such person from the Facilities. If any representative or person employed by the Contractor is removed in accordance with **Sub-Clause 17.2.4** hereof, the Contractor shall promptly appoint a replacement.

17.3 Co-operation with Other Contractors



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17.3.1 The Contractor shall, upon written request from the Engineer-In-Charge, provide all relevant technical information to the other Contractors employed by the Employer on or near the Site for any associated Plant & Equipment to enable the Employer to obtain the efficient & economical design of the associated Plant & Equipment.

If required by the Contractor, the other contractors of the Employer will enter into a confidentiality agreement to ensure the technical information is not unlawfully disclosed.

17.3.2 The Contractor shall, upon written request from the Engineer-In-Charge, give all reasonable opportunities for carrying out the work to any other Contractors employed by the Employer on or near the Site and shall co-ordinate with the other Contractors for any interface activity under its Scope of Facilities.

17.3.3 The Contractor shall also so arrange to perform its work as to minimize, to the extent possible, interference with the work of other Contractors. The Engineer-In-Charge shall determine the resolution of any difference or conflict that may arise between the Contractor & other Contractors in regard to their work.

18. Work Program

The provisions of this Clause and its Sub-Clauses shall be applicable to the extent relevant as per scope specified in the Technical Specifications.

18.1 Program of Performance

18.1.1 Within a week after the effective date of signing the Contract Agreement, the Contractor shall prepare and submit to the Engineer-In-Charge the Overall bar-chart for the performance of the Contract, showing the sequence in which it proposes to design, manufacture, transport, assemble, install and pre-commission the Facilities, as well as the date by which the Contractor reasonably requires that the Employer shall have fulfilled its obligations under the Contract as per Clause 10 hereof, so as to enable the Contractor to execute the Contract in accordance with the programme and to achieve Acceptance of the Facilities in accordance with the Contract.

18.1.2 Overall bar-chart submitted by the Contractor shall accord with the Time Schedule included in **Appendix-2** (Time Schedule) to the Contract Agreement and any other dates and periods specified in the Contract.

18.1.3 The Engineer-In-Charge shall approve the overall Bar-chart after scrutiny and discussions with the Contractor within two (2) weeks of submission of Bar-Chart. The Contractor shall submit finalised



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Overall bar-chart in number of copies as required by the Employer.

- 18.1.4 Based on the finalised Bar-chart as per **Clause 18.1.3** hereof, the Contractor shall submit L-1 & L-2 Network for the Facilities progressively within Three (3) to six (6) weeks from the Effective Date of the Contract. These Networks shall be approved by the Engineer-In-Charge within Two (2) weeks of the submission.
- 18.1.5 The Contractor shall update and revise the finalised Bar-chart and when appropriate or when required by the Engineer-In-Charge, but without modification in the Times for Completion given in the **Clause 1.1** of **Appendix-2** and any extension granted in accordance with **Clause 42** hereof, and shall submit all such revisions to the Engineer-In-Charge.
- 18.1.6 The Contractor shall intimate the Employer / Engineer-In-Charge, in writing well in advance, about the requirement of shut down of any of the existing Units / facilities for inter-connection / incorporation of additional units / facilities. The shutdown period shall be mutually discussed and finalised. The work to be undertaken round the clock during the shut down period shall be planned meticulously by the Contractor to reduce the shut down period to the minimum.

18.2 Progress Report

- 18.2.1 The Contractor shall monitor progress of all the activities specified Program of Performance hereof, and submit to the Engineer-In-Charge a progress report along with Computerised Network Analysis Report every month.
- 18.2.2 The progress report shall be in a form acceptable to the Engineer-In-Charge and shall indicate: (a) percentage completion achieved compared with the planned percentage completion for each activity; and (b) where any activity is behind the program, giving comments and likely consequences and stating the corrective action being taken.
- 18.2.3 Progress Review Meeting
- Employer shall arrange progress review meeting periodically (not exceeding 3 months) to monitor the progress of the work.

18.3 Progress of Performance

- 18.3.1 If at any time the Contractor's actual progress falls behind the Program of Performance hereof, or it becomes apparent that it will so fall behind, the Contractor shall, at the request of the Engineer-In-Charge, prepare and submit to the Engineer-In-Charge a revised program, taking into account the prevailing



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circumstances, and shall notify the Engineer-In-Charge of the steps being taken to expedite progress so as to attain Completion of the Facilities within the Time for Completion under **Sub-Clause 8.1** (Time for Completion) hereof, any extension thereof entitled under **Sub-Clause 42.1** (Extension of Time for Completion) hereof, or any extended period as may otherwise be agreed upon between the Employer and the Contractor.

18.4 **Work Procedures**

18.4.1 The Contract shall be executed in accordance with the Contract Documents including Appendices to the Contract Agreement and Annexure hereof.

18.4.2 The Contractor may execute the Contract in accordance with its own standard project execution plans and procedures to the extent that they do not conflict with provisions contained in the Contract.

18.5 **Manpower Requirement for Operation & Maintenance of Facilities**

18.5.1 The Contractor shall submit to the Employer within a reasonable period but not later than six (6) months from the Effective Date of the Contract, the recommended manpower requirement category wise and unit wise for the regular operation of the Facilities at the Guaranteed Production Capacity as per Contract. The manpower requirement shall include the requirement for the maintenance of the Facilities. The Contractor shall also submit job specifications for each category of personnel particularly in the critical positions to enable the Employer to deploy / recruit such personnel.

19. **Subcontracting**

19.1 List of (Preferred Make) Approved Vendors (**Appendix-6**) forming a part of the Contract Agreement, specifies major items of supply or services and indicates name of approved Vendors against each item. Insofar as no Vendor is listed against any such item, the Contractor shall prepare a list of Vendors for such item for inclusion in approved list given in **Appendix-6** of the Contract Agreement.

Any change/ addition in the vendor list shall require prior approval of the employer.

The contractor may engage sub-contractors with the prior approval of employer as per stipulated procedures of the employer.

Such approval, by the Employer for any of the Sub-Contractors / Vendors shall not relieve the Contractor from any of its obligations, duties or responsibilities under the Contract.



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- 19.2 On the request of the Contractor, the Employer may make direct payment in respect of equipment supply / work to the Sub-Contractor / Vendor on certification by the Contractor.

20. Design and Engineering

20.1 Specifications and Drawings

20.1.1 The Contractor shall execute the basic and detailed design and the engineering work in compliance with the provisions of the Contract, or where not so specified, in accordance with good engineering practice.

20.1.1.1 The Contractor shall be responsible for any discrepancies, errors or omissions in the specifications, drawings and other technical documents that it has prepared, whether such specifications, drawings and other documents have been approved by the Engineer-In-Charge / Consultant or not, provided that such discrepancies, errors or omissions are not because of inaccurate information furnished in writing to the Contractor by or on behalf of the Employer.

20.2 Codes and Standards

Wherever references are made in the Contract to codes and standards in accordance with which the Contract shall be executed, the edition or the revised version of such codes and standards current at the date of bid submission shall apply unless otherwise specified. During Contract execution, any changes in such codes and standards shall be applied after approval by the Engineer-In-Charge / Consultant & shall be treated in accordance with **Clause 41** hereof.

20.3 Approval / Review of Technical Documents by Engineer-In-Charge / Consultant

20.3.1 The Contractor shall prepare (or cause its Subcontractors to prepare) and furnish to the Engineer-In-Charge / Consultant the drawings / documents listed at **Sub-Clause 2.2** of **Appendix-2** to the Contract Agreement for approval or review as specified and in accordance with the requirements of **Sub-Clause 18.1** (Program of Performance) hereof.

20.3.2 Any part of the Facilities covered by or related to the drawings / documents to be approved by the Engineer-In-Charge / Consultant shall be executed only after the Engineer-In-Charge / Consultant's approval thereof.

20.3.3 **Sub-Clauses 20.3.5 through 20.3.9** hereof, shall apply to those drawings/ documents requiring the Engineer-In-Charge /



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Consultant's approval, but not to those furnished to the Engineer-In-Charge / Consultant for its reference only.

- 20.3.4 To enable the Employer to accord approval and to review documents the Contractor shall submit back-up data / drawings / basic calculations / assumptions as may be required by the Employer / Consultant.
- 20.3.5 Within fourteen (14) days after receipt by the Engineer-In-Charge / Consultant of any drawings / document requiring the Engineer-In-Charge / Consultant's approval in accordance with **Sub-Clause 20.3.1 to 20.3.3** hereof, the Engineer-In-Charge / Consultant shall either return one copy thereof to the Contractor with its approval endorsed thereon or shall notify the Contractor in writing of its disapproval thereof and the reasons therefor and the modifications that the Engineer-In-Charge / Consultant proposes.
- 20.3.6 The Engineer-In-Charge / Consultant shall not disapprove any document, except on the grounds that the document does not comply with some specified provision of the Contract or that it is contrary to good engineering practice.
- 20.3.7 If the Engineer-In-Charge / Consultant disapproves the drawing / document, the Contractor shall modify the drawing / document and resubmit it for the Engineer-In-Charge / Consultant's approval in accordance with **Sub-Clause 20.3.5** hereof. The Engineer-In-Charge/Consultant will not give any new comment on the revised drawing, wherein all comments have been incorporated by the Contractor in the revised drawing. If the Engineer-In-Charge / Consultant approves the drawing / document subject to modification(s), the Contractor shall make the required modification(s), whereupon the document shall be deemed to have been approved.
- 20.3.8 The Engineer-In-Charge / Consultant's approval, with or without modification of the document furnished by the Contractor, shall not relieve the Contractor of any responsibility or liability imposed upon it by any provisions of the Contract.
- 20.3.9 The Contractor shall not depart from any approved drawing / document unless the Contractor has first submitted to the Engineer-In-Charge / Consultant an amended drawing / document and obtained the Engineer-In-Charge / Consultant's approval thereof, pursuant to the provisions of this **Sub-Clause 20.3** hereof.

20.4 **Civil Engineering Work**

The provisions of this Clause and its Sub-Clauses shall be applicable to the extent relevant as per scope specified in the Technical Specifications.



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- 20.4.1 The Contractor shall carryout Civil Engineering Work as per the Technical Specification in accordance with conditions given below:
- 20.4.1.1 The Contractor shall make its own arrangement for all labour, construction, tools & tackles & construction materials. All temporary approach roads to the site for carrying out construction work shall be constructed and maintained by the Contractor at its own cost.
- 20.4.1.2 The Contractor shall make arrangement at its own cost for drawing and distributing water and power from a single point each, where water and power will be provided by the Employer. The Contractor should have adequate water storage capacity to meet its requirements.
- 20.4.1.3 The Contractor shall take all necessary precautions to avoid damage to any property of the Employer or any third party. The Contractor shall also ensure that the progress of work of other Contractors in the adjoining areas is not hindered.
- 20.4.1.4 The Contractor shall take all precautions during execution, especially while excavating to avoid interference with or damage to underground works, such as cables, pipe lines, drains, etc. and provide all possible protection to these works and in case they are damaged, rebuild / divert them at its own cost.
- 20.4.1.5 The Contractor shall carry out, at its own cost, necessary precision survey to set out and check the setting of all works including foundation & anchor bolts, etc., to the required tolerances using the grid reference points available in the plant site.
- 20.4.1.6 Materials brought to the site shall not be removed from the site without the written consent of the Employer. The Contractor shall submit well in advance for approval of all samples, specimens as the Employer may demand from time to time. Any material brought to site and rejected by the Employer shall be removed by the Contractor from the site of work immediately.
- 20.4.1.7 The Employer may during the progress of work, order the removal of part or whole of the work executed, found not in accordance with the approved drawings / specifications / written instructions. No extra claims shall be entertained for removal & re-execution of such work.
- 20.4.1.8 No work shall be covered up or put out of view without the clearance of the Employer. In the event of failing to



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do so, the Contractor shall uncover any part of the work or make openings in or through the works as the Employer may direct and they shall be made good with materials approved by the Employer and should match with workmanship of the surrounding work.

20.4.1.9 The Contractor shall provide sufficient strong and stable stagings so as to ensure safety of the labour & structures.

20.4.1.10 The Contractor shall dismantle and remove the stagings and other temporary facilities like stores, offices, labour camp, etc., on completion of work, clear and clean the site where such temporary facilities were built and restore the same to original condition.

20.4.1.11 After completion of work, the Contractor shall carry out micro levelling of the site within battery limit ensuring proper grades and slopes to achieve efficient drainage of the site. The Contractor shall remove all debris, surplus earth, etc., and dump the same at place(s) as directed by the Employer within a distance of 10 km from the site.

20.4.1.12

- a) The cost of testing of concrete and any other material, shall be borne by the Contractor.
- b) The Contractor shall install its own testing facilities at site for testing of construction materials like cement, aggregates, concrete cubes, soil etc.
- c) Testing shall be carried out by the Contractor in the presence of Employer's representative. However, the Contractor shall arrange for such testing, in case of exigencies on the Employer's instructions, at any other testing laboratory as approved by the Employer without any extra cost to the Employer. All test results shall be submitted by the Contractor to the Employer for his approval.
- d) Any special measures or techniques which may be necessary for construction of structures, e.g., dewatering, sheet piling, diaphragm walls, well sinking, well point system, continuous pouring of concrete, etc., shall be deemed to have been taken into account by the Contractor and no extra claim, whatsoever, shall be entertained.

20.4.1.13 In respect of any portion of works which is to be embedded or covered up by other works, the Contractor shall submit them to Employer for technical inspection and have the necessary clearance certificates duly signed



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by the Employer and Contractor before letting such portion to be embedded or covered.

20.4.1.14 Wherever works are to be carried out in proximity or within existing facilities, Contractor may have to adopt special methodology of construction suited to prevailing conditions. The Contractor shall make necessary schemes in advance and finalise the same with the approval of the Engineer-In-Charge / Consultant.

20.4.2 Construction Water

Refer Technical Specification, however the Contractor shall be responsible to store water in sufficient quantities to meet its requirements and ensure that there is no wastage of water. Quantum of supply will depend on availability and no claim for shortfall shall be allowed by the Employer.

20.4.3 Construction Power

20.4.3.1 Refer Technical Specification, however the Contractor shall make its own arrangements to lay and maintain necessary distribution lines and wiring at its own cost.

20.4.3.2 The electrical installations for construction power shall conform to Indian Electricity Rules.

20.4.3.3 The Contractor will employ Electricians having valid Electrical Licence for carrying out the installations as well as for maintenance.

20.4.3.4 The Contractor shall be responsible for all damages, losses, etc., if it is due to the Contractors negligence, improper installation, operation and/ or maintenance of Contractors part of installations.

20.4.4 Structural Load Test

The Contractor shall carry out structural load test on any part of the building / structure at its own cost if such structural load test is warranted due to unsatisfactory test results of concrete cubes and if so directed by the Employer.

20.4.5 Royalties for the Construction Materials

20.4.5.1 Royalties for the construction materials, e.g., sand, stone aggregates, boulders, moorum etc. as prescribed from time to time by the State Government shall be recovered from the bills of the Contractor and paid to the State Government by the Employer if there is a demand from statutory authorities in this regard. The Contractor shall submit necessary documentary evidence that the



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Contractor has paid the royalties directly to the statutory authorities at source.

20.4.6 Explosives

20.4.6.1 In case explosives are required for blasting of hard rock, the same shall be arranged by the Contractor at its own cost. Fulfillment of statutory obligations shall be the responsibility of the Contractor.

21. Procurement

21.1 Plant & Equipment, Structures, etc.

21.1.1 The Contractor shall not carry out fabrication work at Employer's site without necessary prior approval from the Employer.

21.2 Import Licence & Export Licence

21.2.1 Import Licence

In case of requirement of any import license, the same shall be arranged by the Employer and the Contractor shall provide necessary assistance.

21.2.2 Export Licence

The Contractor, if required for execution of Contract, shall obtain and maintain the necessary Export Licence from the competent authorities and shall pay at his cost any fee connected therewith. Failure to obtain and maintain Export Licences shall not be considered as Force Majeure.

21.3 Packing

21.3.1 The Contractor shall include and provide for securely protecting and packing the materials so as to avoid loss or damage during handling & transport by air, sea, rail and road.

21.3.2 All packing cases, packing and other similar materials shall be new and supplied free by the Contractor and same will not be returned.

21.3.3 Notwithstanding anything stated in this clause, the Contractor shall be entirely responsible for loss, damage or depreciation or deterioration to the materials & supplies due to faulty and / or insecure packing.

21.4 Transportation

The Contractor shall be entitled to select any safe mode of transport operated by any person to carry the Plant & Equipment, Structures, Spares, Tools & Tackles, First fill of Lubricants, etc.



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21.4.1 Transportation by Wagons

21.4.1.1 In case of despatch of consignment in Railway wagons, the Contractor shall ensure that the following is observed by the Contractor and their Sub-contractors:

- i) Identify, place necessary indents on the Railways and obtain at the appropriate time the correct type of wagons required, keeping in view the consignments to be despatched.
- ii) In case of over dimensioned (O.D.) consignments, the Contractor shall obtain the sanction for movement of the O.D. Consignment from the Railways.
- iii) Non-availability of special wagon or handling the consignments shall not be an excuse for payment of demurrage and if so shall be to the Contractor's account.
- iv) Care being taken to avoid all possible chances of damages during transit and to ensure that all packages are firmly secured.
- v) The destination shall be :- **Tenughat Thermal Power Station, Lalpania, Dist: Bokaro, Jharkhand**

21.4.1.2 The RR / Challans duly endorsed by the Engineer-In-Charge or Authorised representative of the Employer, will be handed over to the Contractor for taking delivery of consignments from Railway unloading the same from wagons and subsequent handling, transportation and storage at site after submission of custody-cum-indemnity bond in the form provided in the Bidding Document or in another form acceptable to the Employer. The demurrage charges, if any, will be payable by the Contractor.

21.4.1.3 The consignee for rail despatches shall be clearly marked as below

**The Electrical Executive Engineer (Stores),
Tenughat Thermal Power Station, Lalpania
Dist:- Bokaor, Jharkhand.**

21.4.2 Transportation by Road

21.4.2.1 In case of the consignments despatched by road, the Contractor shall ensure that the following is observed by the Contractor and the Sub-contractors:



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- i Identify and obtain the correct type of trucks / trailers, keeping in view the nature of consignments to be despatched.
- ii Care being taken to avoid all possible chances of damages during transit to ensure that all packages are firmly secured.
- iii All consignments despatched by road shall be on “Door Delivery” and freight paid basis.

21.4.2.2 The RR / Challans duly endorsed by the Engineer-In-Charge or Authorised representative of the Employer, will be handed over to the Contractor for taking delivery of consignments from Trucks, unloading the same from Trucks and subsequent handling, transportation & storage at site after submission of Custody-cum-Indemnity Bond in the form provided in the Bidding Document or in another form acceptable to the Employer. The demurrage charges, if any, will be payable by the Contractor.

21.4.2.3 **The consignee for road despatches shall be clearly marked as:**

The Electrical Executive Engineer (Store),

Tenughat Thermal Power Station, Lalpania

Dist: Bokaro, Jharkhand

21.4.3 **Despatch Documents for Transportation of Plant & Equipment, Structures etc. by Wagon & Road**

21.4.3.1 The Contractor shall arrange to despatch the following documents to the Employer at the address given in the Contract.

- a) Four (4) photo copies of the clean rail / lorry receipt.
- b) Four (4) copies of Contractor’s signed invoices.
- c) Four (4) copies of Challan and Packing List.
- d) Four (4) copies of Inspection Certificate and Despatch Clearance Certificate issued by the Engineer-In-Charge / Employer’s Authorised Representative
- e) Four (4) copies of manufacturer’s test certificates.



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21.5 The Contractor shall be responsible for obtaining, if necessary, approvals from the authorities for transportation of the Plant and Equipment. The Employer shall use its best endeavors in a timely and expeditious manner to assist the Contractor in obtaining such approvals, if requested by the Contractor. The Contractor shall indemnify and hold harmless the Employer from and against any claim for damage to roads, bridges or any other traffic facilities that may be caused by the transport of the Plant and Equipment to the Site.

21.6 Processing/ Assembly

21.6.1 Any item/ part of the existing equipment required to be taken out of plant premises for job work shall be issued to the Contractor on submission of Bank Guarantee for equal value of the item/ part. The value of the item of the part shall be indicated by Employer. The Bank Guarantee shall be issued and payable at Place, where site is located and shall be kept initially valid for a suitable period to be mutually agreed. However, in case value of such items is less than 20% of the respective Performance Bank Guarantee, no additional Bank Guarantee is required to be submitted and the materials can be taken out against Indemnity Bond.

21.6.2 After job work, the items/ parts shall be returned immediately but not later than 180 days from the date of removal. The scrap if any, generated during job work shall be the property of the Contractor. The Contractor shall be required to submit the documentary evidence in support of payment of GST on the scrap generated, if any, during job work.

22. Installation

22.1 Setting out

22.1.1 **Bench Mark:** The Contractor shall be responsible for the true and proper setting-out of the Facilities periodically in relation to bench marks, reference marks, check lines and levels provided to it in writing by or on behalf of the Employer.

22.2 **Contractor's Supervision:** The Contractor shall give or provide all necessary superintendence during the installation of the Facilities, and the Contractor's Representative(s) shall be constantly on the Site to provide full-time superintendence of the installation. The Contractor shall provide and employ only technical personnel who are skilled and experienced in their respective discipline and supervisory staff who are competent to adequately supervise the work at hand.

22.3 Labour

22.3.1 The Contractor shall provide and employ on the Site in the installation of the Facilities such skilled, semi-skilled and



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unskilled labour as is necessary for the proper and timely execution of the Contract.

22.3.2 The Contractor shall at all times during the progress of the Contract use its best endeavours to prevent any unlawful, riotous or disorderly conduct or behaviour by or amongst its employees & labour and labour of its Sub-Contractors / Vendors.

22.3.3 Labour Rules

22.3.3.1 In respect of all labour directly or indirectly employed on the works by the Contractor, the Contractor shall comply with and implement all the Provisions of the Contract Labour (Regulation and Abolition) Act 1970, or any amendment thereof, and all legislations and Rules of the State and / or Central Government or other local authority formed from time to time governing the protection of health, sanitary arrangements, wages, welfare and safety of labour employed on the works and the Contractor shall be deemed to the Principal Employer for this purpose. The rules and other statutory obligations with regard to fair wages, welfare and safety measures, maintenance of register, etc., will be deemed to be part of the Contract. The Contractor will get itself registered with the concerned statutory authorities as provided in the Act and shall be directly responsible of the authorities thereunder for compliance with the provisions thereof.

22.3.3.2 Reporting of Accidents

The Contractor shall be responsible for the safety of its own and its Sub-Contractors' workmen and employees. All accidents at site are to be immediately reported to the required authorities. The Contractor shall be responsible for all such accidents.

22.3.3.3 Preservation of Peace

The Contractor shall take requisite precautions and use its best endeavor to prevent riotous or unlawful behaviours by, or amongst his workmen and / or others employed on the works, by the Contractor its Sub-Contractors and for the preservation of peace and protection of the inhabitants and security of the property in the neighbourhood of the works / site.

22.3.3.4 Use of Intoxicants

The use or sale of ardent spirits or other intoxicating beverages, upon the works or in any of the building, boarding houses, encampments or other



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tenements owned, occupied by or within the control of the Contractor or any of its employees or its Sub-Contractor is strictly forbidden and the Contractor shall secure strict compliance.

22.3.3.5 Observance by Sub-Contractors

The Contractor shall also be responsible for the compliance of all the rules & regulations by his Sub-Contractor(s)

22.3.4 Contract Labour Rules

22.3.4.1 The Contractor will get himself registered with the concerned statutory authorities as provided in the Act and shall be directly responsible to the authorities for compliance with the provisions thereof and TVNL shall have no relation of Employer and Employee for contractual worker / labour.

22.3.4.2 The Contractor shall also maintain all records/register/return/cards such as:

- (a) Register of workmen employed by Contractor
- (b) Employment Card
- (c) Muster Roll
- (d) Register of wages-cum-muster roll
- (e) Submission of Return

22.3.5 Compliance with Statutory Laws and Other Regulations of Govt. / Local Authority

All statutory / labour rules of Govt. / local authorities as applicable at, Power Plant site shall be strictly followed by Contractor. Contractor shall indemnify Employer against any such implication.

The following Acts with latest amendment thereof shall be complied with by the Contractor:

- a) Employee Provident Fund & Misc. Provision Act, 1952.
- b) Contract Labour Act (Regulation and Abolition Act, 1970
- c) Minimum Wages Act, 1948
- d) Payment of Wages Act, 1936
- e) Workmen Compensation Act, 1923.
- f) Factories Act, 1948 / Building and Other Construction Workers (BOCW) and Cess Act, 1996
- g) Apprenticeship Act, 1961
- h) Family Pension Act, 1952
- i) ESI Act
- j) Shops & Establishments Act
- k) Cess Act, 1996



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l) Any other statutory Act relevant to in this regard

22.4 Contractor's Equipment

22.4.1 The Contractor shall mobilise all construction equipment, tools, tackles & consumables to ensure timely completion of work and quality of workmanship. On request, the Employer may provide the Contractor any special handling / construction equipment needed in the interest of work subject to availability and on payment of hire charges and other conditions of Employer.

22.5 Site Regulations and Safety

22.5.1 The Contractor shall comply with the Site regulations, during the execution of the Contract at the Site, as given under the Chapter "Safety in Contract Works"

22.5.2 The employees /labour of the Contractor / Sub-Contractor and Plant & Equipment brought to Site shall be subject to gate pass to be issued by Security Department or the respective Department.

22.5.2.1 Preparation of gate pass normally takes around 10 days time. The Contractor / Sub-Contractor shall plan their programme in advance accordingly.

22.5.2.2 Employer shall have the right to refuse the gate pass to any workers/representatives without assigning any reason. The contractor shall ensure that gate pass issued to their workers/ representatives/ Sub-contractors are not misused. All representatives/ workers of the Contractors/ Sub-Contractors shall possess admit pass.

22.6 Erection

22.6.1 The Contractor shall provide all temporary ladders, scaffolding materials, platforms, supports and other necessary facilities required for handling, erection, testing and visual inspection of supplies at the point of installation and shall also provide necessary packing plates, wedges, shims, levelling screws etc., required for erection of equipment and structures.

22.6.2 The Contractor shall return to the Employer all crates, packing cases and packing materials and all returnable supplies at a place and manner designated by the Employer.

22.6.3 The Contractor shall provide erection consumables like oxygen and acetylene gas, welding rods, solder lugs, oil, grease, kerosene, cotton waste, etc., required for erection of plant equipment and steel structures.



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22.6.4 The Contractor shall construct and maintain its own site offices and stores as required for the work and arrange for maintaining in neat manner of the area placed at the Contractor's disposal. The temporary allotment of land for the purpose of site office, stores and temporary works for execution of Contract, shall be on the following terms:

22.6.4.1 Land will be allotted free of charge for the purpose of site office & stores

22.6.4.2 The allotment shall remain valid till the period of Contract and shall automatically cease after expiry of the Defect Liability period of the Contract. The validity shall also automatically cease on termination of Contract due to any reason whatsoever.

22.6.4.3 On completion of the work and expiry of the Defect Liability period, the Contractor shall remove all structures built by the Contractor and restore the land to its original condition.

22.6.5 The Contractor shall provide sufficient fencing, notice boards and lights to protect and warn others as may be considered necessary by the Employer / Consultant.

22.6.6 All guarantees and test certificates obtained by the Contractor during the execution of work shall be transferred to the Employer before issue of Preliminary Acceptance Certificate.

22.6.7 The plant & equipment and structures will be erected by contractors as per the instructions of equipment suppliers and the contractor shall use to the maximum extent, pre-assembly and mechanization in order to fulfill the erection and construction targets.

22.6.8 The Contractor shall be responsible for protection and / or diversion of underground and all existing overground services, wherever required and / or diversion of the underground services which are indicated in the drawing made available to the Contractor. In case there are underground services which need to be protected and / or diverted but are not shown in the drawing, the Contractor shall be responsible to execute the same at extra price, if any, to be mutually agreed between Contractor & Employer.

22.7 **Emergency Work**

If, by reason of an emergency arising in connection with and during the execution of the Contract, any protective or remedial work is necessary as a matter of urgency to prevent damage to the Facilities, the Contractor shall immediately carry out such work. If the Contractor is unable or



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unwilling to do such work immediately, the Employer may do or cause such work to be done as the Employer may determine that it is necessary in order to prevent damage to the Facilities.

In such event the Employer shall, as soon as practicable after the occurrence of any such emergency, notify the Contractor in writing of such emergency, the work done and the reasons therefor. If the work done or caused to be done by the Employer is work that the Contractor was liable to do at its own expense under the Contract, the reasonable costs incurred by the Employer in connection therewith shall be paid by the Contractor to the Employer. Otherwise, the cost of such remedial work shall be borne by the Employer.

22.8 Site Clearance

22.8.1 In the course of carrying out the Contract, the Contractor shall keep the Site reasonably free from all unnecessary obstruction, store or remove any surplus materials, clear away any wreckage, rubbish or temporary works from the Site, and remove any Contractor's Equipment no longer required for execution of the Contract.

22.8.2 After Completion of all parts of the Facilities, the Contractor shall clear away and remove all wreckage, rubbish, debris and surplus material of any kind from the Site, and shall leave the Site and Facilities clean and safe.

22.9 Lighting, Fencing and Watching

The Contractor shall provide and maintain at its own expense all lighting, fencing, and watching when and where necessary within battery limit for the proper execution and the protection of the Facilities and for the safety of the public.

22.10 Work at Night and on Holidays

As and when the Engineer-In-Charge considers it necessary to carry out work on extended hours / three shift basis or on Public Holidays so as to meet the Time for Completion and request the Contractor to carry out work on extended hours / three shifts or on Public Holidays, the Contractor shall carry out the work accordingly to meet the Time of Completion.

23. Test and Inspection

23.1 After finalisation of Billing schedule, the equipment/ items to be inspected shall be identified jointly by Shop, Project and Employer/Consultant. Inspection of all such items shall be carried out at



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manufacturers' sites as per approved QAP. For rest of the equipment / items, despatch clearance shall be issued by the "Engineer-In-Charge" after receipt of test guarantee certificates/internal inspection report from the Contractor or its sub contractors / manufacturer.

- 23.1.1 The Contractor shall at its own expense carry out at the place of manufacture and / or on the Site all such tests and / or inspections of the Plant and Equipment and any part of the Facilities as are specified in the Contract or as per approved QAP.
- 23.2 The Engineer-In-Charge or his designated representative(s) shall be entitled to attend the aforesaid test and / or inspection, provided that the Employer shall bear costs and expenses incurred in connection with such attendance including, but not limited to, all travelling and board and lodging expenses.
- 23.3 Whenever the Contractor is ready to carry out any such test and / or inspection, the Contractor shall give a fourteen (14) days advance notice of such test and / or inspection and of the place and time thereof to the Engineer-In-Charge alongwith relevant test certificates. The Contractor shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Engineer-In-Charge or his designated representative(s) to attend the test and / or inspection.
- 23.4 The Contractor shall provide the Engineer-In-Charge with a certified report of the results of any such test and / or inspection.
- If the Engineer-In-Charge or his designated representative(s) fails to attend the test and / or inspection within 14 days, or if it is agreed between the parties that such persons shall not do so, then the Contractor may proceed with the test and / or inspection in the absence of such persons, and will provide the Engineer-In-Charge with a certified report of the results thereof, based on which the employer will issue the dispatch clearance.
- 23.5 If any Plant and Equipment or any part of the Facilities fails to pass any test and / or inspection, the Contractor shall either rectify or replace such Plant and Equipment or part of the Facilities and shall repeat the test and / or inspection upon giving a notice under **Sub-Clause 23.3** hereof.
- 23.6 The Contractor shall afford the Engineer-In-Charge, at the Employer's expense, access at any reasonable time to any place where the Plant and Equipment are being manufactured or the Facilities are being installed to inspect the progress and the manner of manufacture or installation, provided that the Engineer-In-Charge shall give the Contractor a reasonable prior notice.



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- 23.7 No equipment/material shall be dispatched without inspection as per approved quality assurance plan (QAP) unless waived/ dispatch clearance issued by the Employer. Inspection may be carried out by Employer's authorized representative/third party agency (to be appointed by Employer).

Inspection certificates/despatch clearance so issued shall form the part of valid documents for claiming progress payments by the Contractor.

- 23.8 The execution of a test and / or inspection of Plant and Equipment or any part of the Facilities, or the attendance by the Employer or the Engineer-In-Charge, or the issue of any test certificate or waiver certificate pursuant to **Sub-Clause 23.4** hereof, shall not **relieve** the Contractor from any of its responsibilities under the Contract.

24. Preliminary Acceptance/Trial Run (Refer Technical specification)

- 24.1 On completion of erection of the Facilities by the Contractor, trial runs for individual equipment / units shall be conducted by the Contractor to prove that the Facilities have been supplied and erected as per Contract and after erection, Facilities are fit for start up and commissioning.

Trial runs shall be so designed to conduct the systematic check of the components and of the functional operation thereof. Trial runs shall comprise idle, no-load and part-load trial runs, as applicable.

Trial runs shall be conducted by the Contractor under its sole responsibility and employing its own personnel. The Employer's supervisory personnel and skilled operating personnel shall, however, witness the trial runs.

On successful completion of trial runs and liquidation of the defects and / or deficiencies, indicated / listed by the Employer to the Contractor during trial runs (except minor defects and / or deficiencies which in the opinion of the Employer will not affect the operation, safety & commissioning of the Facilities), the Contractor shall so notify the Employer in writing for conducting integrated trial runs.

- 24.2 On receipt of the notice from the Contractor for conducting integrated trial runs, the Employer, if required, shall deploy the necessary operating personnel, and provide materials, utilities & services as per **Clause 7** hereof.

- 24.3 As mutually agreed between the Contractor and the Employer after the operating personnel have been deployed by the Employer and materials, utilities & services have been provided by the Employer in accordance with **Sub-Clause 24.2** hereof, the Contractor shall conduct Pre-Commissioning including integrated trial runs of the Facilities, in preparation for Commissioning.



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24.3.1 In case of Facilities involving operation at high temperature, trial runs on individual equipment / units and integrated trial runs shall be conducted in cold condition.

24.4 As soon as all works in respect of integrated Pre-Commissioning are completed and the Facilities are ready for Commissioning, the Contractor shall so notify the Engineer-In-Charge in writing.

24.5 The Engineer-In-Charge shall, within seven (7) days after receipt of the Contractor's notice either issue a Preliminary Acceptance Certificate (PAC) stating that the Facilities are fit for start-up and commissioning, as at the date of the Contractor's notice or notify the Contractor in writing of any defects and / or deficiencies.

If the Engineer-In-Charge notifies the Contractor of any defects and / or deficiencies, the Contractor shall then correct such defects and / or deficiencies, and shall repeat the procedure described in **Sub-Clause 24.4** hereof.

If the Engineer-In-Charge is satisfied that the defects and / or deficiencies, indicated / listed by the Employer to the Contractor have been liquidated and the Facilities are fit for start-up and commissioning, the Engineer-In-Charge shall, within seven (7) days after receipt of the Contractor's notice, issue a Preliminary Acceptance Certificate stating that the Facilities are fit for start-up and commissioning, as at the date of the Contractor's repeated notice.

If the Engineer-In-Charge is not so satisfied, then the Employer shall notify the Contractor in writing of any defects and / or deficiencies within seven (7) days after receipt of the Contractor's repeated notice, and the above procedure shall be repeated.

24.6 As soon as possible, after issue of Preliminary Acceptance Certificate, the Contractor shall complete outstanding defects and / or deficiencies, if any, so that the Facilities are fully in accordance with the requirements of the Contract, failing which the Employer will undertake such completion and deduct the costs thereof from any money owing to the Contractor.

25. Commissioning

25.1 After the successful completion of Trail Run, the Contractor shall start-up and commission the Facilities in accordance with provisions and terms of Contract Technical specification.

The Employer shall provide the operating and maintenance personnel and all raw materials, utilities & services required for commissioning. The contractor shall supply the commissioning spares and oil, grease, lubricants & chemical etc. required for commissioning as per **Clause 7.4.2 & 7.4.4** hereof.



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- 25.2 The Contractor shall conduct commissioning test as specified in Technical Specifications for a continuous period of 72 hours.
- 25.3 The Commissioning Certificate shall be issued by the Employer subject to the following:
- a) Commissioning test as per sub-clause 25.2 has been successfully completed and other parameters are met as per Technical Specifications.
 - b) The Contractor to the satisfaction of the Employer, has met all the objections / observations, if any, contained in the Preliminary Acceptance Certificate/Trail Run.
 - c) Upon fulfillment of above condition, the Contractor will apply to the Employer to issue the Commissioning Certificate. Within 7 days of receipt of Contractor's application, Employer will issue the Commissioning Certificate.
- 25.4 In the event of delay in conducting the commissioning test for reasons attributable to the Employer for more than **60 (sixty)** days after issue of PAC, the Contractor shall receive payment towards commissioning against Bank Guarantee of equal value valid for 12 months.
- In case of delay beyond six months for conducting the commissioning test for reasons attributable to the Employer, the conducting of commissioning test and its commercial implication, if any, shall be mutually finalized between the parties.

26. Taking Over

- 26.1 Taking over of the facilities will be carried out from the **date of Commissioning**. After the taking over, the Employer shall provide consumables and shall be responsible for the care & custody of the Facilities together with the risk of loss or damage thereto.
- 26.2 The Employer shall have the right to take possession or use any completed or partially completed work. Such possession or use shall not be deemed to be an acceptance of any work done not in accordance with the Contract. However, any damage to such work solely due to such provision or use shall be to the Employer's account.

27. Performance Guarantee Test (Refer Technical Specification)

- 27.1 The Contractor shall guarantee that during the performance guarantee test, the Facilities and all parts thereof shall attain the performance guarantee parameters specified in **Appendix-5** to the Contract Agreement **and Technical Specification**, subject to and upon the conditions specified therein.



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- 27.2 If, for reasons attributable to the contractor the performance guarantee parameters specified in **Appendix-5** to the Contract Agreement and Technical specification, are not met either in whole or in part, the Contractor shall at its cost and expense make such changes, modifications and / or additions to the Facilities or any part thereof as may be necessary to meet performance guarantee parameters. The Contractor shall notify the Employer upon completion of the necessary changes, modifications and / or additions, and shall request the Employer to allow the Contractor to repeat the performance guarantee test so as to establish the performance guarantee parameters.
- 27.3 If, for reasons attributable to the contractor, the performance guarantee parameters specified in **Appendix-5** to the Contract Agreement are not attained either in whole or in part, after first campaign of performance guarantee test as per **Sub-Clause 27.2** hereof, the Contractor shall at its own cost make good any deficiencies and the Contractor shall be allowed by the Employer to repeat the performance guarantee tests twice after first campaign of guarantee test and the Contractor must establish the performance guarantee parameters.
- 27.4 In case the Contractor expresses its inability to achieve the performance guarantee parameters but attains above the minimum acceptance level of performance guarantee parameters, as specified in Technical specification and **Appendix-5** to the Contract Agreement, either in whole or in part in spite of repeated performance guarantee tests conducted by the Contractor, the Employer shall recover the amount of Liquidated Damages, but not by way of penalty, by making deductions from the Contractor's account or as a last resort by encashment of Contractor's Bank Guarantee(s) at the rate specified in **Appendix-5** to the Contract Agreement for the items, subject to a maximum of Five percent (5%) of the Contract Price plus escalation, if any, excluding taxes and duties, in respect of the failure to meet the minimum level of performance guarantees in accordance with the provisions in **Appendix-5** to Contract Agreement.

The Employer shall not reject the plant & equipment after commissioning and achievement of minimum acceptance level of performance guarantee parameters. After successful commissioning and achievement of the minimum acceptance level of performance guarantee parameters, the total liability of the contractor on account of delay and demonstration of maximum PG parameters shall not be more than Liquidated Damages.

In case, even after all possible repairs and replacements the Contractor fails to attain the minimum level of performance guarantee parameters as specified in Technical Specification, the Employer may reject the Facility and recover the entire cost paid to the Contractor or alternatively the



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Employer may proceed for commercial settlement with the Contractor for acceptance of the Facilities at the negotiated Price.

- 27.5 In case, the performance guarantee test has not been carried out for reasons attributable to the Employer within a period of six month from the date of commissioning mentioned in Commissioning Certificate, the Contractor shall receive payment towards Performance Guarantee, against Bank Guarantee of equal value to be valid for a period of 12 (twelve) months beyond aforesaid six (6) months period and conducting of the Performance Guarantee Tests and its commercial implications, if any, shall be mutually finalized between the parties.
- 27.6 In case Bank Guarantee is submitted as per **Sub-Clause 27.5** hereof, by the Contractor then the same shall be returned to the Contractor as soon as the performance guarantee test is successfully completed and the guaranteed output and other parameters are met, at the latest, however, on expiry of twelve (12) months from the date of release of payment against Commissioning Certificate.

28. Final Acceptance

- 28.1 Final Acceptance shall occur in respect of the Facilities when :
- a) the performance guarantee tests have been successfully completed or the amount of Liquidated Damages, if recoverable, has been recovered by the Employer from the Contractor.
 - b) The Contractor has submitted all final drawings & documents for the respective Facilities in accordance with the provisions of this Contract as given in **Appendix-2**.
 - c) the Contractor has fulfilled all the obligations under the Contract.
- 28.2 At any time after the events set out in **Sub-Clause 28.1** hereof, have occurred, the Contractor may give a notice to the Engineer-In-Charge requesting for the issue of Final Acceptance Certificate (FAC) in respect of the Facilities specified in such notice as at the date of such notice.
- 28.3 The Engineer-In-Charge shall, within seven (7) days after receipt of the Contractor's notice, issue a Final Acceptance Certificate.
- 28.4 Payment for Final Acceptance may be released against BG of equal value valid for 12 months after fulfillment of clause-28.1 a & b.

F. GUARANTEES AND LIABILITIES

29. Completion Time Guarantee



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- 29.1 The Contractor guarantees that it shall attain “Completion of the Facilities” as defined in Clause 1, within the Time for Completion as specified in the **Article-5** of the Contract Agreement or within such extended time to which the Contractor shall be entitled under **Clause 42** hereof.
- 29.2 **Liquidated Damages due to Delay in “Completion of the Facilities”**
- 29.2.1 If the Contractor fails to attain “Completion of the Facilities” as defined in **Clause 1** hereof, within the Time for Completion or any extension thereof under **Clause 42** hereof, due to reasons attributable to the Contractor, the Employer shall recover the amount of Liquidated Damages, but not by way of penalty, by making deductions from the Contractor’s account or by encashment of Contractor’s Bank Guarantees at the rate of 0.5% of the Contract Price plus escalation, if any, excluding taxes & duties per complete week of delay up to a maximum of 5% of the Contract Price plus escalation, if any, excluding taxes & duties.
- 29.2.2 Such payment shall completely satisfy the Contractor’s obligation to attain Completion of the Facilities within the Time for Completion or any extension thereof under **Clause 42** hereof.
- 29.2.3 However, the payment of liquidated damages shall not in any way relieve the Contractor from any of its obligations to complete the Facilities or from any other obligations and liabilities of the Contractor under the Contract.
- 29.2.4 Save for Liquidated Damages payable under this **Sub-Clause 29.2** hereof, the failure by the Contractor to attain any milestone or other act, matter or thing by any date specified in **Appendix-2** (Time Schedule) to the Contract Agreement and / or other program of work prepared pursuant to **Clause 18** (Program of Performance) hereof, shall not render the Contractor liable for any loss or damage thereby suffered by the Employer.
- 29.3 The aggregate ceiling on Liquidated damages due to delay in completion of facilities and for non-fulfillment of Performance Guarantee parameters in accordance with the Contract shall be limited to 10% (ten percent) of the Contract Price plus escalation, if any, excluding taxes & duties.
- 29.4 Any recovery of Liquidated damages shall be effected from the amount payable to the Contractor against Commissioning, Performance Guarantee Test, Final Acceptance Certificate and Performance Bank Guarantee. Liquidated Damages will not be recovered from the running bills prior to above payments.

30. Defect Liability/Guarantee



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

30.2 (Refer technical specification)

The Defect Liability Period/Guarantee shall be twelve (12) months from the date of commissioning mentioned in the Commissioning Certificate.

If during the Defect Liability Period/Guarantee any defect be found in the design, engineering, materials and workmanship or of the work executed by the Contractor, the Contractor shall promptly, in consultation and agreement with the Employer and at its cost, repair, replace or otherwise make good such defect as well as any damage to the Facilities caused by such defect.

The Contractor may, with the consent of the Employer and after submission of Bank Guarantee for the equivalent cost of Plant & Equipment, remove from the Site any Plant and Equipment or any part of the Facilities that are defective if the nature of the defect, and / or any damage to the Facilities caused by the defect, is such that repairs cannot be expeditiously carried out at the Site. However, in case value of such items is less than 20% of the respective performance bank guarantee, no additional bank guarantee is required to be submitted and the material can be taken out against indemnity bond. In case of defective parts not repairable at Site but become essential in the mean time for the commercial use of the plant, the Contractor shall replace at Site free of cost to the Employer, the defective parts, before the defective parts are removed from the Site.

30.3 If the repair, replacement or making good is of such a character that it may affect the efficiency of the Facilities or any part thereof, the Employer may give to the Contractor a notice requiring that tests of the defective part of the Facilities shall be made by the Contractor immediately upon completion of such remedial work, whereupon the Contractor shall carry out such tests.

If such part fails the tests, the Contractor shall carry out further repair, replacement or making good (as the case may be) until that part of the Facilities passes such tests. The tests shall be agreed upon by the Employer and the Contractor.

If the Contractor does not commence the rectification either by repair or replacement of such defects within 30 (thirty) days from the date of notice by the Employer or does not complete the rectification with reasonable diligence and within a reasonable time, the Employer may, at its option, rectify the defects at the Contractor's expense. The Employer shall, in such case, deduct from payment due to the Contractor the expenses incurred by the Employer for remedy of such defects without prejudice to the other rights of the Employer under the Contract.



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- 30.4 If the Facilities or any part thereof cannot be used by reason of such defect and / or making good of such defect, the Defect Liability Period/ Guarantee of the Facilities or such part, as the case may be, shall be extended by a period equal to the period during which the Facilities or such part cannot be used by the Employer because of any of the aforesaid reasons.
- 30.5 In addition, the Contractor shall also provide an extended warranty for any such replaced or repaired component of the Facilities for the period of minimum 12 months but not more than 36 months cumulatively or as it may be stipulated in Contract Technical Specifications. Such obligation shall be in addition to the defect liability specified under **Clause 30** hereof.

31. Patent Indemnity

- 31.1 The Contractor shall, subject to the Employer's compliance with **Sub-Clause 31.2** hereof, indemnify and hold harmless the Employer and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, which the Employer may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing by reason of the installation of the Facilities by the Contractor.

Such indemnity shall not cover any use of the Facilities or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, any infringement resulting from the use of the Facilities or any part thereof, or any products produced thereby in association or combination with any other equipment, plant or materials not supplied by the Contractor, pursuant to the Contract Agreement.

- 31.2 If any proceedings are brought or any claim is made against the Employer arising out of the matters referred to in **Sub-Clause 31.1** hereof, the Employer shall promptly give the Contractor a notice thereof, and the Contractor may at its own expense and in the Employer's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

If the Contractor fails to notify the Employer within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Employer shall be free to conduct the same on its own behalf at the risk & cost of the Contractor.

The Employer shall, at the Contractor's request, afford all available assistance to the Contractor in conducting such proceedings or claim, and



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shall be reimbursed by the Contractor for all expenses incurred in so doing.

- 31.3 The Employer shall indemnify and hold harmless the Contractor and its employees, officers and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, which the Contractor may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided by the Employer.

32. Limitation of Liability

- 32.1 Except in cases of criminal negligence or willful misconduct,
- a) the Contractor shall not be liable to the Employer, whether in Contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs and
 - b) the aggregate liability of the Contractor to the Employer, whether under the Contract, in tort or otherwise including the cost of repairing or replacing defective equipment, shall not exceed the 100 % (Hundred Percent) of the Contract Price plus escalation, provided that this limitation shall not apply to any obligation of the Contractor to indemnify the Employer with respect to copyright, patent infringement, workman compensation etc.

G. RISK DISTRIBUTION

33. Transfer of Ownership

- 33.1 The title of ownership and property for indigenous Plant & Equipment, Structures, spares, tools & tackles, first fill of lubricants, etc. shall pass on to the Employer after the Contractors have effected the despatch of same to the Employer or the Contractors have effected the sale, in course of transit, as per GST Act/Rules and the Contractors have prepared necessary documentation for handing over the same to Employer's authorised representative.
- 33.2 The property of Plant & Equipment, Structures, spares, tools & tackles, first fill of lubricants, etc. issued to the Contractors under Bailee Agreement / Bond is vested with the Employer all the time till erection,



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commissioning and completion of Performance Guarantee Tests as per the terms and conditions of the Contract.

- 33.3 The transfer of title to ownership for the steel structural work (fabricated at site) including glazing & sheeting, civil construction work under this Contract shall pass on to the Employer on its accretion and release of payment.
- 33.4 Notwithstanding the transfer of ownership of the Plant and Equipment, the responsibility for care and custody thereof together with the risk of loss or damage thereto shall remain with the Contractor pursuant to **Clause 34** (Care of Facilities) hereof, until Commissioning of the Facilities in which such Plant & Equipment, Structures are incorporated.

34. Care of Facilities

- 34.1 The Contractor shall be responsible for the care and custody of the Facilities or any part thereof until the date of commissioning and shall make good at its own cost any loss or damage that may occur to the Facilities or the relevant part thereof from any cause whatsoever during such period. The Contractor shall also be responsible for any loss or damage to the Facilities caused by the Contractor or its Sub-Contractors in the course of any work carried out, pursuant to **Clause 30** (Defect Liability/Guarantee) hereof. Notwithstanding the foregoing, the Contractor shall not be liable for any loss or damage to the Facilities or that part thereof caused by reason of any of the matters specified or referred to in paragraphs (a) & (b) of **Sub-Clause 34.2** & **Sub-Clause 40.1** hereof.
- 34.2 If any loss or damage occurs to the Facilities or any part thereof by reason of :
- a) any use or occupation by the Employer or any third party (other than a Sub-Contractor) authorised by the Employer.
 - b) any use of or reliance upon any design, data or specification provided by or on behalf of the Employer, or any such matter for which the Contractor has disclaimed responsibility herein,

the Employer shall pay to the Contractor all sums payable in respect of the Facilities executed, notwithstanding that the same be lost, destroyed or damaged. If the Employer requests the Contractor in writing to make good any loss or damage to the Facilities thereby occasioned, the Contractor shall make good the same at the cost of the Employer in accordance with **Clause 41** (Change in the Facilities). The Employer shall either request a change in accordance with **Clause 41** (Change in the Facilities) hereof, excluding the performance of that part of the Facilities thereby lost, destroyed or damaged, or, where the loss or damage affects a substantial part of the Facilities, the Employer



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shall terminate the Contract pursuant to **Sub-Clause 44.1** (Termination for Employer's Convenience) hereof, except that the Contractor shall have no entitlement to profit in respect of any unexecuted Facilities as at the date of termination.

34.3 With respect to any loss or damage caused to the Facilities or any part thereof by reason of any of the matters specified in **Sub-Clause 40.1** hereof, the provisions of **Sub-Clause 40.3** hereof, shall apply.

35. Loss of or Damage to Property; Accident or Injury to Workers; Indemnification

35.1 Subject to **Sub-Clause 35.2** hereof, the Contractor shall indemnify and hold harmless the Employer and its employees from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, in respect of the death or injury of any person or loss of or damage to any property (other than the Facilities whether accepted or not), arising in connection with the supply and installation of the Facilities and by reason of the negligence of the Contractor or its Subcontractors, or their employees, or agents, except any injury, death or property damage caused by the negligence of the Employer, its employees, or agents.

35.2 If any proceedings are brought or any claim is made against the Employer that might subject the Contractor to liability under **Sub-Clause 35.1** hereof, the Employer shall promptly give the Contractor a notice thereof and the Contractor may at its own expense and in the Employer's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

If the Contractor fails to notify the Employer within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Employer shall be free to conduct the same on its own behalf at the risk of the Contractor.

The Employer shall, at the Contractor's request, afford all available assistance to the Contractor in conducting such proceedings or claim, and shall be reimbursed by the Contractor for all expenses incurred in so doing.

36. Insurance

36.1 The Contractor shall take out a composite and comprehensive Marine-cum-Erection Insurance Policy or separate insurance policies for transit and storage-cum-erection with an Insurance Regulatory and Development Authority (IRDA) registered Insurance Company(s). The policy shall cover total erected value of the Facilities (115% for the contracts with completion period upto 18 months or 125% for the contracts with



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completion period above 18 months, of Contract price excluding the design & engineering and supervision services price, training) and all risks specifically inclusive of the following.

- 36.1.1 All Risk Insurance: The policy shall cover all risks and escalations, and revisions.
- 36.1.2 Indigenous Cargo Insurance: For indigenous supplies, the policy shall insure the goods originating in India from the Contractor's / Supplier's warehouse to Plant's warehouse and up to completion of erection and commissioning. This will be inclusive of supplies to and from warehouse / factory of intermediate processors / suppliers. This policy will also cover the replacement items, if any.
- 36.1.3 Third Party Liability Insurance: The policy shall cover third party liability. The third party liability shall cover the loss / disablement of human life (persons not belonging to the Contractor) and also cover the risk of damages to others' materials / equipment / properties during construction, erection and commissioning at site. The value of third party liability for compensation for loss of human life or partial / full disablement shall be of required statutory value but not less than Rs. 2 lakh per death, Rs. 1.5 lakh per full disablement and Rs. 1 lakh per partial disablement and shall nevertheless cover such compensation as may be awarded by a Court of Law in India or abroad and cover for damage to others' equipment / property.
- 36.1.4 Automobile Liability Insurance: Covering use of vehicles / mobile equipment used by the Contractor or its Sub-Contractors (whether or not owned by them) in connection with the execution of the Contract.
- 36.1.5 Contractor shall ensure that where applicable, its Sub-Contractor(s) shall take out and maintain in effect adequate insurance policies for their personnel and vehicles and for work executed by them under the Contract, unless such Sub-Contractors are covered by the policies taken out by the Contractor.
- 36.1.6 The Employer shall be the principal holder of the policy. Sub-Contractors of the Contractor shall not be holders or beneficiaries in the policy nor shall they be named in the policy. Employer reserves the exclusive right to assign the policy.
- 36.1.7 While the payment of premium may be phased in agreement with the insurance company, at no time shall goods and services required to be provided by the Contractor shall remain uninsured.
- 36.1.8 A copy of the Insurance policy shall be made available to the Employer before start of site activities or first despatch, whichever



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is earlier and policy shall be kept alive and valid at all times up to date of commissioning.

- 36.1.9 The Employer reserves the right to take out whatever policy that is deemed necessary by him if the Contractor fails to keep the said policy alive and valid at all times and / or causes lapses in payment of premium thereby jeopardising the said policy. The cost of such policy(s) shall be recovered / deducted from the amount payable to the Contractor.
- 36.1.10 In cases where the erection, modification etc., are to be carried out in the existing shop of the Employer the 'surrounding value' shall be intimated by the Employer to the Contractor, who shall ensure that this value is included in the policy.
- 36.1.11 Marine & Transit Insurance policies shall also cover:
- Institute Cargo Clause 'A'
 - Institute War Clauses
 - Institute Strikes Clauses
 - Ware House to Ware House
- 36.1.13 In case project gets delayed due to reasons not attributable to Contractor, the actual expenditure incurred by Contractor for additional Insurance Premium towards extension of insurance policies shall be reimbursed by the Employer.
- 36.2 Upon arrival of plant and Equipment / materials at site the Contractor shall assume custody thereof and remain responsible thereafter for safe custody until the whole plant is successfully commissioned.
- 36.3 In order to adequately cover the works under such composite and comprehensive insurance, the Contractor shall fulfill the necessary requirements / obligations.
- 36.4 The Contractor shall arrange Accident Insurance Policy for all his personnel / Specialists / Personnel deputed to site and Contractor's / his sub-contractors' manufacturing works as well as for his Indian engineers & supervisory staff. The Contractor shall also take out for his Indian workmen a separate policy as per Workmen's Compensation Act.
- 36.5 Void
- 36.6 In all cases, the Contractor shall lodge the claims with the Underwriters and also settle the claims. All claims shall be settled in India. However, the Contractor shall proceed with the repairs and / or replacement of the equipment / components without waiting for the settlement of the claims. In case of seizure of materials by concerned authorities, the Contractor



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shall arrange prompt release against bond, security or cash as required. Employer will extend all assistance to the Contractor in such a case.

- 36.7 All the insurance claims shall be processed by the Contractor and the items which are missing / damaged in transit or during handling, storage, erection and commissioning, shall be replaced / repaired by them without any extra cost to the Employer.
- 36.8 The employer at its discretion may arrange for the insurance cover at its own expense. In such an event, the amount quoted towards 'Comprehensive/ Transit, Storage cum erection insurance' in 'Summary Price Schedule', shall not be payable to the contractor. However, processing of all the insurance claims shall be the responsibility of the contractor. Also, the Contractor shall perform all the obligations as mentioned in sub-clauses above.

37. Negligence

- 37.1 If the Contractor does not execute the Facilities in accordance with the time schedule stipulated in the **Appendix-2** of the Contract Agreement and shall neglect to execute the Facilities with due diligence or expedition or shall contravene the provisions of Contract, the Employer may give notice in writing to the Contractor to make good the failure, neglect or contravention complained of within such time as may be deemed reasonable by the Employer and in default of compliance with the said notice, the Employer without prejudice to its rights under **Clause 37.2** hereof, may rescind or cancel the Contract holding the Contractor fully liable for the damages that the Employer may sustain.
- 37.2 Should the Contractor fail to comply with such notice, the Employer shall have at its option the right to take the affected Facilities wholly or in part out of the Contractor's hands and may complete the Facilities, as envisaged in the Contract either departmentally or by awarding fresh Contract(s) to execute the same, at the risk and cost of the Contractor.
- 37.3 In such event the Employer shall be entitled to use all materials, construction equipment, tools, tackles and other things of the Contractor and the Employer shall also be entitled to retain and apply any sum which may otherwise be then due as per the Contract or any other Contract from the Employer to the Contractor as may be necessary for the payment of the cost of execution of such Facilities as aforesaid.

If the cost of executing the Facilities as aforesaid shall exceed the sum due to the Contractor, the Contractor shall make payment for the same within the specified period

38. Change in Laws and Regulations



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38.1 If, after Effective Date of Contract Agreement, any law, regulation, ordinance, order or by-law having the force of law is enacted, promulgated, abrogated or changed (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the costs and expenses of the Contractor, the Contract Price and time of completion shall be correspondingly increased or decreased.

39. Force Majeure

39.1 “Force Majeure” shall mean any event beyond the control of the Employer or of the Contractor, as the case may be, and which is unavoidable notwithstanding the reasonable care of the party affected, and shall include, without limitation, the following:

- a) war, hostilities or warlike operations (whether a state of war be declared or not), invasion, act of foreign enemy and civil war.
- b) rebellion, revolution, insurrection, mutiny, usurpation of civil or military government, conspiracy, riot, civil commotion and terrorist acts.
- c) strike, sabotage, unlawful lockout, epidemics, quarantine and plague.
- d) earthquake, fire, flood or cyclone, or other natural or physical disaster.

39.2 If either party is prevented, hindered or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances thereof within 14 days after the occurrence of such event.

39.3 The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party’s performance is prevented, hindered or delayed. The Time for Completion shall be extended in accordance with **Clause 42** (Extension of Time for Completion) hereof.

39.4 The party or parties affected by the event of Force Majeure shall use reasonable efforts to mitigate the effect thereof upon its or their performance of the Contract and to fulfill its or their obligations under the Contract, but without prejudice to either party’s right to terminate the Contract under **Sub-Clauses 39.6 and 40.5** hereof.

39.5 Any delay or non-performance by either party hereto caused by the occurrence of any event of Force Majeure shall not

- a) constitute a default or breach of the Contract



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b) (subject to **Sub-Clauses 34.2, 40.3 and 40.4** hereof) give rise to any claim for damages or additional cost or expense occasioned thereby if and to the extent that such delay or non-performance is caused by the occurrence of an event of Force Majeure.

39.6 If the performance of the Contract is substantially prevented, hindered or delayed for a period of more than ninety (90) days on account of Force Majeure during the currency of the Contract, the parties will develop a mutually satisfactory solution.

40. War Risks

40.1 “War Risks” shall mean any event specified in paragraphs (a) and (b) of **Sub-Clause 39.1** hereof.

40.2 Notwithstanding anything contained in the Contract, the Contractor shall have no liability whatsoever for or with respect to

a) destruction of or damage to property of the Employer or any third party

b) injury or loss of life

if such destruction, damage, injury or loss of life is caused by any **War Risks**, and the Employer shall indemnify and hold the Contractor harmless from and against any and all claims, liabilities, actions, lawsuits, damages, costs, charges or expenses arising in consequence of or in connection with the same.

40.3 If the Facilities or any Plant & Equipment, Structures shall sustain destruction or damage by reason of any War Risks, the Employer shall pay the Contractor for

a) any part of the Facilities or the Plant & Equipment, Structures so destroyed or damaged (to the extent not already paid for by the Employer) so far as may be required by the Employer, and as may be necessary for completion of the Facilities.

b) replacing or making good any such destruction or damage to the Facilities or the Plant and Equipment or any part thereof.

If the Employer does not require the Contractor to replace or make good any such destruction or damage to the Facilities, the Employer shall either request a change in accordance with **Clause 41** (Change in the Facilities) hereof, excluding the performance of that part of the Facilities thereby destroyed or damaged or, where the loss, destruction or damage affects a substantial part of the Facilities, shall terminate the Contract, pursuant to **Sub-Clause 44.1** (Termination for Employer’s Convenience) hereof.



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- 40.4 Notwithstanding anything contained in the Contract, the Employer shall pay the Contractor for any increased costs or incidentals to the execution of the Contract that are in any way attributable to, consequent on, resulting from, or in any way connected with any War Risks, provided that the Contractor shall as soon as practicable notify the Employer in writing of any such increased cost.
- 40.5 If during the performance of the Contract any War Risks shall occur that financially or otherwise materially affect the execution of the Contract by the Contractor, the Contractor shall use its reasonable efforts to execute the Contract with due and proper consideration given to the safety of its and its Subcontractors' personnel engaged in the work on the Facilities, provided, however, that if the execution of the work on the Facilities becomes impossible or is substantially prevented for a period of more than ninety (90) days on account of any War Risks, the parties will develop a mutually satisfactory solution.

H. CHANGE IN CONTRACT ELEMENT

41. Change in the Facilities

- 41.1 The Employer shall have the right to propose/ consider contractor's proposal, and subsequently order the Contractor from time to time during the performance of the Contract to make any change, modification, addition or deletion to, in or from the Facilities (hereinafter called "Change"), provided that such Change falls within the general scope of the Facilities and does not constitute unrelated work and that it is technically practicable, taking into account both the state of advancement of the Facilities and the technical compatibility of Change envisaged with the nature of the Facilities as specified in the Contract.
- 41.2 Notwithstanding **Sub-Clauses 41.1** hereof, no change made necessary because of any default of the Contractor in the performance of its obligations under the Contract shall be deemed to be a Change, and such change shall not result in any adjustment of the Contract Price or the Time for Completion.
- 41.3 If the Employer proposes/ considers contractor's proposal for a Change pursuant to **Sub-Clause 41.1** hereof, it shall send to the Contractor a "Request for Change Proposal," requiring the Contractor to prepare and furnish to the Engineer-In-Charge as soon as reasonably practicable a "Change Proposal," which shall include the following:
- (a) brief description of the Change
 - (b) effect on the Time for Completion
 - (c) estimated cost of the Change
 - (d) effect on Functional Guarantees (if any)



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(e) effect on any other provisions of the Contract.

41.4 The pricing of any Change shall, as far as practicable, be calculated in accordance with the rates and prices included in the Contract. If such rates and prices are inequitable, the parties thereto shall agree on specific rates for the valuation of the Change.

41.5 Upon receipt of the Change Proposal, the Employer and the Contractor shall mutually agree upon all matters therein contained. Within fourteen (14) days after such agreement, the Employer shall, if it intends to proceed with the Change, issue the Contractor with a Change Order with the approval of competent authority.

41.5.1 If the Employer and the Contractor cannot reach agreement on the price for the Change, an equitable adjustment to the Time for Completion, or any other matters identified in the Change Proposal, the Employer may nevertheless instruct the Contractor to proceed with the Change by issue of a “Pending Agreement Change Order.”

Upon receipt of a Pending Agreement Change Order, the Contractor shall immediately proceed with effecting the Changes covered by such Order. The parties shall thereafter attempt to reach agreement on the outstanding issues under the Change Proposal.

If the parties cannot reach agreement within one hundred & twenty (120) days from the date of issue of the Pending Agreement Change Order, then the matter may be referred to for the Conciliation / Arbitration as per **Clause 6** hereof.

41.5.2 If the Employer decides not to proceed with the Change for whatever reason, it shall, within the said period of fourteen (14) days, notify the Contractor accordingly.

42. Extension of Time for Completion

42.1 The Time(s) for Completion specified in the **Appendix-2** of the Contract Agreement shall be extended if the Contractor has delayed or impeded in the performance of any of its obligations under the Contract by reason of any of the following:

- a) any Change in the Facilities as provided in **Clause 41** (Change in the Facilities) hereof
- b) any occurrence of Force Majeure as provided in **Clause 39** (Force Majeure) hereof, or other occurrence of any of the matters specified or referred to in paragraphs (a) and (b) of **Sub-Clause 34.2** hereof



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- c) any suspension order given by the Employer under **Clause 43** (Suspension) hereof
- d) The default by the Employer under **Clause 10** hereof, if proved to be cause for delay in completion of the Facilities by such period as shall be fair and reasonable in all the circumstances and as shall fairly reflect the delay or impediment sustained by the Contractor.

42.2 Except where otherwise specifically provided in the Contract, the Contractor shall submit to the Engineer-In-Charge a notice of a claim for an extension of the Time for Completion, together with particulars of the event or circumstance justifying such extension as soon as reasonably practicable after the commencement of such event or circumstance. As soon as reasonably practicable after receipt of such notice and supporting particulars of the claim, the Employer and the Contractor shall agree upon the period of such extension. In the event that the Contractor does not accept the Employer's estimate of a fair and reasonable time extension, the Contractor shall be entitled to refer the matter for Conciliation / Arbitration.

42.3 The Contractor shall at all times use its reasonable efforts to minimise any delay in the performance of its obligations under the Contract.

43. Suspension

43.1 The Employer may, by notice to the Contractor, order the Contractor to suspend performance of any or all of its obligations under the Contract. Such notice shall specify the obligation of which performance is to be suspended, the Effective Date of the suspension and the reasons therefor. The Contractor shall thereupon suspend performance of such obligation (except those obligations necessary for the care or preservation of the Facilities) until ordered in writing to resume such performance by the Engineer-In-Charge.

If, by virtue of a suspension order given by the Engineer-In-Charge, other than by reason of the Contractor's default or breach of the Contract, the Contractor's performance of any of its obligations is suspended for an aggregate period of more than ninety (90) days, then at any time thereafter and provided that at that time such performance is still suspended, the Contractor may give a notice to the Engineer-In-Charge requiring that the Employer shall, within thirty (30) days of receipt of the notice, order the resumption of such performance.

If the Employer fails to do so within such period, the Contractor may, by a further notice to the Engineer-In-Charge, elect to treat the suspension as termination of the Contract under **Sub-Clause 44.1** (Termination for Employer's Convenience).



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- 43.2 If the Contractor's performance of its obligations is suspended pursuant to this **Clause 43** hereof, then the Time for Completion shall be extended in accordance with **Sub-Clause 42.1** hereof, and any and all additional costs or expenses incurred by the Contractor as a result of such suspension shall be paid by the Employer to the Contractor in addition to Contract Price on mutually agreed basis.
- 43.3 During the period of suspension, the Contractor shall not remove from Site any plant & equipment, any part of the Facilities or any Contractor's equipment, without the prior written consent of the Employer.

44. Termination

44.1 Termination for Employer's Convenience

- 44.1.1 The Employer may at any time terminate the Contract for any reason by giving the Contractor a notice of termination that refers to **Clause 44.1** hereof.
- 44.1.2 Upon receipt of the notice of termination under **Sub-Clause 44.1.1** hereof, the Contractor shall either immediately or upon the date specified in the notice of termination
- a) cease all further work, except for such work as the Employer may specify in the notice of termination for the sole purpose of protecting that part of the Facilities already executed, or any work required to leave the Site in a clean and safe condition
 - b) terminate all subcontracts, except those to be assigned to the Employer pursuant to paragraph (d) (ii) below
 - c) remove all Contractor's Equipment from the Site, repatriate the Contractor's and its Subcontractors' personnel from the Site, remove from the Site any wreckage, rubbish and debris of any kind, and leave the whole of the Site in a clean and safe condition
 - d) In addition, the Contractor, subject to the payment specified in **Sub-Clause 44.1.3** hereof, shall
 - (i) deliver to the Employer the parts of the Facilities executed by the Contractor up to the date of termination
 - (ii) to the extent legally possible, assign to the Employer all right, title and benefit of the Contractor to the Facilities and to the Plant and Equipment as at the date of termination, and, as may be required by the Employer, in any subcontracts concluded between the Contractor and its Subcontractors



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(iii) deliver to the Employer all drawings, specifications and other documents prepared by the Contractor or its Subcontractors as at the date of termination in connection with the Facilities.

44.1.3 In the event of the termination of the Contract under **Sub-Clause 44.1.1** hereof, the Employer shall pay to the Contractor the Price, the properly attributable to the parts of the Facilities executed by the Contractor as of the date of termination. However, no consequential damages shall be payable by the Employer to the Contractor in the event of termination.

44.2 Termination for Contractor's Default

44.2.1 The Employer, without prejudice to any other rights or remedies it may possess, may terminate the Contract forthwith in the following circumstances by giving a notice of termination and its reasons therefor to the Contractor, referring to this **Sub-Clause 44.2** hereof:

- a) if the Contractor becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, if the Contractor is a corporation, a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Contractor takes or suffers any other analogous action in consequence of debt.
- b) if the Contractor assigns or transfers the Contract or any right or interest therein in violation of the provision of **Clause 45** (Assignment) hereof.

44.2.2 If the Contractor

- a) has abandoned or repudiated the Contract
- b) has without valid reason failed to commence work on the Facilities promptly or has suspended the progress of Contract performance for more than twenty-eight (28) days after receiving a written instruction from the Employer to proceed
- c) persistently fails to execute the Contract in accordance with the Contract or persistently neglects to carry out its obligations under the Contract without just cause
- d) refuses or is unable to provide sufficient materials, services or labour (adequate resources) to execute and complete the Facilities in the manner specified in the program furnished under **Clause 18** (Program of Performance) hereof, at rates of progress that give reasonable assurance to the Employer that



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the Contractor can attain Completion of the Facilities by the Time for Completion as per **Clause 8** hereof.

then the Employer may, without prejudice to any other rights it may possess under the Contract, give a notice to the Contractor stating the nature of the default and requiring the Contractor to remedy the same. If the Contractor fails to remedy or to take steps to remedy the same within fourteen (14) days of its receipt of such notice, then the Employer may terminate the Contract forthwith by giving a notice of termination to the Contractor that refers to this **Sub-Clause 44.2** hereof.

44.2.3 Upon receipt of the notice of termination under **Sub-Clauses 44.2.1 or 44.2.2** hereof, the Contractor shall, either immediately or upon such date as is specified in the notice of termination,

- a) cease all further work, except for such work as the Employer may specify in the notice of termination for the sole purpose of protecting that part of the Facilities already executed, or any work required to leave the Site in a clean & safe condition
- b) terminate all subcontracts, except those to be assigned to the Employer pursuant to paragraph (d) below
- c) deliver to the Employer the parts of the Facilities executed by the Contractor up to the date of termination
- d) to the extent legally possible, assign to the Employer all right, title and benefit of the Contractor to the Facilities and to the Plant and Equipment as at the date of termination, and, as may be required by the Employer, in any subcontracts concluded between the Contractor and its Subcontractors
- e) deliver to the Employer all drawings, specifications and other documents prepared by the Contractor or its Subcontractors as at the date of termination in connection with the Facilities.

44.2.4 The Employer may enter upon the Site, expel the Contractor, and complete the Facilities itself or by employing any third party at the risk and cost of the Contractor. The Employer may, to the exclusion of any right of the Contractor over the same, take over and use any Contractor's Equipment owned by the Contractor and on the Site in connection with the Facilities for such reasonable period as the

Employer considers expedient for the supply and installation of the Facilities.

Upon completion of the Facilities or at such earlier date as the Employer thinks appropriate, the Employer shall give notice to the Contractor that such Contractor's Equipment will be returned to the Contractor at or near the Site and shall return such Contractor's Equipment to the Contractor in accordance with such



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notice. The Contractor shall thereafter without delay and at its cost remove or arrange removal of the same from the Site.

44.2.5 Subject to **Sub-Clause 44.2.6** hereof, the Contractor shall be entitled to be paid the Price attributable to the Part of the Facilities executed as at the date of termination, and the costs, if any, incurred in protecting the Facilities and in leaving the Site in a clean and safe condition pursuant to paragraph (a) of **Sub-Clause 44.2.3** hereof and rent of the Contractor's equipment, if any, used by the Employer pursuant to **Clause 44.2.4** hereof. Any sums due to the Employer from the Contractor accruing prior to the date of termination shall be deducted from the amount to be paid to the Contractor under this Contract.

44.2.6 If the Employer completes the Facilities, the cost of completing the Facilities by the Employer shall be determined.

If the sum that the Contractor is entitled to be paid, pursuant to **Sub-Clause 44.2.5** hereof, plus the reasonable costs incurred by the Employer in completing the Facilities, exceeds the Contract Price, the Contractor shall be liable for such excess.

If such excess is greater than the sums due to the Contractor under **Sub-Clause 44.2.5** hereof, the Contractor shall pay the balance to the Employer, and if such excess is less than the sums due the Contractor under **Sub-Clause 44.2.5** hereof, the Employer shall pay the balance to the Contractor.

The Employer and Contractor shall agree, in writing, on the computation described above and the manner in which any sums shall be paid.

44.3 In this **Clause 44** hereof, the expression "Facilities executed" shall include all work executed, Installation Services provided, and all Plant & Equipment, Structures acquired (or subject to a legally binding obligation to purchase) by the Contractor and used or intended to be used for the purpose of the Facilities, up to and including the date of termination.

44.4 In this **Clause 44** hereof, in calculating any money due from the Employer to the Contractor, account shall be taken of any sum previously paid by the Employer to the Contractor under the Contract, including any advance payment paid pursuant to **Clause 12** (Terms of Payment) hereof.

45. Assignment

45.1 The Contractor shall not, without the express prior written consent of the Employer assign to any third party the Contract or any part thereof, or any right, benefit, obligation or interest therein or there under, except that the Contractor shall be entitled to assign under the Contract.



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- 45.2 Should loan / financial agreement(s) require the Contractor to assign, by way of charge, any money due or to become due to it, to a bank / credit agency for the benefit of receiving payment by the Contractor under this Contract from such bank / credit agency, or if

Any partial assignment is necessary to be made to any insurer in terms of Insurance Policy approved by the Employer; the Employer may give consent in such cases.

46. Surplus Materials

- 46.1 For the purpose of removing surplus materials in its original form only, the Contractor shall submit the documents / records evidencing the entry of materials inside the Plant by producing the Gate Entry Permits and RRs or LRs and consumption statements based on approved drawings after allowing for wastages, maximum 8% cutting allowance, and irrecoverable / unaccountable losses (wastages including loss factors being minimum 2% on Steel and reinforcement rods, minimum 5% on cement and minimum 3% on cables, pipes etc.) to establish the surplus quantity of the materials belonging to the Contractor. The Employer shall allow the Contractor to remove such materials from the Employer's premises after being satisfied regarding the evidence produced for such removal. Such removal may be permitted even before completion of the entire work.

- 46.2 The Employer may, on written request from the Contractor, allow him to take back imported surplus materials not covered under the contract. However, if Employer has incurred expenses for surplus items towards customs, freight or any other account etc., the same shall be reimbursed by the Contractor in case of taking back of such items.

- 46.3 Scrap in any form whatsoever shall not be removed from Plant premises and shall be the property of the Employer. No credit will be given for scrap.

- 47.** The Employer shall allow the Contractor to take out construction equipment, tools & tackles and instruments brought by the Contractor on draw back basis provided the contractor has carried out necessary documentation at the time of taking such items inside the Plant.



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ANNEXURE - I

PERFORMANCE BANK GUARANTEE
(To be executed on Non-Judicial Stamp Paper of appropriate value)

..... *(Name of the Bank)*

Address

Guarantee No.

A/c Messrs *(Name of Contractor)*

Date of Expiry

Limit to liability (*currency & amount*)
.....

Contract No.
.....

For *(Name of Facilities)*

Subject:..... Performance Bank Guarantee.

Date 2023.

To
.....
.....
.....

[Name and Address of Employer]

Dear Sir,

We refer to the Contract Agreement (hereinafter called the “Contract”) Reference No. Dated between you and M/s. *(Name of the Contractor)* (hereinafter called the “Contractor”) for the design, civil, manufacture, supply of plant & equipment and structures, storage, insurance & handling, erection, testing, commissioning and performance guarantee tests of . *(Name of the Facilities)*.

Whereas the Contractor has undertaken to produce a Bank guarantee under the Contract including any amendment thereto, to secure its obligations to you for the performance of the Contract including the guarantees and warranty of the Facilities & the equipment supplied.



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1. We (*Name of the Bank*) do hereby expressly irrevocably and unreservedly undertake to unconditionally pay to you merely on your written demand, without referring it to the contractor and without protest and demur an amount not exceeding (*currency and amount*). Any such demand made on us shall be conclusive as regards the amount due and payable by us under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding
2. Notwithstanding anything to the contrary we agree that your decision as to whether the Contractor has committed a breach of any terms and conditions of the contract shall be final and binding on us and we shall not be entitled to ask you to establish your claim or claims under this Guarantee but shall pay the same forthwith without any objection or excuse.
3. We undertake to pay to you any money so demanded notwithstanding any dispute or disputes raised by the Contractor(s) / supplier(s) in any suit or proceeding pending before any court or Tribunal or arbitration relating thereto, our liability under these presents being absolute and unequivocal.

The payment so made by us under this Guarantee shall be a valid discharge of our liability for payment thereunder.
4. This guarantee shall come into force from the date of issue of this guarantee and shall remain irrevocably valid and in force initially upto _____ and the same shall be extended further until the expiry of the Defect Liability Period of the said Contract.
5. This guarantee shall not in any way be affected by you taking any securities from the Contractor or by the winding up, dissolution, insolvency or death as the case may be of the Contractor. We shall not be entitled to proceed against the assets of the Contractor at your site.
6. In order to give full effect to the Guarantee herein contained, you shall be entitled to act as if we were your principal debtors in respect of all your claims against the Contractor, hereby guaranteed by us as aforesaid and we hereby expressly waive all our suretyship and other rights, if any, which are in any way inconsistent with the above or any other provisions of this Guarantee.
7. This guarantee is in addition to any other guarantee or guarantees given to you by us.
8. This guarantee shall not be discharged by any change in the constitution of the Contractor or us, nor shall it be affected by any change in your constitution or by any amalgamation or absorption thereof or therewith but will ensure for and be available to and effaceable by the absorbing or amalgamated company or concern.



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9. Notwithstanding anything contained herein before our liability under this guarantee is restricted upto a sum (*currency and amount*) and shall expire on unless a claim or demand is made on us in writing within **twelve months** of the expiry date all your rights shall be forfeited and we shall stand relieved and discharged from our liabilities hereunder.
10. We have full power to sign this guarantee under the delegations of powers and notification made under general regulation and resolutions in this regard.

Your faithfully

Dated day of 2023.

For

(*Name of the Bank*)



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ANNEXURE - II

**BANK GUARANTEE FOR RELEASE OF PAYMENT AGAINST
COMMISSIONING CERTIFICATE/ PERFORMANCE GUARANTEE
CERTIFICATE/ FINAL ACCEPTANCE CERTIFICATE**

(To be executed on Non-Judicial Stamp Paper of appropriate value)

..... (Name of the
Bank) Address

Guarantee No.

A/c Messrs (Name of
Contractor)

Date of Expiry

Limit to liability (*currency & amount*)

Contract No.

For(Name of
Facilities)

**Sub: Release of Payment against Commissioning Certificate/ Performance
Guarantee Certificate/ Final Acceptance Certificate.**

Date 2023.

To
.....
.....
.....
[Name and Address of Employer]

Dear Sir,

We refer to the Contract Agreement (hereinafter called the “Contract”) Reference No. Dated between you and M/s. (**Name of the Contractor**) (hereinafter called the “Contractor”) for the design, civil, manufacture, supply of plant & equipment and structures, storage, insurance & handling, erection, testing, commissioning and performance guarantee tests of . (**Name of the Facilities**).

Whereas, the Contractor has undertaken to produce additional Bank guarantee under the provisions of the Contract to secure Contractor’s obligations to you for



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conducting the Commissioning/ Performance Guarantee Tests/ Final Acceptance Certificate (FAC) [*strikeout whichever is not applicable*] as per the provision of the Contract.

1. We (*Name of the Bank*) do hereby expressly irrevocably and unreservedly undertake to unconditionally pay to you merely on your written demand, without referring it to the contractor and without protest and demur an amount not exceeding (*currency and amount*). Any such demand made on us shall be conclusive as regards the amount due and payable by us under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding
2. Notwithstanding anything to the contrary we agree that your decision as to whether the Contractor has committed a breach of any terms and conditions of the contract shall be final and binding on us and we shall not be entitled to ask you to establish your claim or claims under this Guarantee but shall pay the same forthwith without any objection or excuse.
3. We undertake to pay to you any money so demanded notwithstanding any dispute or disputes raised by the Contractor(s) / supplier(s) in any suit or proceeding pending before any court or Tribunal or arbitration relating thereto, our liability under these presents being absolute and unequivocal.

The payment so made by us under this Guarantee shall be a valid discharge of our liability for payment thereunder.

4. This guarantee shall come into force from the date of issue of this guarantee and shall remain irrevocably valid and in force upto the issue of the Commissioning/ Performance Guarantee Tests/ Final Acceptance Certificate (FAC) [*strikeout whichever is not applicable*] provided always that unless extended this guarantee shall remain in force till _____ .
5. This guarantee shall not in any way be affected by you taking any securities from the Contractor or by the winding up, dissolution, insolvency or death as the case may be of the Contractor. We shall not be entitled to proceed against the assets of the Contractor at your site
6. In order to give full effect to the Guarantee herein contained, you shall be entitled to act as if we were your principal debtors in respect of all your claims against the Contractor, hereby guaranteed by us as aforesaid and we hereby expressly waive all our suretyship and other rights, if any, which are in any way inconsistent with the above or any other provisions of this Guarantee.
7. This guarantee is in addition to any other guarantee or guarantees given to you by us



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8. This guarantee shall not be discharged by any change in the constitution of the Contractor or us, nor shall it be affected by any change in your constitution or by any amalgamation or absorption thereof or therewith but will ensure for and be available to and effaceable by the absorbing or amalgamated company or concern.
9. Notwithstanding anything contained herein before our liability under this guarantee is restricted upto a sum (*currency and amount*) and shall expire on unless a claim or demand is made on us in writing within **twelve months** of the expiry date all your rights shall be forfeited and we shall stand relieved and discharged from our liabilities hereunder.
10. We have full power to sign this guarantee under the delegations of powers and notification made under general regulation and resolutions in this regard.

Your faithfully

Dated day of 2023.

For

(*Name of the Bank*)



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ANNEXURE – III

PROFORMA FOR CUSTODY CUM INDEMNITY BOND

(To be used for materials to be issued free/ or good/materials ownership of which passed on the Employer before construction/ erection/testing/commissioning)
(on Non-Judicial Stamp paper of appropriate value)

Proforma for custody-cum-Indemnity Bond for the work of -----

.....
.....
.....

[Name and Address of Employer]

In consideration of the, ----- (hereinafter called this Company) which expression shall unless repugnant to the subject or content include his successors and assigns having agreed under the terms and conditions of the Contract no -----dated-----
-----made between-----and the Company in connection with-----to permit the Contractor to receive goods/materials (specify the quantity and name of the materials) of the contract rate of item for supply the value of Rs.-----interalia on production of Indemnity-cum-custody bond. We do hereby undertake and agree to indemnify and keep indemnified the company from time to time to the extent of Rs.----- (Rupees.-----only) against any loss or damage, costs, charges and expenses caused to or suffered by the company by reason of the -----failing to take proper care and custody of the goods/ materials and/ or failing to properly used in the job as per Contract and hand over the completed job in terms of the agreement aforesaid or not complying the instructions which may be given from time to time during the continuance of the agreement and we further undertake to unconditionally pay the amount claimed by the company on demand and without demur to the extent aforesaid.

We ----- hereby further undertake to use the said goods/ materials in terms of the Contract aforesaid and further keep safely, preserve and maintain or caused to be kept safely preserved or maintained all plant machinery equipment and all materials for erection till the date of the preliminary acceptance thereof in terms of the agreement and any damage, breakage, loss during this period will be solely to our Account and we would make necessary arrangement proper replacement/repair as desired by the Company.

We-----further agree that the company shall be sole judge of and as to whether there has been any breach of the terms and conditions of this bond and as to the extent of the loss, damage, costs, charges and expenses caused to or suffered by the Company.

We----- further agree that our liability under this bond shall not be discharged because of the change in the constitution of the Company/or the extension of the time or for any indulgence by the Company granted to us.



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ANNEXURE – IV

FORM OF PRELIMINARY ACCEPTANCE CERTIFICATE

Ref No. : _____
Date: _____

To:
.....
.....
.....
[Name and address of Contractor]

Contract Agreement No: _____

[Name of the Facilities]

Dear Sirs,

Pursuant to **Clause 24** (Preliminary Acceptance) of the General Conditions of the Contract entered into between yourselves and the Employer dated _____ *[date]*, relating to the _____ *[brief description of the facilities]*, we hereby notify you that the erection, testing & trial runs of the individual unit of the following part(s) of the Facilities was completed successfully on the date specified below. The Facilities are fit for start-up and commissioning. However, you shall liquidate all the outstanding defects and / or deficiencies and complete the balance items listed in the attachment hereto, as soon as possible, so that the Facilities are fully in accordance with the requirements of the Contract and commissioning activities of the Facilities can be started. Further, you shall be fully responsible for care and custody of the Facilities and the risk of loss thereof till the issue of commissioning certificate in terms of the Contract.

1. Description of the Facilities or part thereof: _____ *[description]*
2. Date of Completion of Trial runs: _____ *[date]*

This letter does not relieve you of your obligation to complete the execution, commissioning, establishment of performance guarantee parameters of the Facilities in accordance with the Contract nor of your obligations during the Defects Liability Period.

Yours faithfully,

Title
(Project Manager)



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ANNEXURE – V

FORM OF COMMISSIONING CERTIFICATE

Ref No. : _____
Date: _____

To:
.....
.....
.....
[Name and address of Contractor]

Contract Agreement No: _____

[Name of the Facilities]

Dear Sirs,

Pursuant to **Clause 25** (Commissioning of the Facilities) of the General Conditions of the Contract entered into between yourselves and the Employer dated _____ *[date]*, relating to the _____ *[brief description of the facilities]*, we hereby notify you that the following part(s) of the Facilities was (were) commissioned on the date specified below, and that, in accordance with the terms of the Contract, the Employer hereby takes over the said part(s) of the Facilities, together with the responsibility for care and custody and the risk of loss thereof but without prejudice to any of the rights of the Employer, on the date mentioned below.

1. Description of the Facilities or part thereof: _____ *[description]*
2. Date of Completion: _____ *[date]*

However, you are required to complete the outstanding items listed in the attachment hereto as soon as possible.

This letter does not relieve you of your obligation to complete the execution of the Facilities in accordance with the Contract nor of your obligations during the Defects Liability Period.

Yours faithfully,

Title
(Project Manager)



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ANNEXURE – VI

FORM OF PERFORMANCE GUARANTEE CERTIFICATE

Ref No. : _____

Date: _____

To:

.....
.....
.....

[Name and address of Contractor]

Contract Agreement No: _____

[Name of the Facilities]

Dear Sirs,

Pursuant to **Clause 27** (Performance Guarantee Tests of the Facilities) of the General Conditions of the Contract entered into between yourselves and the Employer dated _____ *[date]*, relating to the _____ *[brief description of the facilities]*, we hereby notify you that the Performance Guarantee Tests of the following part(s) of the Facilities was (were) carried out and Performance Guarantee Parameters were satisfactorily attained on the date specified below, and that, in accordance with the terms of the Contract.

1. Description of the Facilities or part thereof: _____ *[description]*
2. Date of Completion: _____ *[date]*
3. Performance Guarantee Parameters:

<u>Description</u>	<u>Guaranteed</u>	<u>Achieved</u>
a)		
b)		

This letter does not relieve you of your obligation to complete the execution of the Facilities in accordance with the Contract nor of your obligations during the Defects Liability Period.

Yours faithfully,

Title
(Project Manager)



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ANNEXURE – VII

FORM OF FINAL ACCEPTANCE CERTIFICATE

Ref No. : _____
Date: _____

To:
.....
.....
.....
[Name and address of Contractor]

Contract Agreement No: _____

[Name of the Facilities]

Dear Sirs,

Pursuant to **Clause 28** (Final Acceptance of the Facilities) of the General Conditions of the Contract entered into between yourselves and the Employer dated _____ *[date]*, relating to the _____ *[brief description of the facilities]*, we hereby notify you that the following part(s) of the Facilities was (were) completed satisfactorily including completion of Defects Liability Period of twelve months after commissioning, on the date specified below, and that, in accordance with the terms of the Contract.

1. Description of the Facilities or part thereof: _____ *[description]*
2. Date of Completion: _____ *[date]*

Yours faithfully,

Title
(Project Manager)



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ANNEXURE – VIII

**FORM OF CHANGE ORDER
(Employer's Letterhead)**

Ref No. : _____
Date: _____

To:

.....
.....
.....

[Contractor's Name and Address]

Contract Agreement No: _____

[Name of the Facilities]

Dear Sirs,

We approve the Change Order for the work specified in the Change Proposal (No. *[number]*), and agree to adjust the Contract Price, Time for Completion and / or other conditions of the Contract in accordance with GCC Clause 41 of the General Conditions of Contract.

1. Title of Change: *[name]*
2. Change Request No. / Rev.: *[Request number/revision]*
3. Change Order No. / Rev.: *[Order number/revision]*
4. Originator of Change: Employer / Contractor: *[name]*
5. Authorised Price:

Ref. No. : *[number]*

Date: *[date]*

Local currency *[amount]*

6. Adjustment of Time for Completion
None Increase *[number]* days Decrease *[number]* days
7. Other effects, if any



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Authorised by: _____
(Employer)

Date: _____

Accepted by: _____
(Contractor)

Date: _____



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SAFETY

Contractor's responsibility:

1. Contractor shall be vigilant to ensure provisions of Factories Act, 1948, Jharkhand/Bihar factories rule'1950 and other statutory provisions as applicable in respective power plant.
2. Contractor's responsibility is to collect copies of prevailing rules from Safety Department of the plant.
3. Contractors must ensure use of personnel protective equipments by its workers.
 - (a) Personnel protective equipments to be supplied by the contractor to their workers and they have to maintain a record of such issuance. The contractor is to indicate the cost of PPE included in his offer.
 - (b) Although the responsibility of providing PPE rests on the contractor, as per terms of contract; but still the contractor / contractors fail / fails to provide the same, Plant authority may issue PPE to these workers in the interest of work and the cost of the same will be deducted from the contractor's bill.
4. The contractor shall ensure periodic testing / examination of equipments as well as safety tools & tackles, PPEs, used by them, as per provision of Factories Act and rule and maintain the up to date record for the same at site for inspection of departmental engineer/ safety department on demand.
5. The contractor will ensure medical examination for its workers who are working at hazardous areas before commencement of work and once in every year by qualified medical practitioners as per provision of the Factories Act -1948 and Jharkhand Factories Rule and maintain a Register for the same for inspection by respective O&M department / safety department on demand.
6. The workers employed by the contractors should be suitably skilled for the respective job requirement otherwise head of concerned O&M department shall have the right to disallow the unsuitable workers. The contractor shall engage suitable nos. of supervisors to ensure safety at all places of work during execution of the work.
7. In case of injury, contractor will send the injured person to Hospital / Dispensary/First Aid Centre with verbal intimation the O&M department under whom he works as well as to safety department. The contractor shall submit periodical progress report about the treatment till the injured worker is certified fit by Govt. Registered Doctor and the said fit certificate will be submitted to concerned department before resumption of work by the said injured workers.

In case of failure to fulfill safety requirements or if any accident occurs due to willful violation / non-fulfillment of conditions of contract/violation of safety rules plant authorities/TVNL shall have the right to penalize the contractor.



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ACRONYMS

BG	Bank Guarantee
FAC	Final Acceptance Certificate
GCC	General Conditions of Contract
IFB	Invitation for Bids
ITB	Instructions to Bidders
LD	Liquidated Damages
LOA	Letter of Acceptance
PAC	Preliminary Acceptance Certificate
PG	Performance Guarantee
TS	Technical Specifications